

Mandated car insurance vs. mandated health insurance: What's the difference?

If Americans don't raise an eyebrow over being forced by law to buy car insurance, why the big stink over having to get health insurance?

That debate was rekindled when talk show host Piers Morgan recently posed that question to U.S. Rep. Michele Bachmann, a Minnesota Republican, on CNN. The question followed the U.S. Supreme Court's ruling that the federal health care mandate was legal.

Bachmann said you can't compare the two, using the argument that driving is a choice, whereas living, broadly speaking, is not. If you don't drive or don't want to buy a car, you don't have to get insurance. You also can get out of it by living in New Hampshire, which is the only state that doesn't mandate auto liability insurance, according to the Insurance Information Institute.

But is driving really a choice?

Jennifer Wriggins, associate dean of the University of Maine School of Law, says that's not always the case. She says that the "choice" to drive is affected by state and federal transportation policy as well as zoning laws. Being able to drive a car is essential in suburban and rural areas, where public transportation may not be an option. The locations of workplaces, schools, grocery stores and medical facilities often leave people without much of a choice when it comes to driving, Wriggins says.

Also, the fact that every state requires high-risk insurance plans to be available for people whose driving behavior makes them unable to get traditional insurance helps refute the argument that driving is a choice, she says. The message from states is that driving is a necessity for everyone — even the most risky drivers. "If driving was a mere free choice, there would be no need for high-risk plans," Wriggins says.

Here's what some people who study the insurance industry see as the biggest differences between mandated car insurance and mandated health insurance.

Covering the policyholder vs. covering others

One argument is that auto insurance is meant to protect others from your actions, whereas health insurance protects the policyholder. Wriggins says that's not true for all states. At least 20 states require

people to purchase auto insurance for themselves to cover the risk that they'll be injured by an uninsured driver, she says. Even the liability insurance that 49 states require helps protect the policyholder, she says. It keeps the policyholder from personally having to pay out of pocket if he or she has driven carelessly and caused injuries.

Active vs. passive

The distinction between introducing a mandate for something a person is actively doing vs. something he or she is passively doing is a point the Supreme Court struggled with, says Alice Wolfson, an attorney who's a board member of nonprofit advocacy group United Policyholders. Those opposing the health care mandate argued that while you're actively buying a car and, therefore, will need to insure it, you aren't actively doing anything other than living when you're mandated to buy health insurance.

"The government argued everyone at some point uses the health care system. That's life," Wolfson says. The Supreme Court was left to wrestle with mandating that Americans get health insurance with the rationale that they likely will need medical care at some point. Ultimately, the justices said that rationale wasn't enough, but considering the mandate a tax – and charging a fee for not complying with the mandate – was constitutionally sound.

Catastrophic coverage vs. total coverage

While health insurance covers preventive measures, including checkups and screenings, as well as catastrophic events, such as cancer treatments, heart surgery or intensive care, auto insurance doesn't cover preventive measures such as oil changes and brake checks. Some opponents argue that a health care insurance mandate covering only catastrophes would be more fair.

Different penalties for non-compliance

The penalties can be more severe if you don't buy auto insurance than if you don't buy health insurance, says Robert Hunter, director of insurance at the nonprofit Consumer Federation of America. They differ in severity by state, but they can include loss of your driver's license or even jail time. Penalties for not having health insurance are monetary. For 2014, the penalty under federal law is \$95 per adult and \$47.50 per child up to \$285 for a family) or 1 percent of household income, whichever is greater. The costs are pro-rated for the number of months you don't have health insurance.

Hunter says the two mandates also differ in their effect on low-income people. The "auto mandate hurts the poor and the health mandate has protections for the poor," he says.

A few states, including California, Hawaii and New Jersey, have lower-cost insurance options for low-income drivers, but generally, you don't pay less if you earn less.

The federal health care reform law helps the poor in two ways, according to the Kaiser Family Foundation. Starting in 2014, people with household income up to 138 percent of the poverty level

\$31,809 for a family of four and \$15,415 for a single person in 2012) generally will be able to get Medicaid. Also, qualifying low- and middle-income people buying coverage on their own can get federal tax credits to help with costs.

Wriggins says that requiring health insurance is not uncharted territory: “Given the longstanding, widespread and constitutionally acceptable network of auto insurance mandates, the health insurance individual mandate is not really such a sharp departure,” she says.