

"STICKS" OR MANDATES TO BUY HEALTH INSURANCE: IS HEALTH REFORM POSSIBLE WITHOUT THEM?

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In a letter to top Senate Democrats, President Obama recently stated that he was open to the "principle of shared responsibility—making every American responsible for having health insurance coverage, and asking that employers share in the costs." This sounds very much like support for what are sometimes labeled individual and employer "mandates," though in the Presidential campaign he opposed requiring adults to buy insurance, except for their children. Done the right way, "mandates" could increase dramatically the numbers of those insured, while helping drive down the rate of increase in health care costs. Done the wrong way, they can be unenforceable or drive up the number of unemployed. The Senate Finance Committee increasingly has been turning to mandates as part of a package of health reform.

Although there are strong theoretical arguments for a mandate, the arithmetic on the cost of subsidies, not theories, drive policy makers toward it. Health care has gotten so expensive that there is almost no way that the government can achieve fairly universal health care through open-ended subsidies. A recent Congressional Budget Office score on the cost and effect on insurance coverage of new subsidies under Senate Finance Committee consideration supposedly shocked some Senators, according to press reports. But it was no surprise to those who knew the arithmetic.

"Mandate" really isn't a good term for what's being considered. The President may have been motivated by previous campaign rhetoric to avoid that word. Still, once practical matters of enforcement, fairness, and efficiency are considered, what can be administered will not really be a mandate. More accurately, the underlying issue is whether government now applies "sticks" for those not buying or offering insurance, not just "carrots" for those who do. Just crossing that bridge would represent huge step for federal government involvement in health care.

The next question, then, is "What types of sticks?" In my view, the sticks cannot be bludgeons. Think about it. Many family health insurance policies now cost well in excess of \$10,000. The IRS has trouble even collecting a few hundred dollars from many individuals at the end of the year. Does anyone really think it or some other enforcement agency can run around and collect huge sums of money from those who don't buy insurance?

Or consider the employer. A requirement that an employer spend \$10,000 on a health insurance policy is equivalent roughly to an increase of \$5 or more in a minimum wage now set at \$7.25. Such an increase in costs would surely threaten job losses for lower-earning employees, and for others it would require that up to 40 percent of their compensation be paid in the form of health insurance. In other words, they would have to forego food or tutors for their kids at \$20 an hour to support surgeons who charge \$500 an hour—if they're lucky.

These latter considerations always lead legislators to exempt small employers from any employer mandate and impose it only on larger employers who are likely to offer health insurance anyway. But that gets dicey as well, since many individuals don't have the connection to employment, or they are part of complicated family structures with multiple employment and unemployment situations. Also, larger firms respond to incentives—already substantial in current law—to contract out work to smaller firms or independent contractors. Our two-tiered job market of haves and have-nots would expand substantially.

And that's not all. Economists believe that the cost of employer mandates is ultimately borne by employees. When modest-income households already have access to some free care, either through Medicaid or simply free care in an emergency room, they might be thought of as having, say, the equivalent of \$4,000 of insurance. Not good insurance, but insurance nonetheless. The requirement to receive a substantial share of compensation in the form of a \$10,000 health policy brings a net increase in insurance of \$6,000 at a cost of \$10,000. Net result: an extra "tax" of \$4,000 for this moderate-earning household, but no extra tax on the higher-income household already buying insurance.

Urban Institute analysts concluded that heavy dependence upon employer mandates in some of the Clinton health plan options in 1993 would have imposed large net costs on low-income households. If they are not careful, the Congress and Administration could run into the same problem today.

The state of Massachusetts, when designing its recent program of more universal health insurance, decided to avoid some problems by imposing only modest sticks or penalties on employers who did not provide health insurance. Think of this requirement as less a mandate than a fee for at least some of the expected cost of its employees falling back on state help, as in Medicaid.

Massachusetts has more serious trouble trying to apply a mandate to individuals than does the federal government. In an article I wrote with Paul Van de Water, then at the National Academy of Social Insurance and now at the Center on Budget and Policy Priorities, we examined just what types of mandates—er, I mean, sticks—were most likely to be enforceable. We concluded that the federal government had much bigger sticks to wield—mainly the denial of other tax and expenditure benefits it might provide. Particularly with respect to workers, many of these sticks—such as denial of tax credits and deductions to those who did not certify that they carried insurance for their family—could be reflected in withholding, thus reducing dramatically the enforcement problems previously noted. Employers would be stuck with helping adjust withholding, but that's a far cry from demanding a huge increase in what they have to pay as a minimum wage.

Policy makers can usually achieve progressive goals more easily with individual sticks or mandates than with employer mandates. For instance, they can deny tax benefits to middle- and higher-income taxpayers and exempt those who don't pay tax. They would have more difficulty protecting the low-income employee from the downward pressure of an employer mandate on cash wages and employment.

By the way, a real slam dunk is available with respect to insuring children—a simple-to-enforce stick that can be made progressive while still appealing to conservatives, such as John Goodman at the National Center for Policy Analysis, who want to maintain markets. I have suggested for years that the federal government could deny child credits to households who do not carry health insurance (for the kids, or, if you want, for the family). The child credit is easy to reflect in withholding, and it applies throughout most of the income distribution, excluding the poor and some higher income households. Medicaid or other subsidies would and could be made available in any case at modest income levels.

For those who want to add more progressivity, the child credit could be made available to many individuals whose incomes are too low to be eligible after 2010 (as part of the stimulus bill, the credit is extended only for 2009 and 2010 to families with earnings as low as \$3,000). Extending the credit down the income distribution has been promoted (separately from the health debate) by a number of child advocacy groups, so a nice compromise would be to extend the credit beyond 2010 and to even poorer households in exchange for requiring these households to sign up for their Medicaid or otherwise make sure they carry health insurance. In a more permanent form, different states could integrate the credit with Medicaid in ways they saw fit.

Sticks or mandates also come with a bonus in the form of cost saving. Federal and state governments accrue some saving simply because more people (particularly, uninsured middle class households) will be buying insurance as opposed to falling back on the government when their uninsured health costs become unaffordable.

In sum, mandates or "sticks" can provide an important addition to a system of more universal health insurance. Since some of the sticks being proposed are not easily enforced, the next step is to ensure that considerations of administration, feasibility, and equity—not political sound bites—drive the policies chosen.

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