Insight

ObamaCare's Economic Flaws

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The Patient Protection and Affordable Care Act — better known to Americans as ObamaCare — hinges on a single provision known as the individual mandate. This mandate is a dramatic intrusion on individual liberty that requires virtually every American to buy a government-sanctioned health insurance policy.

Befitting its legacy of defending U.S. small business, entrepreneurs and the free market, the National Federation of Independent Business (NFIB) has challenged the constitutionality of the individual mandate. The lawsuit, which was argued Wednesday at the 11th U.S. Circuit Court of Appeals, is expected to reach the Supreme Court for its ultimate resolution.

Legally, the use of the Commerce Clause ("Congress shall have power … to regulate commerce … ") to compel individuals to participate in the market for health insurance is unprecedented.

Thus, in defending this unprecedented law, the Obama administration has significantly relied on the notion that the economics of heath care are so unique and different as to justify discarding established constitutional protections. But that economic contention is fundamentally flawed, as I, along with 104 other economists, explained in an amicus brief in the NFIB lawsuit.

Specifically, the government's position rests on two false economic claims. First, that an individual's decision not to buy health insurance substantially affects interstate commerce by increasing the costs of health insurance for all Americans.

Second, that the health care industry is "unique" because of its high rates of participation, high costs, federal mandates and the purported uncertainty surrounding when care will be required.

Let's consider these in turn.

The first claim attempts to justify the individual mandate as an essential means of financing the uncompensated health care received by uninsured individuals, which the government says amounts to $43 billion annually. But this supposedly compelling rationale is built on an empirical house of cards.

In reality, the individual mandate has almost nothing to do with cost-shifting in health care. The targeted population — the young, healthy and relatively wealthy individuals who voluntarily choose not to purchase insurance — have a minimal role in the $43 billion of uncompensated costs identified by the administration.

An examination of the Medical Expenditure Panel Survey data show that this group's uncompensated costs are no more than $8 billion annually, or one-third of 1% of the nation's $2.4 trillion in annual health care costs. Certainly not the albatross on the system that some in Washington suggest.

Quite simply, the individual mandate cannot reasonably be justified as a remedy for the alleged costs imposed on the system by the voluntarily uninsured.

That the individual mandate has little, if anything, to do with uncompensated care underscores that the real purpose of the mandate is what the administration labels its “second” function: maintaining “the viability of the act’s provisions that bar insurers from denying coverage or setting premiums based on medical condition or history.”

What the government means by this is that, because Congress enabled uninsured individuals to take advantage of insurance companies by waiting to purchase insurance until they are already sick, it is now permitted to protect insurers from losing money by forcing healthy individuals immediately to purchase insurance that they neither need nor want.

In other words, the mandate is necessary to offset the distortions produced by the government’s actions. Hardly a robust rationale for rewriting the Constitution!

The second claim made by the government is that the health care market’s departure from textbook-perfect competition is so economically unique that it merits exception from standard constitutional rules. But economists — and policymakers — know that the real world rarely reflects such pristine competition.

In reality, the health care market is “unique” only in the sense that each snowflake is unique. The economic features relied upon by the government — externalities, imperfect information, geographically distinct markets, etc. — are not special to health care, but are characteristic of many other markets that economists analyze every day.

Moreover, the presence of externalities and other market imperfections does not justify federal action. Health care is typically consumed locally, and health insurance markets themselves primarily operate within individual states.

The administration’s attempt to fashion a singular, universal solution is neither necessary nor able to deal with the variegated issues arising in these markets. States have taken the lead in past reform efforts, and they should continue to play an integral role in improving how health insurance markets function.

Upholding the individual mandate would be bad law. Upholding the individual mandate would be bad economic and commercial policy. But upholding it based on the government’s flawed arguments would be even worse economics.