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Creating Health 'Exchange' Entrenches Obamacare

By Jack McHugh | 9/24/2011 12:00 AM

Last week, Cato Institute health care policy expert Michael Cannon testified before the Missouri Senate’s Interim Committee on Health Insurance Exchanges on why that state should not create an Obamacare exchange. His arguments apply just as much to Michigan, including this excerpt describing how creating an exchange will help entrench Obamacare.

From testimony delivered on Sept. 15, 2011

Some opponents of the law nevertheless argue for creating an exchange so that states can be prepared in case the law is not overturned or repealed. Yet creating an exchange would entrench the law and make it less likely to be repealed or overturned.

• First, creating an exchange lends a veneer of legitimacy to the law. The Obama administration heralds the creation of each new exchange as proof that the law is gaining acceptance, and heralds states accepting the federal grants available under the law in the same manner.

• Second, declaring the law unconstitutional but then accepting the funding it offers and creating an exchange undermines the credibility of state officials seeking to overturn the law and also undermines the lawsuits themselves. One federal judge who overturned the law wrote that the fact that some of the plaintiff states are themselves implementing the law undercuts their own argument that he should order the federal government to halt implementation.

• Third, to create an exchange is to create a taxpayer-funded lobbying group dedicated to fighting repeal. An exchange's employees would owe their power and their paychecks to this law. Naturally, they would aid the fight to preserve the law.

• Fourth, both Congress and the courts are less likely to eliminate actual government bureaucracies that have assembled dedicated constituencies than they are to eliminate theoretical ones. The more disruptive repeal would be, the less likely it becomes.

• Fifth, many knowledgeable observers believe few exchanges, state or federal, will be operational by 2014. If states like Missouri create their own exchanges, they will begin handing out billions of taxpayer dollars sooner than if the federal government creates them. Creating a state-run exchange will hasten the day when the private insurance companies that receive those subsidies plow much of the money back into fighting repeal.

• Sixth, and perhaps most important, due to a recently discovered glitch in the statute, the new health care law only authorizes premium assistance in state-run exchanges — not federal exchanges. States thus have the collective power to deny the Obama administration the legal authority to dispense more than a half-trillion dollars in new entitlement spending, to expose the full cost of the law's mandates and government price controls, as well as to enforce the law's employer mandate — simply by not creating exchanges. If Missouri joins other states in refusing to create an exchange, it can essentially force Congress to reconsider the law. If Missouri instead creates an exchange, it will increase the federal deficit and debt, hide the full cost of the health care law, expose Missouri employers to penalties and reduce the likelihood of repeal.

The Obama administration is offering financial inducements to states to create exchanges because the administration knows that every new exchange helps them shield the law from Congress, the courts, and the American people. Creating an exchange is not a hedging-your-bets strategy but a sabotaging-your bets strategy.