

## McCrory Mum On Obamacare Exchanges

*Incoming governor could reject state-run exchange or adopt Perdue's 'partnership' plan*

By: Dan Way - December 10<sup>th</sup>, 2012

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RALEIGH — Amid growing sentiment by conservatives that states can derail Obamacare by refusing to create health care exchanges, Gov.-elect Pat McCrory has not decided whether to join other Republican governors in following that path.

“He’s going to work with the General Assembly in determining the best course for North Carolina going forward,” said Chris Walker, communications director for the McCrory transition team.

As it stands, Walker said, “there is a lack of clarity from Washington” on specifics of implementing the exchanges under the Patient Protection and Affordable Care Act, Obamacare’s official title.

The intent of the health care reform was for states to set up the exchanges, which are clearinghouses through which tax-subsidized health care plans would be offered to uninsured individuals and small businesses. States would absorb the costs of creating and operating the exchanges.

If states don’t create their own health care exchanges, the federal government would offer its own.

Outgoing Gov. Bev Perdue committed North Carolina to a federal-state health care exchange partnership in the waning weeks of her tenure.

McCrory is not sold on that model and could choose another option after he is sworn in. In addition, State Senate leader Phil Berger, R-Rockingham, has said the General Assembly must have a voice in how the state approaches the exchanges.

“What [McCrory] won’t do is have a federally run state program” that leaves decisions to the feds and pushes costs to the state, Walker said.

“There’s a lot of unanswered questions,” Walker said. “The federal government isn’t even prepared for implementation at this point.”

Some national policy experts say crucial details covering myriad and complicated organizational and operational matters are missing. They’re advocating that states forcefully reject creating their own exchanges.

Wes Goodman, director of conservative coalitions and state outreach of the Republican Study Committee, a caucus of conservative U.S. House members, said Obamacare is “bad policy, it’s bad politics, and it’s not going to work.”

With more than 20 states declaring they will not set up state exchanges, and GOP governors controlling 30 states, the Obama administration is desperate for collaboration, Goodman said.

“They’re trying to get conservatives, they’re trying to get Republicans to put their fingerprints on the murder weapon here,” Goodman said. He said the time to get conservatives to buy in to the law was in 2009 and 2010, before it passed. Instead, Congress enacted the law without a single Republican vote.

He and other critics say a host of issues surrounding the law remain unresolved. They say implementation is the next battleground, and states have considerable leverage if they are willing to use it.

“The subsidies that flow through the health insurance exchanges are not authorized unless the state creates its own exchange,” said Michael Cannon, director of health policy studies at the Cato Institute.

“This is why it’s so important to stop states from creating their own exchanges and expanding Medicaid,” Cannon said. “States are under no obligation to create an exchange. It is not a mandate.”

He said the exchanges, which would cost between \$10 million and \$100 million per year to operate, and states would have to pay for them.

“Congress authorized no funds for the federal fallback exchanges that the feds are supposed to create if states don’t create their own,” Cannon said. “That’s because Congress didn’t think that states were going to reject [them]. They thought that once Obamacare reached the states, they’d be greeted as liberators.”

Cannon notes that health insurance premiums are increasing as insurers anticipate higher costs as the law takes effect. Moreover, he said, “The federal government will be able to drive [health insurance] carriers out of business by picking winners and granting these guys special breaks.”

States that refuse to establish exchanges could exempt many people from the individual mandate that requires them to purchase health insurance, he said.

Employers from those states could be exempted from providing coverage as well.

A federal exchange is barred under the law from offering tax credits to subsidize premiums, Cannon said. Under a state exchange, the IRS pays the refundable credits directly to insurers to cover eligible individuals and families who buy their health plans on the exchange. The size of the subsidy is based on income, and insured participants pay the difference between the subsidy and premium costs.

Under the Obamacare employer mandate, most U.S. companies with at least 50 employees would be required to provide federally approved health insurance or pay a \$2,000 tax per uninsured worker, with exclusions for the first 30 employees.

Because the federal exchanges aren't authorized to issue the credits, employers could not be assessed the \$2,000 tax to fund them, Cannon said.

States that opt out of state and federal exchanges could lure companies to relocate from states with the exchanges, and the lower tax environment would be more conducive to job growth at existing firms, Cannon said.

Despite clear language in the law preventing federal exchanges from distributing tax credits, the IRS wrote a rule allowing it. Oklahoma, which has refused to set up a state exchange, has filed a legal challenge to the rule.

"The Oklahoma lawsuit is, I think, the most important thing happening right now in the Obamacare repeal/rebellion movement," Cannon said.

Even if Oklahoma loses its suit, states that did not create their own exchanges would have a "nuclear option" of delicensing health plans that sell through the federal exchange and collect the federal subsidies or tax revenue, he said. That would, effectively, block a federal exchange from operating.

"The fact that the Obama administration is breaking the law to spend money and impose taxes that Congress never authorized gives you the hook," Cannon said.

"We all agree that the health care system needed reform, but it didn't get reformed the right way under this health care law," said Nina Owcharenko, a Charlotte native who is director of the Center for Health Policy Studies at the Heritage Foundation.

"So we're trying to wedge our policy issues back on the table. We need leadership in the Congress to take those ideas and run with them. Thus far we really haven't had a lot of strong efforts in Congress to take up the alternative ideas and articulate them in this capacity," Owcharenko said.

Conservatives in the new Congress immediately need to break down the law and explain why it's bad policy, "because I do disagree that this law is here to stay," Owcharenko said.

"We need to talk about things like freedom and liberty and what do we really want out of this system that we have today," she said.