

Mitt Romney needs a better defense for RomneyCare

By Jennifer Rubin

Mitt Romney is struggling to find a defense for RomneyCare, the health care legislation passed when he was governor of Massachusetts. Romney's present argument is a legalistic and not very compelling one. [On Good Morning America](#) today, Romney said that despite the fact that the Massachusetts law contains the same individual mandate that a federal judge ruled was unconstitutional in ObamaCare, RomneyCare is different because it does not run afoul of the Commerce Clause, which is a limitation on the federal government. That's an accurate statement, but utterly beside the point.

Romney will be savaged because he adopted a plan that made ObamaCare and the notion of compulsory insurance (the individual mandate) popular.

For a preview of what is in store for Romney, it's worth looking back to the last presidential contest, when candidate Barack Obama opposed the individual mandate and Hillary Clinton supported it. Here's an excerpt from my 2007 interview with Cato's John Tanner:

Tanner notes that the [Clinton] plan is "a lot like Massachusetts" - referring to Romney's Commonwealth Care- which is not surprising since the same guru, MIT's Jonathan Gruber advised Clinton, Obama and Romney in developing health care plans that eschew a single payer system but regulate insurance and require government bureaucracy to enforce its edicts. Tanner notes that Clinton has tried to mask the degree of government control by repeatedly referring to "choice" and declaring that anyone can keep their current plan if they like. This, he says, is simply false. By requiring individuals to maintain their own insurance Hillary (like similar Democratic plans) must then set out "a minimum definition of what insurance is." Therefore, if your current plan doesn't measure up to Clinton's minimum guidelines "you do have to give it up."

What is wrong with requiring individuals to carry their own insurance? Tanner notes there is a certain appeal to individual responsibility in that "if you get hit by a bus we have to subsidize you" when you go into an emergency room. However, he notes that uncompensated costs are generally inflated by health care experts and represent only about 2 ½% of healthcare costs. Tanner contends that this problem hardly justifies the drawbacks of an individual mandated insurance system. . . .

Tanner is critical of Republicans like Romney in Massachusetts and Arnold Schwarzenegger who "conceded this argument that you must cover everyone" which inevitably led to individual mandate based plans. Tanner says that

conservative should focus on bringing down costs and improving quality through market based reforms including which move away from employer based insurance coverage to individually purchased insurance.

This is not merely a think tank debate. Conservatives, from Tea Partyers to the speaker of the House, have argued not only about the constitutionality of ObamaCare, but about the infringement on personal freedom that it entails. That is applicable whether the state or the federal government is forcing you to buy insurance.

[David Axelrod got this one correct](#) when he talked to USA Today about potential 2012 matchups:

"We got some good ideas from him," said Axelrod in a clear effort to highlight Romney's involvement with implementing a law similar to that which is so disliked among Republicans nationwide.

This is true, since both relied on the same health-care guru.

Then there are the practical arguments against RomneyCare, many of which are identical to the points Rep. Paul Ryan (R-Wisc.) and others have raised in opposition to ObamaCare. [Grace Marie-Turner argued](#) in the Wall Street Journal last March:

While Massachusetts' uninsured rate has dropped to around 3%, 68% of the newly insured since 2006 receive coverage that is heavily or completely subsidized by taxpayers. While Mr. Romney insisted that everyone should pay something for coverage, that is not the way his plan has turned out. More than half of the 408,000 newly insured residents pay nothing, according to a February 2010 report by the Massachusetts Health Connector, the state's insurance exchange.

Another 140,000 remained uninsured in 2008 and were either assessed a penalty or exempted from the individual mandate because the state deemed they couldn't afford the premiums.

Mr. Romney's promise that getting everyone covered would force costs down also is far from being realized. One third of state residents polled by Harvard researchers in a study published in "Health Affairs" in 2008 said that their health costs had gone up as a result of the 2006 reforms. A typical family of four today faces total annual health costs of nearly \$13,788, the highest in the country. Per capita spending is 27% higher than the national average.

She also was farsighted in identifying a further problem for Romney:

One of the challengers Mr. Romney could face in 2012 is Gov. Mitch Daniels of Indiana. Mr. Daniels went in a very different direction in tackling the problem of the uninsured. He created a program targeted to lower-income uninsured people who weren't eligible for Medicaid or employer insurance. Mr. Daniels's Healthy

Indiana program has a fixed budget and relies on shared responsibility between the newly insured and the government in managing health spending.

Romney has many assets as a candidate, but he needs to come up with a better response to critics who will drill down on his greatest liability. I have thought what that might be. I've asked those supportive of his candidacy: What's the defense for RomneyCare? I've yet to hear a satisfying answer. But it is early. Perhaps Romney and his team will come up with something. But first they need to drop their legalistic argument.