Health Insurance Mandate: Immoral, Unnecessary

The Obama administration argued to the U.S. Supreme Court this week that people must be compelled to buy medical insurance (designed by the government) or the national medical insurance market will fail. Thus, Obamacare advocates say, the insurance mandate is consistent with the powers delegated under the Commerce Clause of the U.S. Constitution.

The argument, however, contains a fatal flaw. If the medical-insurance market would indeed fail without a mandate, it's only because of other mandates the government has already imposed. Thus the government has created the rationale for an extension of its own power.

The administration foresees two problems in the absence of the mandate. First, uninsured people will avoid routine and preventive medical care and go to hospital emergency rooms when they can't delay care any longer, raising costs to others. Second, some people will apply for insurance only after they are seriously ill. As a result, the insurance market will be dominated by sick people, making it unviable.

Both problems are government creations: emergency rooms by law must treat everyone regardless of ability to pay, and new laws are increasingly restricting insurance companies' right to refuse to cover "preexisting conditions" or to charge already sick people more.

Thus it is the regulatory regime that makes the insurance market fragile.

Furthermore, the emergency-room issue is overstated. As Shikha Dalmia points out, such care is a bare 3 percent of total medical spending, less than the retail sector's loss from shoplifting. But even ignoring that point, a free and prosperous society would have charity hospitals and practitioners eager and able to help the relative few who could not afford care. A must-serve mandate is unjustified and unnecessary.

The principal issue is insurance regulation. Imagine if you could purchase home insurance — and demand payment — after your house burned down, or if you could buy an auto policy — and collect — after an accident. Such "coverage" after the fact would not be true insurance, which is a hedge against uncertainty. Under those rules, insurers would exit the market for more profitable activities.

Medical insurance is no different. For the industry to be viable, companies have to collect premiums while people are healthy in order to have the money to pay out when they get sick.

Doesn't that prove the mandate is needed? No. In a free society, people would have natural incentives to buy insurance when they are healthy. Government destroys those incentives. How so?

Young, healthy people of course will always be tempted to put off buying medical insurance. But this temptation would be reduced if we abolished all the government rules and privileges that make medical care — and hence insurance — artificially expensive. In myriad ways, government raises the cost of medicine: restrictive licensing, anti-competitive state insurance cartels, benefit mandates, and much more. All such interventions price people out of the medical market by making products and services more costly than they would be in a free and competitive marketplace.

Government also raises prices to the uninsured by maintaining policies that insulate people with insurance from the true costs of their decisions. The income tax, which doesn't count non-cash compensation as income, makes otherwise uneconomical "insurance" attractive, while creating an illusion of free or nearly free services. (The quotation marks are to indicate that insurance which covers volitional activities, such as the use of contraception, physical exams, and other preventive services, is not truly insurance.) When explicit prices are artificially lowered under an insurance illusion, people are less cost-conscious and thus consume more services than they would have.

Much medical care is elective and nonessential, but under our government-shaped system, rather than asking, "Do I need it and how much?" people ask, "Does my insurance cover it?" This raises real costs for all, but it especially raises prices to people who have no insurance or who would buy it in the individual market, discouraging them from doing so. As a result, fewer young and healthy people pay premiums, weakening the insurance industry.

This is purely a government-created problem.

Government mandates are backed by aggressive force, which is immoral. The end does not justify the means. And if we want a thriving medical insurance market, we need only free it from restrictions and, most importantly, privilege. Freedom and competition really work.Sheldon Richman is senior fellow at The Future of Freedom Foundation and editor of The Freeman *magazine.*