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Delay in health insurance law won't affect many, experts say

By Maggie Fox – July 3rd, 2013

The Obama administration's surprise delay in requiring bigger employers to provide health insurance to workers won't affect too many Americans, experts say -- and many of those workers may find better insurance on the new health exchanges anyway.

The 2010 health reform law requires anyone employing 50 people or more fulltime to provide a certain level of health insurance, or pay an annual penalty of $2,000 per worker. Critics of the law said it would hurt job creation by discouraging smaller businesses from expanding. Some also said employers would push more workers into part-time status to avoid having to pay.

The Treasury Department put the requirement on ice Tuesday afternoon, saying it would delay the paperwork requirements for a year.

"I think it came as a bit of a shock to everybody," says Timothy Jost, an expert in health law at Washington and Lee University School of Law in Virginia. But Jost and other experts agreed that the delay wouldn't change expectations for very many people. One survey from the Kaiser Family Foundation suggests that only about 13 million people are employed fulltime and yet lack health insurance.

"It's not going to affect much," says Caroline Pearson, vice president for health reform at consultant Avalere Health. "I think the administration is really trying to show flexibility to help employers who were very concerned about the reporting requirements."

The health insurance exchanges are still on schedule to start enrolling people who want to buy personal health insurance on October 1, offering benefits on January 1. And the individual mandate - the requirement that most people get health insurance somehow or pay a small fine -- still goes into effect Jan. 1.

Most large employers – 98 percent of them – already provide health insurance to workers. More than half of Americans, or 160 million people, get their health insurance through an employer.

"The vast majority offer insurance that is both affordable and adequate," Jost says.

The law's changes targeted mostly small and medium-sized employers, including restaurants and some retail outlets, that didn't provide benefits.

"A lot of the big employers that don't want to provide health insurance to their workers are the big national chains that have young, healthy workers," Jay Angoff, former director of Consumer

Information and Insurance Oversight at the Health and Human Services Department, told NBC News.

The good news for these workers, Angoff says, is that they are low-paid and likely eligible to get federal subsidies to buy health insurance on the state exchanges. "As long as they have that alternative, I don't think it is so terrible," he said.

“It had been expected all along that some employers that employ very low-wage employees would find their employees better off on the exchanges,” Jost said in a telephone interview.

The law would make employers demonstrate how many workers they had, whether they have health insurance and, if so, where they get it. It was really complicated, says Pearson. “Employers do need a bit of time to adjust their system to keep track of this,” Pearson says.

The fines would apply only if workers had no insurance or had to go to the new state exchanges to get it, and not if the employees instead got coverage through Medicaid, the state-federal health insurance plan for the poor, says Jost.

“It is to be hoped, moreover, that employers who have been claiming that they have to reduce their employee’s hours of work to below 30 to avoid the penalties will restore the lost hours, and small employers fearful of growing over the 50 fulltime employee threshold will focus on growing their businesses rather than worrying about the ACA (Affordable Care Act),” Jost added in a blog post.

“Perhaps the extra year is what is needed to reduce anxiety and build confidence in the business community in the workability of the law.”

Not everyone agrees. Republicans took the opportunity to say the delay shows the administration cannot implement the law smoothly, and renewed their calls for repeal.

“That the Obama administration is putting off this job-killing requirement on employers, but not individuals and families, shows how deeply flawed the president’s signature domestic policy achievement is,” said Utah Sen. Orrin Hatch.

“This further confirms that even the proponents of ObamaCare know it will hurt jobs, decrease economic growth and make it harder for families to have access to quality and affordable health care,” added House Majority Leader Eric Cantor, a Virginia Republican.

And Douglas Holtz-Eakin, health policy expert at the right-leaning American Action Forum, said it would cost money in the end. “At a minimum, the federal revenue from fines is gone,” he said in a statement. “More realistically, the costs of already-bloated insurance subsidies will escalate and the red ink will rise.”

And Michael Tanner of the libertarian-leaning Cato Institute says the decision benefits employers at the expense of workers.

"Because the individual mandate remains in place, workers may now face a situation where they must purchase their own insurance or pay a penalty because their employers don’t provide coverage. In effect, the administration’s decision shifts the cost from employers to workers," he said in a statement.