

# *The Real Trouble With the Birth-Control Mandate*

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When the administration affirmed last month that church-affiliated employers must buy health insurance that covers birth control, the outcry was instant. Critics complained that certain institutions should be exempt as a matter of religious freedom. Although the ruling was meant to be final, presidential advisers said this week that the administration might look for a compromise.

Critics are missing the larger point. Why should the Department of Health and Human Services (HHS) decree that any of us must pay for "insurance" that covers contraceptives?

I put "insurance" in quotes for a reason. Insurance is supposed to mean a contract, by which a company pays for large, unanticipated expenses in return for a premium: expenses like your house burning down, your car getting stolen or a big medical bill.

Insurance is a bad idea for small, regular and predictable expenses. There are good reasons that your car insurance company doesn't add \$100 per year to your premium and then cover oil changes, and that your health insurance doesn't charge \$50 more per year and cover toothpaste. You'd have to fill out mountains of paperwork, the oil-change and toothpaste markets would become much less competitive, and you'd end up spending more.

How did we get to this point? It all leads back to the elephant in the room: the tax deductibility of employer-provided group insurance.

If your employer pays you \$100 less in salary and buys \$100 of group insurance for you, you don't pay taxes on that amount. Hence, the more insurance costs and covers, the less in taxes you seem to pay. (Even that savings is an illusion: The government still needs money and raises overall tax rates to make up the difference.)

To add insult to injury, this tax deduction does not apply to portable, guaranteed-renewable individual insurance. You don't get the tax break if your employer gives you the \$100 and you buy a policy—a policy that will stay with you if you get sick, leave employment or get divorced. The pre-existing conditions crisis is largely a creature of tax law. You don't lose your car insurance when you change jobs.

Why did HHS add this birth-control insurance mandate—along with "well-woman visits, breast-feeding support and domestic-violence screening," and "all without charging a co-payment, co-insurance or a deductible"—to its implementation of a provision of the new health-care reform law? "Because it promotes maternal and child health by allowing women to space their pregnancies," says the HHS advisory panel. Because these "historic new guidelines" will make sure "women have access to a full range of recommended preventive services," says the original HHS announcement. To "increase access to important preventive services," echoes White House Press Secretary Jay Carney.

Notice the doublespeak confusion of "access" and "cost." I have "access" to toothpaste because I have two bucks in my pocket and a competitive supplier. Anyone who can afford a cell phone can afford pills or condoms.

Poor women who can't afford birth control are a red herring in this debate. HHS isn't limiting this mandate to the poor anyway. We all have to pay. The very poor typically don't have employer-provided health insurance in the first place. "Allowing women to space their pregnancies"? Was there some sort of federal ban on birth control before this?

It's not about "access" and it's not about "insurance." It's because Americans, when paying even modest co-payments, choose to spend their money on other things. They prefer a new iPod to a "wellness visit" to the doctor. As the HHS unwittingly admits:

"Often because of cost, Americans used preventive services at about half the recommended rate."

Remember, we're supposed to be worrying about skyrocketing health-care expenses. Doubling the number of wellness visits and free pills sounds great, but who's going to pay for it? There is a liberal dream that by mandating coverage the government can make something free.

Sorry. Every increase in coverage means an increase in premiums. If your employer is paying for your health insurance, he could be paying you more in salary instead. Or, he could be lowering prices and selling his product to you and all consumers more cheaply. Someone is paying. Not even HHS tries to claim that these "recommended preventive services" will lower overall costs.

Here's a good mandate: Let's mandate that every time a government official says that the government is going to "help" some category of voter, he or she has to say who they are going to hurt in the same sentence. Because it has to be someone.

But what about the fact, you may ask, that unwanted children are a burden on society as well as to their mothers? Perhaps there is a social interest in subsidizing birth control? Perhaps there is—but if so, this is an awful way to do it.

The minute pills are "free," under insurance, the incentive for drug companies to come up with cheaper versions vanishes. So does their incentive to develop safer, more convenient, male-centered or nonprescription birth control. And by making pills free but not condoms, the government may inadvertently be contributing to an increase in sexually transmitted diseases.

The taxes and spending we argue about are the tip of the iceberg. Salting mandated health insurance with birth control is exactly the same as a tax—on employers, on Catholics, on gay men and women, on couples trying to have children and on the elderly—to subsidize one form of birth control.

If the government wants to subsidize birth control, OK, pass an explicit tax, and sensibly subsidize all birth control. And face the voters on it. The tax rate and spending debates that occupy the media are a small part of the effective taxes and spending that the government achieves by these regulatory mandates.

There is also the issue of religious freedom. Our nation is divided on social issues. The natural compromise is simple: Birth control, abortion and other contentious practices are permitted. But those who object don't have to pay for them. The federal takeover of medicine prevents us from reaching these natural compromises and needlessly divides our society.

The critics fell for a trap. By focusing on an exemption for church-related institutions, critics effectively admit that it is right for the rest of us to be subjected to this sort of mandate. They accept the horribly misnamed Patient Protection and Affordable Care Act, and they resign themselves to chipping away at its edges. No, we should throw it out, and fix the terrible distortions in the health-insurance and health-care markets.

Sure, churches should be exempt. We should all be exempt.

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