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Opponents of a health insurance mandate mobilize

Both healthcare proposals approved by Congress require that all Americans get health insurance. That's now under fire from liberals, Republicans and even some in the insurance industry.

By James Oliphant

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Reporting from Washington

If there is one thing in the proposed congressional healthcare overhaul that sets Michael Cannon's libertarian teeth on edge, it's the requirement that all Americans get health insurance.

"The federal government does not have the power to force you to purchase a private product," said Cannon, a health policy analyst at the Cato Institute, a free-market think tank in Washington.

But with Congress poised to do just that, the mandate for near-universal coverage is generating opposition not only from libertarians like Cannon, who object to the guiding hand of government regulation in almost any form, but from some liberals -- and even from some members of the insurance industry, which stands to gain millions of customers.

Both the House and Senate versions of the healthcare revamp contain a requirement that everyone have health insurance, through a job, the government or the private market.

In theory, the justification seems simple: A large number of people pay relatively modest premiums, creating a pool of money big enough to take care of those who need help.

Having people of all ages participate is especially important with healthcare, analysts note, because the major medical problems that result in big claims are found disproportionately in middle-aged and older Americans. If younger, healthier people go without insurance, premiums for the others would be driven higher.

But even as right-wing critics talk of legal challenges, critics on the left complain that Americans will be locked into buying a product that threatens to become ever more expensive -- especially if, as seems likely, the final bill does not contain a government-run insurance program to compete with private firms, the so-called public option.

"We'd like to see the individual mandate stripped," said Jim Dean, chairman of the liberal Democracy for

America, which was founded by his brother, former Vermont Gov. Howard Dean.

The mandate "was fair given the presence of a government entity that could provide competition and control the cost," Jim Dean said. "It's not fair if people are required to buy insurance from the same insurance industry that caused this problem in the first place."

Mainstream Republicans also have adopted the no-mandate war cry, led by a group of more than a dozen state attorneys general who are exploring whether the mandate is unconstitutional.

"It's a tax on living," said Florida Atty. Gen. Bill McCollum. He drew a distinction from the requirement that people buy auto insurance: Drivers make a choice to own a car.

The insurance industry, meantime, has a different complaint: that the penalty for failing to buy insurance is too mild. That could result in young, healthy people choosing to pay a relatively small tax penalty rather than buy insurance.

"We think there's more that [the legislation] needs to do," said Robert Zirkelbach, spokesman for America's Health Insurance Plans. "There's still a strong incentive for people to wait until they are sick to purchase insurance."

That incentive exists, ironically, because of another provision in the legislation -- that insurers treat those with preexisting medical conditions the same as everyone else, and end practices that deny coverage to patients in other ways.

Once insurance companies must sell policies to almost all comers, "the incentive is to pay the penalty until you need the insurance -- and then buy it," said Robert Book, a health economist with the Heritage Foundation. "You are likely to have more people go uninsured because now it's less risky to be uninsured."

Book and other critics warn that if young, healthy people opt out of the individual market in large numbers, those who buy insurance will tend to be sicker. That will cause premiums to increase, which, in turn, will prompt more young people to forego insurance and pay the penalty.

"It's a realistic concern," said Rick Weissenstein, a healthcare analyst with the Washington Research Group. The legislation allows insurers to charge older people only two or three times more than younger consumers, he said, which also is likely to drive up prices for the young.

"Over time, the incentive will be for older, sicker folks to take the insurance," he said. "It's not going to make it cheaper for younger people, that's for sure."

Under the Senate bill, all a person would have to do is pay $750 per year or 2% of household income, whichever is greater, to defy the mandate. The House penalty is slightly higher. (This and other differences will be worked out by House and Senate negotiators.)

But defenders of the legislation say fears of an ineffective mandate are overblown.

Linda Blumberg, a researcher with the Urban Institute, said much of the public's resistance stemmed from sketchy details about the new insurance exchanges, which would be established so that people without job-related insurance could buy coverage. People who earn just over 100% above the federal poverty line would become eligible for Medicaid -- and those earning up to 400% of the poverty line would qualify for federal subsidies to help defray the cost of insurance.

"There's a lack of information about what they're going to pay and what they're going to get," Blumberg said.

She cited Massachusetts as a success story. The state enacted its own individual health insurance mandate in 2006. By the end of 2008, about 96% of residents were insured. The state's penalty in 2008 for violating its mandate exceeded $1,000, however -- more than the fee in the Senate bill.

More Massachusetts employers were offering coverage because, she said, workers were actively seeking jobs with health coverage to comply with the mandate.

"Once somebody is required to do something for the first time, it creates more of a financial pressure for employers and workers to work out a deal," she said.

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