

GOP PUSHES FRIVOLOUS LAWSUITS IN CASH-STRAPPED STATES TO REPEAL HEALTH CARE REFORM

Republicans Have Yet to Explain How Proposed Repeal Would Impact Consumer Benefits

Republicans have called health reform “unconstitutional” and have made no secret of their intention to repeal it. However, Republicans are the pretty much the only ones who believe health reform is unconstitutional. Experts disagree – and say that the reform law is clearly constitutional. In addition, Republicans repeatedly say they are going to take back power so they can push for repeal of reform, which they claim the American people want – ignoring poll after poll showing that reform provisions are extremely popular.

Experts Confirm: Health Reform is Constitutional

“The Constitution permits Congress to legislate a health insurance mandate.” [Mark A. Hall, JD, Professor of Law and Public Health at Wake Forest University School of Law and School of Medicine, 2010]

“The Supreme Court decades ago, in 1944, held that the business of insurance fell within Congress’ regulatory authority under the Commerce Clause.” [Simon Lazarus, Public Policy Counsel for the National Senior Citizens Law Center, December 2009]

“Congress clearly could [establish an individual mandate] under its power pursuant to Article I, Section 8 of the Constitution to regulate commerce among the states. The Supreme Court has held that this includes authority to regulate activities that have a substantial effect on interstate commerce. In the area of economic activities, ‘substantial effect’ can be found based on the cumulative impact of the activity across the country.... The relationship between health care coverage and the national economy is...readily apparent.... Nor is there any basis for arguing that an insurance requirement violates individual liberties. No constitutionally protected freedom is infringed. There is no right to not have insurance. Most states now require automobile insurance as a condition for driving.” [Erwin Chemerinsky, Dean and Professor of Law at the University of California, Irvine School of Law, October 2009]

GOP Has Supported Individual Mandate in the Past

“Moments after President Obama signs the health reform bill today, mostly Republican aspiring governors -- AGs -- er, attorneys general in at least 12 states plan file suit to prevent the legislation from taking effect. The chances of success in the Supreme Court are low, but the point of the lawsuits isn't legal -- it's political. It advances the politics of conservative jurisprudence, and the political ambitions of conservatives, and it keeps the legislation itself in a state of suspended political animation.” [Marc Ambinder, The Atlantic, 3/23/2010]

“Until very recently, Republicans considered the individual mandate not only Constitutional but utterly uncontroversial. Last year, Republican Senators Robert Bennett, Lindsey Graham, Mike Crapo, Judd Gregg and Lamar Alexander all co-sponsored a health care bill that included an individual mandate. Olympia Snowe voted for a Senate Finance Committee health care bill that included an individual mandate before subsequently voting with her entire party to call the mandate unconstitutional. Texas Attorney General Greg Abbott, currently suing to overturn the

individual mandate, once supported a mandate that parents purchase insure their children.”
[Jonathan Chait, The New Republic, 3/25/2010]

“Those who object to the health care proposals on constitutional grounds are making an argument that has no basis in the law. They are invoking the rhetorical power of the Constitution to support their opposition to health care reform, but the law is clear that Congress constitutionally has the power to do so.” [Erwin Chemerinsky, Dean and Professor of Law at the University of California, Irvine School of Law, October 2009]

Americans Support Health Reform Benefits, So What Would Republicans Take Away from the People?

A recent survey indicates that the American people are pleased by reform’s passage:

- **By an eight-point margin, more Americans say they are “enthusiastic” or “pleased” by the passage of the health insurance reform bill** – 50 percent compared to 42 percent who say they are “disappointed” or “angry.” [Gallup/USA Today, 3/23/2010]

Republicans say that, if given the chance, they would repeal key benefits of health care reform. So the question for Republicans is: which of these popular provisions would they repeal?

- Ending discrimination against Americans with **pre-existing conditions** [supported by 80% of Americans, Washington Post/ABC News poll, 2/8/10]
- Preventing insurance companies from **dropping people when they get sick** [supported by 59% of Americans, Newsweek poll, 2/19/10]
- Setting up a competitive **Exchange** that gives Americans **control and choice** over their insurance [supported by 81% of Americans, Newsweek poll, 2/19/10]
- Requirement that all **businesses must offer private health insurance** to their employees, and offering a **tax credit to small businesses** to help them do so [supported by 75% of Americans, Newsweek poll, 2/19/10]
- **Closing the Medicare prescription drug ‘donut hole’ coverage gap** [supported by 60% of Americans, Kaiser poll, 1/22/10]
- **Covering dependents until the age of 26** [supported by 60% of Americans, Kaiser poll, 1/22/10]