HEALTH CARE REFORM:
The Individual Mandate
will make insurance fairer
and more affordable

The individual mandate to purchase insurance is part of the shared responsibility of insurers, employers, government and individuals to expand health insurance coverage under the Affordable Care Act.

The mandate will help keep premiums affordable and will eliminate insurance denials due to pre-existing conditions.

People who are unable to afford insurance are not subject to the individual mandate.

Many independent legal experts think the mandate is constitutional. The U.S. Supreme Court will likely determine the legal status of the mandate, but not for several years.

Repeal of individual mandate could jeopardize the health coverage of 4 million North Carolinians.

Starting in 2014, insurers, employers, government and individuals will all share the responsibility to expand health insurance to most American citizens. Insurers will stop denying coverage or raising premiums on those with pre-existing conditions. Businesses with more than 50 employees will be required to offer insurance. Federal tax credits will help subsidize insurance premiums. Individuals who can afford a policy will be required to carry health insurance or pay a fee, and that fee will help pay for health care provided to those without health insurance.\(^1\)

This requirement to purchase an insurance policy or pay a penalty is commonly called the \textit{individual mandate}.

The requirement that everyone who can afford insurance purchase a policy makes possible a number of important provisions of the new health reform law, including the elimination of pre-existing condition exclusions. The individual mandate will also strengthen the employer-sponsored system of health insurance. \(^2\)

Without health reform the number of uninsured will reach an estimated 55 million by 2019. With the mandate, reform will reduce the number of uninsured by 32 million. Without the mandate, health reform would only reduce the number of uninsured by 6.6 million. Eliminating the mandate would also increase average individual premiums by 27 percent in 2019.\(^3\)

WHO IS SUBJECT TO THE INDIVIDUAL MANDATE?

Not everyone is subject to the individual requirement to purchase insurance. In general, those who are unable to afford insurance are exempt. Also, those who opt out of the Social Security system due to religious objections are exempt.

So who is not required to pay a fee?

- Those with specific religious objections to purchasing health insurance who are also exempt from payment of Social Security and Medicare taxes on self-employment income
- Some American Indians
- Those without coverage for less than three months
- Undocumented immigrants
- Incarcerated individuals
- Those for whom the lowest cost insurance plan exceeds 8 percent of an individual’s household income
- Those with incomes below the tax filing threshold (in 2009 the threshold for taxpayers under age 65 was $9,350 for singles and $8,700 for couples)\(^4\)

HOW MUCH WILL INSURANCE COST AND HOW MUCH IS THE PENALTY?

Most people who do not receive insurance benefits through work will receive a tax credit to purchase health insurance beginning in 2014.

Changes required by health reform make it possible to estimate premiums starting in 2014. For example, health insurance for a family with a 45-year-old policyholder earning $60,000 per year, a spouse and two children will cost approximately $14,245 per year. In 2014 subsidies will cover $9,308 of the
cost, leaving the family to pay $4,937 per year for insurance.5

The full penalty for not purchasing insurance begins in 2016. In 2014 the fee is only $95, and in 2015 the fee increases to $325. Beginning in 2016 the fee for not purchasing insurance is $695 per year or 2.5 percent of household income with a maximum fine of $2,085 per family.

Even the $2,085 penalty is less than the $4,937 required to purchase a family plan in the example above. But there is evidence that when people have access to affordable coverage they will opt for the security of an insurance plan. The reason there are so many uninsured people today is that many of them find insurance is unaffordable or unobtainable because they have pre-existing medical conditions.

WHY IS THE INDIVIDUAL MANDATE NECESSARY TO ELIMINATE PRE-EXISTING CONDITIONS?

The individual mandate is part of a requirement that all sectors of society share in the responsibility of expanding health coverage.

Because hospitals and other health care providers are obligated to treat patients regardless of ability to pay, it is the responsibility of the public to contribute something to the cost of care. If insurance companies are obligated to sell policies to people with pre-existing conditions, then it is the responsibility of the public to not only purchase insurance after the onset of an illness. If most people, including the young and healthy, purchase insurance, then the system can contain premiums while eliminating pre-existing condition exclusions.

Some states have attempted to eliminate pre-existing condition clauses without requiring that everyone contribute to the cost. In those states individual health insurance premiums rose sharply and many insurers stopped offering individual policies. When Maine tried to eliminate pre-existing condition exclusions without an individual mandate, premiums doubled in five years and most insurance companies fled the market.6

National health reform remedies the problem by requiring most citizens to contribute something to the cost of insurance while eliminating harmful practices like lifetime caps on insurance benefits, denial of coverage due to pre-existing conditions, and higher costs for women than men for the same policy.

IS THE INDIVIDUAL MANDATE CONSTITUTIONAL?

Many independent health law professors think the mandate is constitutional.

Mark Hall at Wake Forest University has written: “Congress has nearly unbridled authority to regulate products sold in or affecting interstate commerce, and health insurance is one such product. And given the economics of health insurance, a mandate to purchase insurance is integral to regulating how insurers design, price, and sell their products.”7

Some conservative legal scholars disagree, and most experts of every political stripe think it is possible the Supreme Court will rule against the individual mandate. Such a ruling would not unravel health reform, but it would make the legislation much more expensive and difficult to implement. It would also threaten protections for people with pre-existing conditions.

No matter the final verdict, it will take several years for various cases to work through the legal system. There have been different rulings on the constitutionality of the individual mandate from different courts. One federal district court judge in Virginia (in Lynchburg) found the individual mandate constitutional while another district court judge in Virginia (in Richmond) found it unconstitutional. A federal district court judge in Michigan found the mandate unconstitutional. A Florida judge is likely to find it unconstitutional. Many district courts are likely to rule on both sides of the issue making it more likely that the cases will eventually land at the U.S. Supreme Court.

Using insurance industry definitions used to charge higher premiums or reject applications approximately 4 million North Carolinians suffer from a pre-existing condition. Approximately 1.5 million North Carolinians suffer from a pre-existing condition severe enough that it would prompt an automatic denial from insurance companies.

Many of these 4 million North Carolinians are paying exorbitant premiums or have group coverage through an employer. But if someone with a pre-existing condition loses coverage through work he is likely to join the ranks of the uninsured.8