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Can the states unravel ObamaCare?

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Most states have not yet established health care exchanges under the Affordable Care Act, and therein lies a potential snag for the master planners of ObamaCare.

Referring to last week's Supreme Court ruling, Michael Tanner of the Cato Institute, posted at Real Clear Politics and the New York Post, reports:

> By striking down part of the law that required states to expand their Medicaid programs, the court tossed a very hot potato into the laps of state lawmakers everywhere.

Tanner points out that the Medicaid expansion under ObamaCare would cost New York state, for example, up to $52 billion over ten years. If New York and other states balk at the cost:

> ...most of those who would've been eligible for Medicaid will now become eligible for subsidies through ObamaCare's health-insurance exchanges. And *those* subsidies are paid in full by the *feds*.
>
> Of course, if states do shift those costs back to the feds, that will cause the federal cost of ObamaCare to skyrocket. If *every* state were to refuse to expand its Medicaid program, the feds would save roughly $130 billion in their share of Medicaid costs in 2014, but would have to pay $230 billion more in new exchange-based subsidies - for a net added cost of $100 billion. And that's just for the first year. [emphasis in the original]

And here's where it gets really interesting.

Only 13 states to date have set up state exchanges, with Tanner estimating that "as few as" 15 states will have done so by the 2014 deadline.

The feds are empowered by the law to come in and set up exchanges in the recalcitrant states. But even if they manage to do so, which is an uncertain premise, they may have a small problem on their hands, according to Tanner:

> ...federal subsidies are available only through exchanges that the *states* set up. The feds can't offer subsidies through a federally run exchange.
>
> Thus, if states neither expanded Medicaid nor set up exchanges, that would effectively block most of ObamaCare's new entitlement spending.

On top of that, the employer mandate penalty, for employers with more than 50 employees who do not provide "adequate" health insurance, kicks in only when at least one employee "qualifies for subsidies under the exchange:"

> Since subsidies can only be provided via a state-authorized exchange, a state that refuses to set one up could end up blocking the employer mandate altogether.

Whether this whole string of reasoning holds together in reality remains to be seen, but at the very least, unless we are spared by a timely repeal, we can look forward to a long line of lawsuits and legal wrangling that will take years to resolve.

As Lincoln said "a house divided against itself can not stand."

And in this case neither can a law divided against itself. Lincoln's words, slightly edited, bear repeating:

> I do not expect the house to fall; but I do expect it will cease to be divided. It will become all one thing, or all the other. Either the opponents [of ObamaCare] will arrest the further spread of it and place it where the public mind shall rest in the belief that it is in the course of ultimate extinction, or its advocates will push it forward till it shall become alike lawful in all the states.