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PLAY OR PAY

The Role of Mandates in Health-Care Reform

Health-care reform proposals in Congress build on the employer-based insurance system in the United States. Most Americans receive their health insurance through either their or a family member's employer. However, those receiving insurance through an employer has been in steady decline: In 2000, over 68 percent of Americans received their health insurance through an employer. By 2008, this number had dropped to 63 percent.[1] Over the same period, the average individual premium increased by more than 81 percent, and the average family premium rose by 88 percent.[2] In other words, as health insurance becomes more expensive, fewer people receive health benefits from their employers.

Congressional reform proposals attempt to reverse this decline in employer-based insurance coverage with both employer mandate and individual mandate provisions.

Employer mandates — Sometimes known as a "play-or-pay" provision, an employer mandate would require employers to contribute to an employee's health-insurance premium or to a public fund. The money contributed to the public fund would enable individuals to buy their own subsidized insurance.

An employer mandate should apply to all employees regardless of insurance coverage. A proposal in the Senate Finance Committee would have limited employer responsibility to employees who were covered by Medicaid or low-income workers who obtained subsidized insurance through a health insurance exchange.[3] Such a limit could hurt low-income and previously unemployed workers. Businesses would have an incentive to hire higher-wage earners who are ineligible for Medicaid coverage and those who already have insurance through a spouse's employer.

The primary proposal in the House of Representatives, on the other hand, requires employers to contribute to the health-insurance costs of all employees. Employers providing insurance to employees must contribute 72.5 percent of the premium cost for an employee or 65 percent of the premium for an employee with a spouse and/or children.[4] Larger businesses — or those employers with an annual payroll exceeding $400,000 — who did not offer health insurance to full-time employees would be required to contribute eight percent of the employee's wages to the newly created Health Insurance Exchange Trust Fund.

Small businesses are exempt from the "play-or-pay" requirements, or would have reduced contribution amounts to the Health Exchange Trust Fund. In the House proposal, the smallest businesses would not be required to contribute funds. Businesses with payrolls exceeding $250,000 but less than $400,000 would contribute between 2 percent and 6 percent of the employee's wages.

Individual Mandates — The proposals before Congress would require individuals to accept insurance offered through their employer, buy insurance on the private market, or pay a tax penalty. When crafting

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such provisions, lawmakers must bear in mind that more than half of all uninsured Americans lack insurance because it is financially out of reach.[5] If an individual mandate is implemented, lawmakers must provide a way for individuals to comply with the law. Policy makers could expand eligibility for existing public programs, such as Medicaid, subsidize the purchase of health insurance, or both.

The House proposal would expand Medicaid eligibility to 133 percent of the federal poverty level ($24,352 for a family of three), provide full subsidies for the purchase of insurance coverage to individuals and families below 150 percent of the federal poverty level ($27,465 for a family of three), and provide declining subsidies up to 400 percent of the federal poverty level ($73,240 for a family of three).[6] Individuals and families who did not obtain health insurance would pay a tax penalty of 2.5 percent of their adjusted gross income.[7] Those who had lost jobs or faced other financial hardship could apply for the tax penalty to be waived.

Would the Employer and Individual Mandates Work? — The effectiveness of mandates depends on how they are structured. Massachusetts, which enacted comprehensive health care reform in 2006, including both employer and individual mandates, provides a model in many respects for national-level reforms.

To enable compliance with the individual mandate, Massachusetts expanded Medicaid eligibility to 133 percent of the federal poverty level ($24,352 for a family of three), provided full subsidies for insurance coverage to individuals and families earning up to 150 percent of the federal poverty level ($27,465 for a family of three), and offered sliding scale subsidies to those earning up to 300 percent of federal poverty level ($54,930 for a family of three).[8]

The combination of both employer and individual mandate with subsidies to low- and moderate-income individuals and families has resulted in insurance coverage for over 97 percent of Massachusetts' population.[9] The "play-or-pay" requirement for employers covers all workers — not merely those covered by a public program or those who were previously uninsured. This removes the incentive for employers to discriminate against other job prospects. Employers who choose not to "play" — that is, offer insurance — but to "pay" into the state fund to finance the individual purchase of insurance, contribute $295 per worker per year to the fund.[10] Massachusetts has since seen an increase in the number of employers offering health insurance benefits to employees from 73 percent to 79 percent.[11]

The Massachusetts example proves both employer and individual mandates can work if they are targeted properly and provide individuals with a means to comply with the law. An expansion of public programs and subsidies to insure low- and moderate-income families and individuals would help achieve that goal.

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[1] Elise Gould, "The Erosion of Employer-Sponsored Health Insurance: Declines Continue for the Seventh Year Running," *Economic Policy Institute* (October 9, 2008).
[2] Kaiser Family Foundation, 2008 Annual Employer Health Benefits Survey (September 2008).
[3] Judith Solomon and Robert Greenstein, "Employer Requirement Under Consideration For Senate Finance Committee Health Bill Could Discourage Hiring of Low-Income, Minority, Disabled Workers," *Center on Budget and Policy Priorities* (June 24, 2009).
[4] House Tri-Committee, "America's Affordable Health Choices Act Draft" (July 14, 2009).
[5] John Graves and Sharon Long, "Why Do People Lack Health Insurance?" *The Urban Institute* (May 22, 2006).
[6] House Tri-Committee, "America's Affordable Health Choices Act: Quality and Affordable Health Care: Summary" (July 14, 2009).
[7] Ibid.
[8] Sharon Long, "On the Road to Universal Coverage: Impacts of Reform in Massachusetts at One Year," *Health Affairs* (June 3, 2008).
[9] Massachusetts Commonwealth Connector, "Health Reform Facts and Figures" (July 2009).
[10] Jon Gabel, et. al, "After the Mandates: Massachusetts Employers Continue to Support Health Reform As More Firms Offer Coverage," *Health Affairs* (October 28, 2008).
[11] Ibid.