



# 'Obamacare' Might Not Work Out, But It's Way Too Soon to Tell

MAR 27 2012, 10:19 AM ET

By Jill Lawrence

Leave it to a 19th-century law to highlight the spuriousness of Republican arguments that "[Obamacare](#)" has failed.

The first topic to come up in [oral arguments on Monday](#) at the start of the Supreme Court's historic three-day health care marathon was whether anyone has standing to challenge a new requirement that most individuals buy health insurance coverage -- or pay a penalty. As attorney Robert Long told the justices, the 1867 Anti-Injunction Act imposes a "pay first, litigate later" requirement. So what's the problem? The first penalties under the Affordable Care Act won't be imposed until 2015.

However the justices rule on the question, its moment under the high court's microscope is a reminder that the law Republicans have already deemed a failure is in its infancy and its major provisions won't be in place until 2014.

The Supreme Court arguments and the law's second anniversary last Friday triggered a new round of GOP attacks along those lines. "President Obama wanted health care to be his signature issue," Republican National Committee Chairman [Reince Priebus wrote last week](#). "Today, it is an undeniable failure."

"This presidency has been a failure. At the centerpiece of this failure is this piece of legislation," Mitt Romney said Friday at a repeal-and-replace event in Metairie, La. [Rick Santorum aimed a double-barreled email attack](#) Sunday at both "Obamacare" and Romney's signature health care law in Massachusetts. "It didn't take long for people in Massachusetts to realize Romneycare was a failure and it is already proving to be the same on the national level. That's why I vow to repeal and replace Obamacare," Santorum said.

Republican strategist Ed Rogers, meanwhile, [wrote Thursday in \*The Washington Post\*](#) that "Obama is failing on energy and health care." His evidence: "The [total cost of health care](#) has risen 21 percent since Obama got elected, while [inflation has only risen 7.26 percent](#). The average cost of health care for employees has increased 28 percent, and the average cost for employers has increased 19 percent."

"He claims health care as his trophy success for his first term. Wasn't he supposed to rein in costs, or is that another Obama policy that's working perfectly according to plan, it just hasn't been given enough time to have any discernible positive effect?" Rogers asked.

There have been and will be problems with the complex and far-reaching Affordable Care Act -- a long-term disability insurance program already has been scrapped and states have demanded and won more flexibility on what insurance policies they offer in online marketplaces called exchanges, to name two. But the Republican complaints are premature at best, misleading at worst.

For a start, the authors of the study that shows the total cost of health care has risen 21 percent since Obama was elected -- a [Towers Watson survey of 512 companies](#) that spent \$87 billion on health care in 2011 -- also say that "over the last five years, we have witnessed the longest period of stability in health care cost increases since this survey began in 1995."

The Obama administration points to the federal government's new authority to review and put a spotlight on requested insurance rate hikes over 10 percent. It also brags about [lower premiums for Medicare Advantage](#), the private plans available as alternatives to traditional Medicare.

The exchanges, similar to what Republicans have proposed for Medicare recipients, will be available to small businesses and uninsured individuals starting in 2014. The idea, the same as a Medicare plan proposed by conservative Rep. Paul Ryan is that the marketplace will foster competition and drive down costs. But of course, that can't happen until the exchanges are up and running.

Another cost-cutting approach is scheduled to begin in 2015 when a new Independent Payment Advisory Board can start recommending ways to curb the growth of Medicare costs. As of this year, the government is tracking readmission rates at hospitals and charging penalties to hospitals with the highest rates.

Next year, Medicare will test plans to pay a single "bundled" fee for an operation, instead of separate charges for every doctor, test, and medication. The law sets up many other pilot programs aimed at cutting costs, including home-based care for the chronically ill, transitional care for people leaving hospitals, penalizing hospitals with high infection rates, and offering hospice services along with aggressive treatment (giving patients both could [reduce costs and at the same time prolong life](#), research shows).

The bottom line is, it's way too soon to say whether any of these experiments will fail, or succeed and spread and change the health sector on a large scale.

As for "Romneycare," the Santorum campaign is basing its claim of failure on a 2008 [study by the libertarian Cato Institute](#). Massachusetts leads the nation in coverage -- more than 98 percent of its residents have insurance. A survey of the state in June found [63 percent approved of the law](#), while only 21 percent opposed it. The initial law did not deal with rising costs, but the state is tackling them now with experiments that look a lot like what's in the Affordable Care Act.

If the authors of the 906-page Affordable Care Act had left out the cost-cutting components, it would have been a much shorter and less complicated law. But that would have made it an even easier target for the GOP than the current law, with its years of phase-ins during which critics are free to carp before anyone knows if they are right or not.