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GOP governors fighting Obamacare 'rolling the dice'

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Washington — Republican governors who've balked at creating new private insurance markets under President Barack Obama's health care overhaul may end up getting stuck with the very thing they're trying to avoid.

Unless Mitt Romney wins in November, states that haven't set up the required insurance could find Washington calling the shots on some insurance issues the states traditionally manage, from handling consumer complaints to regulating plans that will serve many citizens.

It could turn into a political debacle for those who dug in to fight what they decry as "Obamacare."

"You're kind of rolling the dice if you think (Obama's health care law) will go away," said Kansas Insurance Commissioner Sandy Praeger, a Republican. If Romney can't make good on his vow to repeal the overhaul, "you are just giving up a lot of authority."

The law envisioned that states would run the new markets, called exchanges, with federal control as a fallback only. But the fallback now looks as if it will become the standard option in about half the states — at least initially.

It would happen through something called the federal exchange, humming along largely under the radar on a tight development schedule overseen by the Health and Human Services Department in Washington.

Exchanges are new online markets in which individual consumers and small businesses will shop for health insurance among competing private plans. The Supreme Court's health care decision left both state exchanges and the federal option in place.

The exchanges are supposed to demystify the process of buying health insurance, allowing consumers to make apples-to-apples comparisons. Consumers will also be able to find out if they're eligible for new federal subsidies to help pay premiums, or if they qualify for expanded Medicaid.

It's all supposed to work in real time, or close to it, like online travel services. Open enrollment would start a little over a year from now, on Oct. 1, 2013, with coverage kicking in the following Jan. 1.

Eventually more than 25 million people are expected to get coverage through exchanges, including many who were previously uninsured. As exchanges get more customers, competition among insurance plans could help keep costs in check.

But only 14 states and Washington, D.C., have adopted plans for their own exchanges: California, Colorado, Connecticut, Hawaii, Maryland, Massachusetts, Nevada, New York, Oregon, Rhode Island, Utah, Vermont, Washington and West Virginia. Some could still backtrack.

Kentucky and Minnesota are pushing forward with their own exchanges, and others may be able to partner with the federal government. States face a Jan. 1, 2013 deadline for Washington to sign off on their plans.

Meanwhile, the federal exchange is advancing.

HHS contractors are working feverishly to design and test computer systems that would make the federal exchange come alive. It's a top priority for the administration, which is guarding the details closely. Estimated price tag: at least $860 million.

The government is "on track in moving aggressively to set up this market structure," Mike Hash, the HHS official overseeing the effort, told industry representatives, state officials and public policy experts at a recent Bipartisan Policy Center conference. "We're on track ... to go live in the fall of 2013."

"I think the pressure is on them to deliver, and I fully expect they will," said Jon Kingsdale, who was the founding director of the nation's first health insurance exchange, created under then-Gov. Romney's health care overhaul in Massachusetts.

Now a consultant to states, Kingsdale says he expects the federal exchange to look very much like the one already operating in his home state.

There will be a website, and you'll be able to put in your ZIP code and get a list of available health plans. There will be a section where you can find out if you qualify for subsidies, or whether you might need to look at Medicaid. There will be cost calculators to allow you to compare different levels of coverage: platinum, gold, silver and bronze. There will be tools that allow you to see if your doctor or hospital is with a particular plan.

In an interview, HHS official Hash said the government is undaunted by the prospect of running exchanges in half the states or more.

"What we are talking about building here is a system that is really using 21st century technology, and it's not dependent like in the past on bricks and mortar or how many (federal employees) you have," said Hash. "Information technology produces the opportunity for efficiency. It's much more easily scalable if you need to do it for a larger number of individuals."

Paper applications also will be accepted. And Hash expects people will have plenty of help to navigate the system, from volunteers to insurers advertising to reach new customers.

The government has awarded two big technology contracts for exchanges. Virginia-based CGI Federal Inc. is building the federal exchange. Maryland-based Quality Software Services Inc. is building what's called the federal data services hub, an electronic back office that will be used by the federal exchange and state exchanges to verify identity, income, citizenship and legal residence.

Running the data hub will involve securely checking sensitive personal information held by agencies such as the Social Security Administration, Internal Revenue Service and Homeland Security Department. Technology experts say that's a challenge but not insurmountable. HHS rejected an Associated Press request to interview the contractors.

The administration says consumers should not notice any difference between the federal exchange and marketplaces run by the states. But state regulators disagree.

"I think we would be giving up something," said Praeger, the Kansas insurance commissioner. "It would have much more of a federal flavor than a Kansas flavor."

Praeger wants Kansas to have a state-run exchange, but GOP Gov. Sam Brownback and Republican state legislators are opposed. If opponents prevail, the state will have a federal exchange.

But conservatives are raising yet another argument in hopes of shutting down federal exchanges.

Led by Cato Institute economist Michael Cannon, several opponents say the letter of the complex law precludes the government from subsidizing coverage through the federal exchange. They say the law allows only tax credits to help consumers pay premiums in state exchanges, not the federal exchange, and that's the way Congress intended it. If states don't set up exchanges, that would starve the health care overhaul of money and cause it to unravel, they contend.

But the IRS and two nonpartisan congressional units — the Congressional Budget Office and the Joint Committee on Taxation — conducted their own analyses and concluded that subsidies are available in both types of exchanges, federal and state-run. Senate Finance Committee Chairman Max Baucus, D-Mont., one of the law's principal authors, says that's exactly how Congress intended it.

At the National Association of Insurance Commissioners, spokesman Scott Holeman says, "At this time, we don't have any reason to question the federal government's interpretation of the statute."

The dispute may wind up in court but probably wouldn't get resolved until after the exchanges were up and running.