



Why health care reform is mandated to fail

By Paul Mulshine/The Star Ledger

December 31, 2009, 5:55AM

The Democrats' biggest accomplishment of this decade was getting a package through both houses of Congress mandating that every American have health insurance.

Their biggest accomplishment of the next decade will be watching it fail. Then they can get what they really want, a government takeover of health care.

That's my prediction. It's based on what I call the Frito-Lay theory of health reform: Mandates are like potato chips; you can't have just one.

Just for fun, I ran that theory by someone who has been watching the health care debate up close, Michael Cannon of the Cato Institute, a free-market think tank in Washington. Cannon agreed with my premise: Each mandate will lead to another mandate, which will lead to another, until everything is mandated.

Democrats in Congress are crying crocodile tears at the moment over their failure to get a public option through the Senate. But they'll eventually compromise on a bill that President Obama will sign early next year, Cannon predicts. "That's how the leadership is going to sell it to the lefties," he said. "They'll say, 'We'll get single-payer in a couple of years.'"

If they do, the Republicans will be partly at fault. It was a Republican, Mitt Romney, who first introduced the idea of an individual mandate in his role as governor of Massachusetts. And many of Romney's fellow Republicans in Congress accepted the concept of the mandate while saving their objections for the public option and for minor cutbacks in Medicare that are needed anyway. That was a key tactical error.

Economically, the central problem with the mandate is that it's not really a mandate. Congress doesn't have the nerve to impose a big enough penalty to force every American to buy health insurance. The Senate bill calls for a mere \$750 penalty per adult and \$375 per child. The House bill calls for a 2.5 percent tax on adjusted gross income. In either case, the penalty for failing to have insurance would be under \$2,000 for most families. Meanwhile the cost of insurance could be well in excess of \$10,000 annually for a family of four.

This will lead directly to what economists call "adverse selection." Those with chronic conditions that might cost perhaps \$50,000 a year to treat will be glad to buy a policy that costs a mere \$10,000. But those in good health will just pay the penalty and go without insurance.

But what if they get sick? Then they'll take advantage of another mandate expected to be in the final bill, a "must-carry" provision that requires insurers to enroll patients with pre-existing conditions.

Of course, no insurer will want to cover just the high-cost patients without low-cost patients to offset them. That's why the final bill is likely to include another mandate, one that requires insurers to participate in exchanges that will spread the high-risk customers out among the companies.

Here in Jersey, we've already seen how that sort of thing works. Back in the 1970s, the New Jersey Legislature adopted a car insurance mandate. Then as now, advocates promised rates would plummet once everyone was insured. Instead rates skyrocketed. The only way to maintain the mandate was to set up that infamous "assigned-risk" pool of insurers who were forced to take customers they didn't want.

The mandatory car insurance debacle was bad, but the mandatory health insurance debacle promises to be worse. As rates rise, more and more healthy people will drop their insurance. Congress will then have to impose even more mandates, Cannon predicts.



AP/CSPAN

In this image made from video the U.S. Senate passes the health care overhaul bill Thursday Dec. 24, 2009.

"It just becomes a never-ending game of cat-and-mouse," said Cannon. "When you force people to behave in these ways, some do what they're told, but enough of them do what they can to avoid the mandates so that you end up doing more harm than good."

Of course, that depends what you mean by "harm." Liberal Democrats will look over the wreckage and say, "See? We told you this would happen if you left it up to private insurers." Then we'll get the public option after all. And eventually it will grow to become something close to a single-payer system.

The only way to halt this is to halt the individual mandate. Many conservative legal scholars are now working on ways to challenge it in the courts. Their central argument is that the federal government lacks the authority under the U.S. Constitution to order a citizen to enter into a contract with a private commercial entity.

Whether the Supreme Court will accept that argument remains to be seen. But if the individual mandate survives, the government takeover of the health care system will arrive as surely as death and taxes, but in the opposite order.

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