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Employer versus Individual Responsibility Requirements under the ACA

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The Affordable Care Act (ACA) is a highly multifaceted law, reflecting the complexity of the U.S. health care system. It also reflects the compromises reached as legislators attempted to maintain the components of the current system that worked effectively while filling in gaps and correcting flaws. Thus, understanding the significance of each component and its specific implications for meeting legislative goals is often challenging. Our analysis here focuses on the ACA's employer responsibility requirement and how it fits in with the act's larger reforms. The employer responsibility requirement is of particular interest given that earlier this year the Obama administration announced a one-year delay in its implementation, leading to considerable confusion and controversy.

Under the ACA, employers of 50 or more workers can be assessed a financial penalty if at least one of their full-time workers (working 30 or more hours in a typical week) purchases nongroup (directly purchased) insurance coverage through one of the new insurance exchanges (or "marketplaces") and receives a financial subsidy to do so. Firms can incur a penalty only if they do not offer coverage to their full-time employees at all or if the direct cost to the worker of the firm's coverage exceeds 9.5% of his or her income. In addition, workers who are ineligible for exchange-based subsidies do not trigger employer penalties. For employers that do not offer coverage at all, the penalty is $2,000 per full-time worker, excepting the first 30. For employers that do offer coverage, the penalty is either $3,000 per worker receiving a nongroup subsidy or $2,000 per full-time worker, again excepting the first 30.

Some politicians and analysts reacted to the announcement of the delay in the employer requirement as if it were another sign that the law was fundamentally flawed or could not feasibly be implemented. Some also expressed the view that providing one year's penalty relief to employers made it unfair to require uninsured individuals to pay a penalty. How important is the delay of the employer mandate, and how do its effects compare with the House of Representatives' proposed delay in the individual mandate?

Our analysis using the Urban Institute's Health Insurance Policy Simulation Model (HIPSM) shows that comparing the two mandates is akin to comparing apples and oranges. The most noticeable effect of the employer mandate is to generate a modest amount of federal revenue; it has very little impact on the number of people with health insurance coverage and the associated public and private costs of reducing the number of uninsured. Conversely, the individual mandate has substantial implications for individual behavioral decisions, average health

insurance premiums, and the public cost per newly insured individual.

APPROACH

HIPSM is a microsimulation model used to estimate the cost and coverage implications of a broad array of health care reforms. (http://www.urban.org/UploadedPDF/412471-Health-Insurance-Policy-Simulation-Model-Methodology-Documentation.pdf) HIPSM simulates the responses of employers and households to changes in public policy, such as expansions of public insurance, government financial assistance for the purchase of private coverage, insurance exchanges, insurance market reforms, and new insurance options. The model captures changes in government, employer, and household spending, the likelihood of employers offering coverage to their workers, and enrollment decisions of families. For simplicity, we simulate the main coverage provisions of the ACA as if they were fully implemented and behavioral responses from all sectors were fully phased in today. Our estimates also assume that all states eventually decide to expand Medicaid up to 138% of the federal poverty level for all household types, a move consistent with the law's intent.

We compare simulation results under four policy environments:

1. No reform, assuming that the ACA was never implemented;
2. Complete implementation of the ACA, including all components;
3. Implementation of all ACA components except the employer responsibility requirement;
4. Implementation of all ACA components except the individual responsibility requirement.

FINDINGS

Distribution of Insurance Coverage. As shown in Table 1, complete implementation of the ACA decreases the share of the nonelderly population without insurance from 19.2% of the population to 10.1%, a relative decrease of 47%. This decrease is achieved through significant increases in Medicaid coverage as well as private insurance. As compared with full ACA implementation, eliminating the employer requirement has little effect on coverage, increasing the number of uninsured by fewer than 400,000, from 10.1%t to 10.2% of the nonelderly population. The employer mandate has very little effect on net coverage or the distribution of coverage because 96% of employers potentially subject to a penalty (those with 50 or more workers) already offer

Table 1. Health Insurance Coverage Distribution of the Non-Elderly in Baseline and Reform.*

	No ACA		Full ACA		ACA without Employer Mandate		ACA without Individual Mandate	
Insured	**224,255,000**	**80.8%**	**249,541,000**	**89.9%**	**249,206,000**	**89.8%**	**235,500,000**	**84.9%**
Employer (Non-Exchange)	153,914,000	55.5%	148,203,000	53.4%	147,303,000	53.1%	142,839,000	51.5%
Employer (Exchange)	0	0.0%	10,112,000	3.6%	10,925,000	3.9%	9,009,000	3.2%
Employer Total	*153,913,600*	*55.5%*	*158,315,000*	*57.1%*	*158,228,000*	*57.0%*	*151,848,000*	*54.7%*
Non-Group (Non-Exchange)	15,218,000	5.5%	2,660,000	1.0%	2,658,000	1.0%	2,043,000	0.7%
Non-Group (Exchange)	0	0.0%	15,881,000	5.7%	15,671,000	5.6%	11,483,000	4.1%
Non-Group Total	*15,218,385*	*5.5%*	*18,541,269*	*6.7%*	*18,328,606*	*6.6%*	*13,525,565*	*4.9%*
Medicaid/CHIP	46,317,000	16.7%	63,879,000	23.0%	63,843,000	23.0%	61,320,000	22.1%
Other (including Medicare)	8,807,000	3.2%	8,807,000	3.2%	8,807,000	3.2%	8,807,000	3.2%
Uninsured	**53,214,000**	**19.2%**	**27,928,000**	**10.1%**	**28,264,000**	**10.2%**	**41,969,000**	**15.1%**
Total	***277,469,000***	***100.0%***	***277,469,000***	***100.0%***	***277,469,000***	***100.0%***	***277,469,000***	***100.0%***

*Data are from an Urban Institute analysis, HIPSM 2013. The ACA is simulated as if fully implemented in 2013 and as if all states are participating in Medicaid expansion.

Table 2. Health Care Spending of Government, Employers, Individuals, and Uncompensated Care in Baseline and Reform.*

	No ACA (in millions)	Full ACA (in millions)	ACA without Employer Mandate (in millions)	ACA without Individual Mandate (in millions)
Government Spending				
Medicaid/SCHIP**	$284,253	$344,105	$344,276	$337,955
Federal Share	$162,984	$224,464	$224,694	$220,325
State Share	$121,269	$119,642	$119,582	$117,630
Premium Subsidies	$0	$37,473	$37,036	$31,808
Cost-sharing Subsidies	$0	$4,166	$4,161	$3,328
Employer Subsidies	$0	$4,368	$4,343	$4,035
Individual Mandate Penalties	$0	-$3,540	-$3,552	$0
Employer Mandate Penalties	$0	-$3,717	$0	-$6,108
Net Government Spending	**$284,253**	**$382,856**	**$386,263**	**$371,018**
Employer Spending				
ESI Premiums	$597,669	$612,743	$613,138	$571,039
Employer Mandate Penalties	$0	$3,717	$0	$6,108
Employer Subsidies	$0	-$4,368	-$4,343	-$4,035
Net Employer Spending	**$597,669**	**$612,092**	**$608,795**	**$573,112**

*Data are from an Urban Institute analysis, HIPSM 2013. The ACA is simulated as if fully implemented in 2013 and as if all states are participating in Medicaid expansion.

**Spending on acute care costs for the non-elderly.

insurance coverage to their workers today, even without the threat of a penalty; they will, by and large, continue to do so under the ACA. (http://meps.ahrq.gov/mepsweb/data_stats/summ_tables/insr/national/series_1/2012/tia2.pdf, http://www.urban.org/UploadedPDF/412428-The-Impact-of-the-Affordable-Care-Act.pdf) This is because most workers will continue to be better off receiving coverage through their employers as opposed to buying it independently (in large part due to the tax preference for employer coverage), and employers offer coverage to attract workers into their employ.

The individual requirement has much greater implications for coverage, however. By our estimates, another 13.7 million people would be uninsured without the individual mandate as compared with the full-ACA case. Employer-based insurance coverage would be lower, as would coverage through public programs and private nongroup insurance. Coverage would be above the levels of the no-reform case even without the individual mandate, however, with some individuals taking advantage of expanded Medicaid eligibility and federal subsidies to purchase coverage in the reformed nongroup marketplaces.

Government and Employer Spending. As shown in Table 2, without the employer responsibility requirement in place, government and employer spending differs very little from the full-ACA case. Because coverage changes very little, spending remains quite consistent. The central difference between the two scenarios is that employers save by not paying penalties in the absence of the mandate, and the government loses revenue of the same amount, roughly $4 billion by our estimate.

Without the individual responsibility requirement, however, spending changes much more significantly. Lower enrollment in Medicaid and the exchanges without the requirement leads to lower aggregate government spending. Without the mandate, worker interest in having employer-based insurance is lower than in the full-ACA case, and fewer small employers therefore offer coverage and take advantage of small-employer subsidies, lowering government costs further. Plus, individual mandate penalties are not a source of government revenue without the requirement.

Without the individual mandate, employers spend less on premiums (because fewer workers take up coverage offered and fewer employers offer coverage to workers), but employ-

ers pay higher penalties to the government because more workers obtain subsidized exchange-based coverage as a result of not having an employer offer.

DISCUSSION

Our analyses, based on our microsimulation model, indicate that the ACA's employer responsibility requirements have very little effect on the level and distribution of insurance coverage relative to full implementation of the ACA. Conversely, eliminating the individual responsibility requirement would significantly increase the number of uninsured as compared with implementing the law as intended. The employer requirement in the law has little implication for coverage decisions by employers or households, and thus it is not central to achieving the expansion of insurance that is one of the primary goals of the ACA.