



## Surprise, surprise -- ObamaCare deadline extended yet again

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*"When I use a word," Humpty Dumpty told Alice, "it means just what I choose it to mean – neither more nor less."*

To which, Alice responded, *"The question is whether you can make words mean so many different things."*

Clearly Alice had not yet experienced the Wonderland that is ObamaCare.

This week the Obama administration changed the rules once again. It announced that the March 31 statutory deadline for enrolling in insurance under ObamaCare's individual mandate actually meant sometime in the middle of April, the exact date to be determined later.

What this means is that it will now be possible to sign up after March 31 as long as you check a box on the online form saying that you started or tried to start signing up before the deadline. There will be no mechanism to determine whether or not you actually did start the process before March 31; the administration will take your word for it.

The extension comes despite the fact that the Centers for Medicare and Medicaid Services (CMS), which oversees the program, has repeatedly stated that there is no legal authority to delay the deadline, and just last week HHS Secretary Kathleen Sibelius testified before Congress that the administration had no intention of doing so.

Still, one should hardly be shocked. After all, it was only last month that the administration announced that the January 1, 2014 deadline for the health care law's employer mandate really meant, January 1, 2015 for some businesses and 2016 for others...maybe.

In fact, since the Affordable Care Act's enactment in 2010, President Obama has unilaterally acted at least 27 times to postpone, alter, or do away with at least 16 parts of the law. These

include scheduled cuts to Disproportionate Share Hospitals, the Basic Health Plan option, out-of-pocket caps (in some instances), and small-business-exchange enrollment (Small Business Health Option Programs, or SHOP).

He even repealed an entire program, the CLASS Act (a long-term care program), although that action was subsequently ratified by Congress. And none of these include the more than 3,000 waivers granted along the way to individual companies or unions.

Indeed, at the same time that the administration was announcing this latest change, its lawyers were in the DC Circuit Court of Appeals arguing that when the law explicitly says that subsidies to purchase insurance are available through “an Exchange established by the State,” it actually meant “through an Exchange established by the State *or the Federal government.*”

This distinction is particularly important to the future of the law, because it is the availability of those subsidies that trigger several other provisions of the health care law, including the employer mandate. As the *Washington Post* [points out](#), the case, *Halbig v. Sibelius*, “threatens the very structure of the law.”

The administration’s lawyers maintain that even though the plain language of the law limits subsidies to insurance plans sold through the exchanges in the 17 states that chose to establish them on their own, that was simply a drafting error and Congress really intended to allow for subsidies on federally-run exchanges as well. Therefore, the administration was justified, it contends, in having the IRS draft rules to provide those subsidies, and to impose the employer mandate in those states that did not set up exchanges.

However, two of the three Circuit Court judges appeared skeptical of the administration’s efforts to rewrite the law as it goes. As Judge Thomas Griffith asked the administration’s lawyers, “If I were to disagree with you and think *established by the State under section 1311* means *established by the State under section 1311*, would your argument be over?” And Judge A. Raymond Randolph, pointed out that, “What you’ve got is language that’s not malleable.”

Not malleable? What administration is he talking to?

The health care law is 511,520 words long. Apparently, those words mean just what the administration chooses them to mean – neither more nor less.

Welcome to Wonderland.