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HEALTH CARE MANDATES? NOTHING NEW FOR FOREIGN STUDENTS

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Today, U.S. District Court Judge Henry E. Hudson ruled that the "individual mandate" to purchase health insurance – the centerpiece of the new health care reform law – is unconstitutional. Judge Hudson is the first judge to make that determination – to date, rulings on two similar suits have gone the other way.

Curiously, though, individual mandates compelling the purchase of health insurance have been around for decades. For foreign students studying in the U.S., individual mandates are old news. Federal immigration law has long mandated that exchange visitors with "J visas" must purchase health insurance. Many states, such as Washington, Oregon, Ohio and Florida, extend this requirement to foreign students with "F visas," either by statute or administrative code. Many public and private universities and colleges do the same.

Let's fit this in with Judge Hudson's decision. If you are a foreign student, you have an obligation to purchase insurance in order to protect both yourself, your family and your community from the risk that you might incur health care costs that you could not pay.

But if you are a U.S. citizen, it's your gosh darn right under the U.S. Constitution to impose that risk on others.

Huh?

Individual mandates on international students are nothing new. At Colorado State, for example, the mandate dates back more than 40 years – to May 22, 1968. It was challenged as discriminatory in the early 1970s but upheld by the school's general counsel on the ground that "no distinction is made among students of different foreign countries." Similar mandates were enacted on Oct. 19, 1972, at the University of Toledo and on Aug. 15, 1978, at the University of Florida.

Moreover, these health insurance mandates have been upheld in the court system. For example, the Northern District of Ohio ruled in 1986, in a case called *Ahmed v. University of Toledo*, that health insurance protects the ability of

international students to function within the community, in light of the high costs of health care. That court found support in a 1982 decision of the U.S. Supreme Court, *Plyler v. Doe*, for the conclusion that "international students do not have a constitutional right to attend American universities without complying with the institutions' reasonable regulations."

Historically, schools justified the mandates upon international students on grounds that the purchase of health insurance was a responsible practice that benefited not only the students and their families, but also their communities. For example:

- The United States does not have universal health care. For this reason, the university requires all international students to purchase and maintain health insurance coverage. – Kent State University
- The U.S. does not have a nationalized health care system, and medical care here is extremely expensive. If you need medical care and do not have insurance, you may find yourself owing thousands of dollars. The health insurance system offers you protection against these costs. – Indiana University
- Health insurance is important to anyone living in the United States. Health care in the U.S. is very expensive, and insurance is the best way to be certain that expenses are covered. Unpaid medical bills damage the relationship between the community and students as well as damage the reputation of students as a whole. – Colorado State University

Sound familiar? It should. These are the same reasons that are given these days to justify the mandates in the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act (collectively "PPACA").

So here's the question. What makes the individual mandate seem straightforward, reasonable and moderate when applied to international students living in the United States, but unconstitutional when applied to U.S. citizens?

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No need to answer. There is no difference, really.

U.S. citizens, just like foreign students visiting here, have an obligation to themselves, their families and their communities to buy health insurance so they can pay for their own health

needs, without becoming a burden on others. No one should be immune because no one is invincible. It's that simple.

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