**Obamacare's Website Won't Be Working By November 30 -- But What If It Isn't Working By November 2014?**

By Avik Roy

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Jeffrey Zients, President Obama's choice to fix the troubled healthcare.gov website, has promised that the site would be fixed for the "vast majority of users" by November 30. (Photo credit: Center for American Progress)

When President Obama appointed Jeffrey Zients to take over the troubled Healthcare.gov Obamacare website, Zients made a promise: "By the end of November, Healthcare.gov will work smoothly for the vast majority of users," he said. We're now at the end of November, and it's pretty clear that the Obama administration will miss its self-imposed deadline. It'll be tomorrow's talking point for the GOP. But the question that matters most this year is not whether Obamacare is working by this November. It's whether Obamacare is working by *next* November. If it's not, Republicans may regain control of the Senate. So, let's take a clear-eyed look at how Obamacare is likely to play out over the next twelve months.

**Could Republicans retake the Senate?**

Today, Democrats control 55 seats in the Senate, to 45 for Republicans. So Republicans would have to gain a net of six seats in 2014 in order to gain the majority. *National Journal*'s Hotline estimates that the top seven seats most vulnerable to a change in control belong to Democrats today.

The reason why these seats all belong to Democrats is that they were last up for dispute in 2008, a strong Democratic year headlined by the "hope and change" Obama campaign, the late-breaking financial crisis, and general fatigue from the Bush years. In order of vulnerability, Hotline's top seven are South Dakota, West Virginia, Montana, Arkansas, Alaska, Louisiana, and North Carolina. (Eighth on their list is a seat currently controlled by Republicans in Georgia.)

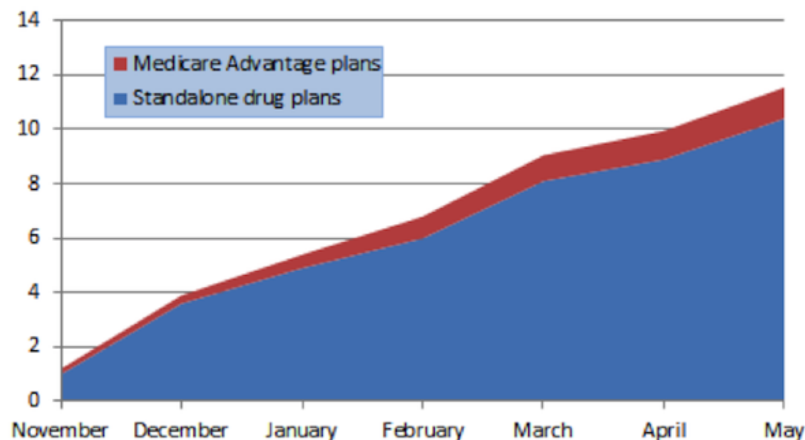
"If the election were held today, Republicans would probably win back the majority," a longtime Democratic strategist told Josh Kraushaar. "But we know for sure the election would not be held today."

So the question, then, is this: will voters feel better about Democrats, and about Obamacare, in a year than they do today?

**The pace of enrollment is slowly improving**

While the pace of enrollments in Obamacare exchange-based plans is still far behind the administration's original—and cautious—projections, it's improving. UnitedHealth's QSSI unit has been brought in to directly address many of the problems that the administration has caused.

Enthusiasts are calling it a "November surge," but it has more in common with the normal trajectory of enrollment periods. Enrollment starts out slow, and then steadily increases over time. Here's a chart that Georgetown's Jack Hoadley put together on how the pace of enrollment grew in the first year of Medicare's Part D prescription-drug benefit in 2005 and 2006.




Part D enrolled about ten percent of its enrollees in the first month; Obamacare enrolled 106,185 in the first month using the administration's inflated figures, which would translate to roughly 1 million enrollees by the March 31 deadline.

However, the administration's early goal was to enroll 7 million people in the new exchanges; that is what the Congressional Budget Office had projected for the first year. It was also what the Department of Health and Human Services projected in an internal memo obtained by Ricardo Alonso-Zaldivar of the Associated Press.

That goal is unlikely to be met. But could they get to 3 million? Sure, though it's not clear that they've made enough improvements to the exchange infrastructure to get there. And that leads to a problem for the White House, because the law's political success depends on creating more winners than losers.

**Losers will far outnumber winners**

The President has been trying to spin Obamacare's problems by claiming that only "5 percent" of Americans are affected by the law's cancellations of old insurance plans. But that's not true. The law makes more than half of all private insurance plans illegal; the administration estimated in 2010 that 80 million Americans with employer-sponsored coverage would be forced off their old plans and into Obamacare-compliant ones, along with 13 million cancellations in the market for people who shop for coverage on their own. That's a total of 93 million.

Most of those people will still have health coverage under the Obamacare system. But that new coverage is likely to be more expensive and less attractive, with higher premiums, higher deductibles, and narrower physician networks.

Obamacare cuts $716 billion from the Medicare program over the next ten years; these cuts will disproportionately affect seniors on Medicare Advantage. While Medicare Advantage needs to be reformed, the 14 million people enrolled in the program aren't going to feel like Obamacare is doing them any favors. And this market is of far greater importance to private insurers like United, Aetna, and Humana than the exchanges are.

So, that's 13 million individual-market cancellations, plus at least 80 million people facing higher costs for employer-sponsored insurance, plus 14 million Medicare Advantage customers facing meaningful cuts. On the plus side of the ledger, if we're optimistic, we'll say 4 million enrollees in the Obamacare exchanges. Plus we'll count the 10 million new enrollees in the Medicaid program as "winners," for the sake of argument. That's 107 million losers to 14 million winners.

**A true death spiral is unlikely**

A lot of people have been fretting about whether the administration will succeed at convincing young people to blow thousands of dollars a year on overpriced health insurance products. The fear is that, if young people don't plug their bank accounts into Obamacare, there won't be enough money to provide older and sicker people with subsidized coverage, leading to a collapse of the individual market for health insurance.

That's not the likely outcome, for one reason in particular: the subsidies. For people at or near the poverty line, and for people nearing retirement, taxpayer-funded subsidies will do a lot to bring down the net cost of Obamacare's insurance products. Those two groups will not face the same adverse selection "death spiral" as other, unsubsidized groups will.

We see this in states like New York and New Jersey. These states have had Obamacare-like exchanges that subsidized coverage for lower-income individuals not eligible for Medicaid. The prices for insurance in those subsidized markets were much lower than those in the heavily regulated, but unsubsidized, individual market.

A second reason that we won't see a true death spiral is the individual mandate. While not everyone will heed the mandate's requirement to buy government-certified insurance, many will. They won't be happy about it, but their extra payments into the health care system will ameliorate the adverse selection problem.

Effectively, Obamacare will be a two-tiered system. It will work fine for the people who qualify for substantial subsidies—people at or below 200 percent of the federal poverty line. Everyone else is likely to pay more.

**Wild card: The courts could abolish the federal exchange**

There's one wild card that could throw all of these projections out the window: the Supreme Court. If you read the text of the Affordable Care Act, the law actually makes no provisions for the delivery of taxpayer-funded subsidies through Obamacare's federal insurance exchange. Obama's Treasury Department has elected to ignore this problem and pretend it doesn't exist. But, typically, the executive branch isn't allowed to spend hundreds of billions of taxpayer dollars without permission of Congress.

The state of Oklahoma, one of the many states that did not build a federal exchange, is suing the federal government on this point. Michael Cannon of the Cato Institute and Jonathan Adler of Case Western Reserve have been helping to move this case through the courts. If Oklahoma wins at the federal appeals court level, it's a case that will likely make its way to the Supreme Court.

Chief Justice John Roberts has shown that he's willing to twist himself into a pretzel to save Obamacare and avoid howls from his left. Odds are that he'd do so again, if the Oklahoma case got to him. But let's give it a 40 percent chance that he would adhere to the text of the Affordable Care Act and rule that federal exchange subsidies are illegal. What then?

The adverse selection death spiral I pooh-poohed above would become a more serious possibility. Those gaining subsidies on the federal exchanges would have to pay the unsubsidized—higher—price for coverage. Most states would eventually build their own exchanges, but that could take several years.

**Bottom line: Obamacare's popularity is unlikely to get better**

Yes, the website will improve over time. But the *cost* of insurance on the website will not. And the cost of insurance for everyone else is also going up. And many of the law's "winners"—mainly low-income people qualifying for subsidies—already vote Democrat, if they vote at all.

If anything, Americans are only beginning to become aware of the fact that they will pay more for health insurance under Obamacare. "I was all for Obamacare until I found out I was paying for it," said one Californian when she first saw her bill. The President and his Democratic allies have been assuring Americans that they will see no changes to their health coverage under the law. That isn't true. And one year from now, we're likely to see voters make their dissatisfaction known.