



Obamacare Federal Exchanges Could Be Stymied by States

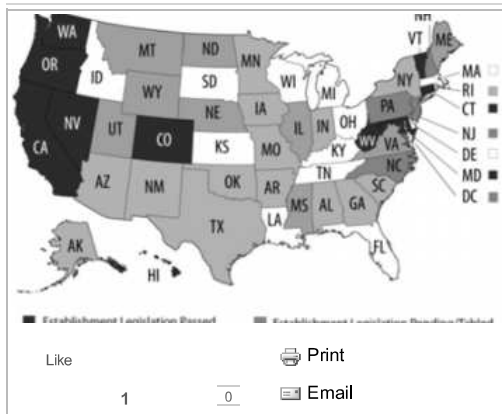
September 15, 2011



BENJAMIN DOMENECH

Benjamin Domenech is managing editor of Health Care News and a research fellow at The Heartland... (read full bio)

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The key question facing states regarding implementation of President Obama's health care law is the creation of health insurance exchanges, scheduled to be submitted for approval by the U.S. Department of Health and Human Services by January 1, 2013.

Supporters of exchange implementation have argued repeatedly that states must act or risk losing control to a federally run exchange operating outside state authority. Yet a closer examination of the law indicates such federally run exchanges would have to overcome several difficult budgetary hurdles.

Although the text of Obama's law grants HHS a nearly unlimited budget to fund state-created

exchanges, the authority to create a federal exchange within the bill was created without any funding at all. If a significant number of states decline to run exchanges themselves, HHS will have to either go back to Congress for additional funding or find other means within its overall budget.

Another provision in the law could prevent these federal exchanges from offering heavily subsidized premiums, their primary attraction to consumers. As first reported by *Investor's Business Daily*, although Section 1311 of the law mandates the creation of state exchanges and Section 1321 authorizes HHS to establish an exchange if a state refuses to comply, these subsidies are available only to those individuals enrolled in "an exchange established by the state under (Section) 1311." The bill has no similar language authorizing the subsidizing of individuals within the federal exchanges.

State Rejection Carries Weight

According to Michael Cannon, director of health care policy at the Cato Institute, these new revelations make it all the more important for opponents of Obama's law to refuse to implement the exchanges.

"What this latest glitch means is that states have the power to stop ObamaCare's new entitlement spending, to reduce the federal deficit, and to force Congress to reopen and possibly repeal ObamaCare," Cannon said. "All state officials have to do is refuse to create an exchange."

As of September, only ten states had approved legislation to proceed with an exchange. In an eleventh, Minnesota, Gov. Mark Dayton (D)

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has announced he will proceed without legislative approval.

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