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The Big Problem With Obamacare: It Doesn't Help Many

Daniel Fisher, Forbes Staff | 3/28/2012 @ 8:44AM

Supreme Court arguments over the fate of the [Patient Protection and Affordable Care Act](#) this week have revealed one inconvenient fact about the law better known as Obamacare: It doesn't do much for the vast majority of Americans.

Existing federal laws already cover the poor, the elderly, and the roughly 60% of Americans who get their insurance through their employers. Those laws provide free or low-cost care to just about anyone who needs it, and ban practices like charging higher rates for people with preexisting conditions in employer-based plans. The law won't help them much and could make them worse off, if you agree that the minimum standards for health insurance policies and broader access to subsidized healthcare by the poor will drive taxes and costs up instead of down.



And as Supreme Court Justice Samuel Alito [pointed out in arguments Tuesday](#), the typical 27-year-old could be much worse off under Obamacare: She consumes, on average, less than \$900 a year in healthcare services but will be required to spend more than five times that much to buy an insurance policy with many bells and whistles, like low deductibles and pediatric care, that most young consumers don't need.

"Isn't it the case that what this mandate really doing is not requiring the people who are subject to it to pay for the services that they are going to consume?" Alito asked U.S. Solicitor General Donald Verrilli. "It is requiring them to subsidize services that will be received by somebody else."

The fact is Obamacare is designed to address a relatively small segment of the population which, according to the government's own briefs in support of the law, runs up something like \$43 billion in medical expenses that hospitals and providers recover by charging

everybody else more. That unpaid tab, the government says, increases the average family insurance premium by \$1,000 a year.

That's it. The fundamental reason for healthcare reform, according to the government's own brief, is to fix a problem that each year costs about as much as five nuclear submarines or a year's worth of federal highway expenditures. There are lots of other costs that Obamacare is supposed to address, such as the economic drag of people staying in jobs simply because they need to maintain health coverage. And the law purports to control healthcare spending, although Congress's record of annually voting to increase Medicare reimbursements in excess of a federal cost-control law suggests legislators are not very good at the politically unpopular job of cutting health expenditures.

But the fundamental market failure that Congress sought to fix was this cost-shifting from the uninsured to the privately insured.

So if nothing else, the Supreme Court arguments have demonstrated that one big problem with the debate over Obamacare is how people conflate "health insurance" with "health care." The [Census Dept.](#) estimates there are 50 million uninsured in this country. No one knows how many Americans go without healthcare entirely because they can't afford it, despite laws that require hospitals to provide care regardless of the ability to pay. The Kaiser Family Foundation estimates a quarter of the uninsured "[go without needed care](#)" for financial reasons, compared with 4% of the insured.

The conservative [Cato Institute](#) says the number of uninsured is too high, however, because 25% of the "uninsured" are eligible for Medicaid or the State Children's [Health Insurance Program](#) for families below 200% of the poverty line. Cato says 64% of uninsured children are eligible for S-CHIP. Another 10 million uninsured aren't citizens. And [this paper by economists Kate Bundorf and Mark Pauly](#) suggests between 25% and 75% of the uninsured have incomes high enough to afford health insurance but choose not to. Many are probably young and healthy and don't perceive the need for it.

Existing state and federal laws cover virtually everybody else. The \$43 billion cost cited by the administration, for example, doesn't include the \$30.2 billion that Medicaid pays hospitals under so-called "disproportionate share" programs designed to help out hospitals with a high percentage of low-income patients. The law providing for that money was passed back in 1985. It also doesn't include the care provided to the truly poor under Medicaid — \$366 billion in fiscal 2009, [according to the Kaiser Foundation](#) — or Medicare, which costs an estimated \$525 billion a year. That program was passed back in 1965 and covers about 38 million retirees.

Another federal law, the [Employee Retirement Income Security Act](#), covers all employer-based group health insurance plans. It bans many of the practices cited as reasons for the healthcare reform act, including charging higher premiums for people with preexisting conditions, or denying them access to the plan. Revisions to the law included provisions like COBRA, which require employers to offer health insurance to employees up to a year after they are laid off, and prohibits them from dropping dependent students who are forced to leave school for medical reasons. That's another 149 million people, or at least half the population, covered by existing federal laws.

So who does the health reform directly address?

- **College graduates:** They get to stay on their parents' policies until they are 26.
- **Working poor:** State health insurance pools will provide subsidized health insurance to workers whose employers don't provide coverage. If they have group coverage, of course, ERISA already applies.
- **Unemployed, uninsured people with assets:** This might be the group with the most to lose if Obamacare is struck down. Unlike the truly poor, who can run up medical bills without being forced to pay them back, a 55-year-old with a paid-off house who comes down with cancer is likely to be financially wiped out by his medical bills.
- **The privately insured:** Assuming the administration's math is right, they will recover part of the "hidden tax" from cost-shifting. But this is a big assumption; by expanding access to insurance and Medicaid, the law also brings millions of consumers further into the healthcare market, increasing demand for doctors and facilities and possibly driving up prices.

The Supreme Court arguments Tuesday ranged widely over many of these topics, surprising given they are more matters of policy than of law. This airing has been useful, however. Whether the court rejects or upholds the law with its decision expected in June, the same questions will be on the national agenda again in November, when voters decide whether Obamacare delivered the fix to the healthcare system they thought they wanted.