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GOP state leaders fumble by ceding control of health exchanges to federal officials, critics say

By N.C. Aizenman - December 13th, 2012

Republicans frequently denounce the health-care law as a dangerous overreach of federal power. But now Washington's role is expanding, and some conservatives charge that Republicans have only themselves to blame.

The vast majority of Republican-led states, faced with a Friday deadline to submit plans for running the insurance exchanges at the heart of the law, have opted instead to relinquish much or all of their control to the federal government.

Just 18 states and the District say they plan to operate their own exchanges, which are slated to begin enrollment in October. In an additional 32 states, the exchanges will be run either entirely by the federal government or a federal-state partnership.

"If you believe in states' rights and you believe in state control, why would you cede that control?" asked Robert Laszewski, a prominent insurance industry consultant.

A longtime critic of the health-care law, Laszewski argues that Republican state leaders have allowed their ideological and political differences with President Obama to override pragmatic considerations, to the detriment of their residents.

"There's a lot of cut-off-your-nose-to-spite-your-face going on," he said.

But several governors, including New Jersey Gov. Chris Christie (R), have complained bitterly that the administration has been slow to answer questions on critical issues including the cost of running the exchanges.

"I will not ask New Jerseyans to commit today to a State-based Exchange when the federal government cannot tell us what it will cost, how that cost compares to other options, and how much control they will give the states over this option," Christie said in a statement last week after vetoing a bill passed by the Democratic-controlled state legislature that would have established an exchange.

Under the 2010 law, the online exchanges are supposed to function as a sort of Travelocity for health insurance — allowing shoppers to compare policies and buy affordable coverage. By 2016, an estimated 23 million Americans are expected to get their coverage through the exchanges, many with the help of federal subsidies.

With dozens of states deciding not to set up their own exchanges, at least for now, the federal government might need more resources to do the job itself. Administration officials said they don't have any estimates on how many more employees or how much more money they might need.

But there's no question that federal officials will wield substantially more power.

The states that run their own exchanges, for example, will decide whether to allow all health plans that meet the law's minimum standards to be sold on the exchange or to limit the selection to a few that regulators think offer the best value.

In the federally run exchanges, federal officials will make that call.

Similarly, states that set up their own exchanges will determine what type of oversight body is needed and the extent to which insurers and consumers are represented.

Such decisions could be crucial to the fate of the exchanges: Regulate insurers too lightly and consumers could get stuck with skimpy coverage. Impose too many requirements on health plans and premiums could soar.

John McDonough, a professor of public health at Harvard University who was among the key Senate staffers who helped draft the law, said the widespread rejection of the exchange option by Republican state leaders was "an amazing irony" given that Senate Democrats specifically included it to placate them.

McDonough noted that the first version of the legislation, crafted by House Democrats — "who are generally less deferential to states" — would have directed the federal government to run the exchanges, allowing states to step in only by special request. But the Senate Democrats tweaked their draft, which became the template for the final version, to give states the lead role, even sparring with White House officials to keep it that way.

"Now it looks like the House Democrats may come close to achieving their vision because of Republican disinterest in implementing something that was done to please them in the first place," McDonough said.

Douglas Holtz-Eakin, who was director of the Congressional Budget Office under President George W. Bush and a senior adviser to 2008 Republican presidential candidate John McCain, has repeatedly warned GOP officials that they will be "outfoxed and overrun" if they leave the exchanges to Obama administration officials.

He warned that the administration could impose too many regulations, ultimately ruining the exchanges and opening the door to a "Washington takeover of health care." He added, "If conservatives allow it to happen, they will be consenting to an unprecedented and potentially irreversible intrusion into states' economies and health-care systems."

At a meeting with about 100 members of the GOP-controlled legislature in Kansas — a state whose Republican governor, Sam Brownback, rejected the state-run option last

month — Laszewski urged lawmakers to consider forming a partnership with the federal government rather than opting for an exchange entirely run by federal officials.

The administration has set a deadline of Feb. 15 for states to determine if they want to form such a partnership, which could entail states handling consumer outreach or monitoring the industry's compliance with regulations.

Many conservatives say the health-care law is so objectionable that Republicans should not do anything to help implement it. The libertarian Cato Institute's Michael Cannon has been crisscrossing the country urging state leaders to steer clear of the exchanges. He said that the law grants states so little flexibility as to be meaningless.

Such arguments have resonated with Republican leaders in Oklahoma. The state's attorney general, Scott Pruitt, has filed a lawsuit in U.S. District Court challenging the law.

Last month, Oklahoma Gov. Mary Fallin announced her intention to forgo operating an exchange because "any exchange that is [health-care-law] compliant will necessarily be 'state-run' in name only and would require Oklahoma resources, staff and tax dollars to implement."

Still, a handful of state GOP leaders have come around to Holtz-Eakin's argument that setting up a state-based exchange is better than handing over control to the federal government. Idaho Gov. C.L. "Butch" Otter, after much public agonizing, announced his support for a state-run exchange this week.

"Our options have come down to this: Do nothing and be at the federal government's mercy in how that exchange is designed and run, or take a seat at the table and play the cards we've been dealt," he said.

"I cannot willingly surrender a role for Idaho in determining the impact on our own citizens and businesses."