



Written by [Bob Adelman](#) on September 28, 2015

Poll: Majority of Americans Oppose Govt-Mandated Health Insurance

A recent poll by Rasmussen revealed that just 37 percent of likely U.S. voters believe the government should mandate that every American have health insurance, down four percentage points from its previous poll and the lowest level of support since December 2013. In addition 52 percent of Americans now oppose government-mandated health insurance, the highest it has been since that December 2013 poll.



U.S. District Court Judge Rosemary Collyer's [decision](#) back on September 9 to allow the House Republicans' lawsuit against President Obama to go forward should bring comfort to that majority of Americans who, despite distractions over the Middle East, immigration, the decline in the stock market, and the 2016 presidential races, have actually increased their opposition to ObamaCare's requirement that every American have health insurance.

In July of 2014, the House voted to authorize a lawsuit by its members in its entirety against the Obama administration for "actions by the President or other executive branch officials inconsistent with their duties under the Constitution of the United States." At issue are 1) claims that Obama exceeded his constitutional authority by delaying implementation of the employer mandate, and 2) that he spent billions in payments to insurance companies that were never authorized by the House.

Originally crafted by Florida International University law professor Elizabeth Price Foley and lawyer David Rivkin, the complaint initially focused on the powers granted under Article II, Section 3 of the Constitution to the president: "He shall take care that the laws be faithfully executed." In November 2014, Jonathan Turley, a law professor at the George Washington University Law School, was retained as the lead attorney. In his blog on May 27, Turley directed his readers' attention to another element of the Constitution that was also, in his opinion, being violated: the separation of powers doctrine set up by the Founders to provide checks and balances among and between the three branches of the federal government:

The House's underlying complaint asserts two sets of claims, both of which concern [ObamaCare] and both of which allege that the defendants [the secretary in charge of the Department of Health and Human Services, Sylvia Burwell, and the secretary in charge of the Department of the Treasury, Jacob Lew] have violated the Constitution.

These violations run to the very foundation of the separation of powers doctrine that underpins our entire system of government because they usurp Congress's powers to appropriate public funds and to legislate.

The first five counts concern defendants' ongoing payment of billions of dollars to insurance companies. These payments were ordered by the [Obama] Administration despite the fact that Congress, which has the exclusive constitutional power to appropriate public funds for expenditure (i) rebuffed the Administration's specific request for an annual appropriation of \$4 billion in FY



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2014, and (ii) has never at any other time appropriated any funds for such payments. (Such payments to insurance companies run at approximately \$300 million per month, and are estimated by the Congressional Budget Office to total \$175 billion over the next ten fiscal years.)

In simple terms, the lawsuit complains that the Obama administration, being denied the funds necessary to implement a major part of ObamaCare — paying off insurance companies to offset premium reductions mandated by the act — went ahead and paid them off anyway.

The other issue was the “unilateral rewriting” of ObamaCare concerning mandates on certain employers and the deadlines dates of implementing them.

In his blog, Turley reiterated the serious nature of the lawsuit and its complaints:

Congress’s “Power of the Purse” is a linchpin of our divided power system of government. The power to decide which federal programs shall be funded, and which shall not, is fundamental to Congress’s ability to exercise a check upon the vast powers of the executive branch....

If the House is barred [as the Obama administration is requesting] from getting into federal court to challenge [these actions] ... then Congress’s ability to use the “Power of the Purse” to check the executive [branch] largely disappears.

After hearing arguments, Judge Collyer wrote that “the only issue before the Court is whether the House can sue the secretaries; the merits of this lawsuit await another day,” adding:

The House sues, as an institutional plaintiff, to preserve its power of the purse and to maintain constitutional equilibrium between the Executive and the Legislature.... The Court concludes that the House has standing to pursue those constitutional claims.

On the issue of whether the House could sue over the “rewriting” of ObamaCare to suit the needs of the Obama administration, Judge Collyer said no:

In contrast, the House’s claims that Secretary Lew improperly amended [ObamaCare] concern only the implementation of a statute, not adherence to any specific constitutional requirement. The House does not have standing to pursue those claims.

One out of two isn’t so bad, considering the flat dismissal of numerous other lawsuits meant to challenge the increasingly unpopular program. In October 2013, Judicial Watch filed a similar lawsuit, which was dismissed out of hand in January 2014 for “lack of standing.” In July 2014, the American Freedom Law Center filed a similar lawsuit, which was also dismissed for lack of standing in May.

With the way now cleared for a full hearing of the complaint by the House over Obama spending money without being authorized to do so, eternal optimists are hopeful for a favorable ruling. The amount of \$300 million a month to pay off insurance companies as part of the ObamaCare deal may not be much in the grand scheme of things, but a ruling upholding the separation of powers and the “power of the purse” reserved exclusively to the House of Representatives most certainly is.

Such a ruling, if granted, may not spell the end of ObamaCare, but it would affirm that the Constitution does mean something after all.

A graduate of an Ivy League school and a former investment advisor, Bob is a regular contributor to The New American magazine and blogs frequently at www.LightFromTheRight.com, primarily on economics and politics.



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