

ST. LOUIS POST-DISPATCH

New attack on Obamacare filed in Missouri Legislature

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JEFFERSON CITY • Missouri would strike another blow against the federal Affordable Care Act under a bill filed by state Sen. John Lamping, R-Ladue.

The bill would suspend insurance companies' state licenses if they accepted subsidies offered by the federal government to help pay health insurance premiums for low- and middle-income Missourians.

Lamping contends the subsidies are illegal and eventually will be thrown out by a federal court. By rejecting them, he said, Missouri could remove the trigger in the federal law that, beginning in 2015, will assess penalties against large employers that don't provide health insurance.

"This is a legislative way by which the state actually could push back" against the law, Lamping said.

Critics of Lamping's plan say that the Affordable Care Act is helping people obtain health insurance and that it's time to stop fighting it. The bill would "just throw a wrench in the whole situation, slow everything down," said Sen. Gina Walsh, D-Bellefontaine Neighbors.

The insurance industry is watching the bill closely.

"We're kinda caught in the middle," said Brent Butler, government affairs director for the Missouri Insurance Coalition. "We've spent three years since the adoption of the Affordable Care Act informing everybody of the changes that will happen in the marketplace. This might add more questions than answers."

It wouldn't be the first time Missouri had tried to halt the federal health care law, dubbed Obamacare.

In 2010, about 71 percent of Missourians voted to oppose the mandate to purchase insurance and in 2012, nearly 62 percent voted to prevent the governor from setting up a state-based insurance exchange.

As a result, Missouri is one of 34 states where the federal government is operating the exchange, an online marketplace that allows consumers to compare health plans and sign up for coverage.

That website, HealthCare.gov, gained notoriety because of a problem-plagued rollout last fall. As of Nov. 30, only 4,124 Missourians had selected a marketplace plan.

No data have been released to show how many of those plans included premium subsidies, but most people who use the exchange are expected to be eligible for such help.

The federal law provides subsidies for people earning up to 400 percent of the poverty level, or \$78,120 for a family of three.

In Missouri, two companies are participating in the exchange: Anthem Blue Cross Blue Shield, which is operated by Wellpoint, and Coventry Health Care Inc., which was acquired by Aetna last year.

Lamping said he got the idea for his bill suspending the insurers' licenses from Michael Cannon, a health policy scholar at the libertarian Cato Institute in Washington.

Cannon traveled the country, encouraging states not to set up insurance exchanges. He argued that employers would have a solid legal foundation to contest any penalties in states with federally run exchanges.

The strategy is based on a contention that the Affordable Care Act allows the federal government to give out health insurance premium subsidies only if the insurance exchange is run by the state.

Several lawsuits advance that argument, including *Halbig vs. Sebelius*, which is pending in federal district court in the District of Columbia. It cites a section of the law that says subsidies apply to policies purchased "through an exchange established by the state."

The act's defenders say Congress intended the subsidies to apply to all qualified people and the lawsuits take provisions out of context. Any drafting errors can be fixed by regulation, the law's supporters say.

Lamping said Missourians have made their distaste for the law clear, and he is trying to put teeth into Missouri's resistance to its provisions.

"Clearly, in Missouri, there's a very strong sense that they don't want this law," he said.

The law requires businesses with more than 50 full-time employees to provide health insurance, but the administration of President Barack Obama has delayed enforcement of the mandate until 2015.

At that point, if employers don't provide coverage and their employees go to the insurance exchange and qualify for subsidized coverage, the employers must pay a penalty.

A states' rights group called the Tenth Amendment Center supports Lamping's bill, calling it a step toward nullifying Obamacare on a state level. The group says South Carolina and Georgia are considering similar bills.

Lamping said the Tenth Amendment group “has sorta latched onto this. They think it’s a vehicle for the issues that are important to them, the idea of nullification. It’s far more simple than that. It’s mandating that the insurance companies follow state statutes and follow federal statutes.”

A similar bill has been filed in the Missouri House by Rep. Keith Frederick, R-Rolla. No hearings have been scheduled yet on either measure.

Sen. Paul LeVota, D-Independence, said he doubted the bills would be advanced. LeVota supports the Affordable Care Act and favors expanding Medicaid to the working poor, an idea the Legislature, led by Republicans, has rejected.

“I think the majority doesn’t want to have a conversation about health care at all, so I wouldn’t see them talking about this one,” LeVota said. He contended that Lamping’s bill “hurts Missouri’s economy, by continuing to throw up roadblocks to people having health care.”

(The bills are SB546 and HB1314.)

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