

NATIONAL REVIEW

Bad Month for Obamacare

The law's supporters keep painting a rosy scenario, but voters didn't buy it.

By Michael Tanner
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Believe it or not, it might be neither President Obama nor the Democratic party that has had the worst month in Washington so far. That dubious honor may actually belong to Obamacare.

Start with the election itself. Every winning Republican senatorial candidate campaigned on the idea of repealing the health-care law — not refining, amending, or improving, but repealing. Exit polls showed that a quarter of voters saw health care as nearly the most important issue in the election, second only to the economy. Roughly half of voters overall felt the law went “too far,” and in many key states the proportion was much higher. With Republicans taking control of the Senate and expanding their majority in the House, we can expect an onslaught of bills to repeal the law or cut out important parts of it. While the presidential veto will likely prevent full repeal, the law’s supporters can expect to spend the next two years fighting a defensive war.

The elections didn’t work out much better for Obamacare at the state level. With a few notable exceptions, such as John Kasich in Ohio, most of the Republican governors elected or reelected last week are opposed to Obamacare’s Medicaid expansion. If Democrats were counting on time and special interests to eventually wear down opposition by governors, they are likely to be disappointed.

The ballots had hardly been counted when the Supreme Court announced that it would hear a case that even the law’s supporters call an “existential threat.” In accepting the case of *King v. Burwell*, even before the D.C. Circuit Court had completed its *en banc* hearing on a related case, the Court signaled that a number of justices have significant concerns about how the Obama administration has disregarded the law’s plain language that limits subsidies to “exchanges established by the States.” If the Court rules against the administration, not only will it mean an end to subsidies in 37 states, it will also effectively kill both the employer mandate and the individual mandate in those states. At that point, the administration would have no choice but to open up the law to wholesale revision.

Just a few days after the Court delivered its blow, Jonathan Gruber, considered one of the architects of Obamacare (as well as its Massachusetts predecessor, Romneycare), went public with an admission that Obamacare advocates had deliberately misled the public in order to get the law passed. Gruber compounded his truth-telling by suggesting that such deception was

necessary because American voters were too “stupid” to understand how good the law was for them.

Finally, HHS Secretary Sylvia Burwell was forced to admit that far fewer people are likely to sign up for insurance by the end of 2015 than previously expected. The Congressional Budget Office had projected that some 6 million Americans would gain insurance through Obamacare next year, raising the two-year total to 13 million. Now Burwell says that fewer than 3 million will enroll on net next year, possibly as few as 2 million. The total would be somewhere between 9 and 9.9 million. Moreover, HHS now estimates that it could take as long as five years for Obamacare to reach its peak enrollment of 25 million Americans.

The lower enrollment is obviously a political embarrassment. After all, the *raison d'être* for the law, with all its costs and disruptions, was to expand health-insurance coverage. Now it appears that not only will Obamacare fall even farther short of “universal coverage” than previously expected, it will end up covering fewer people than free-market alternatives. For example, the Patient Choice, Affordability, Responsibility, and Empowerment Act introduced by Senators Tom Coburn (R., Okla.), Orrin Hatch (R., Utah), and Richard Burr (R., N.C.) would insure 3.1 million more people than Obamacare by 2023.

More important, low enrollment poses significant practical problems for Obamacare’s long-term survival. We know that the original mix of Obamacare enrollees was older, sicker, and more heavily female than the mix analysts believed necessary to preserve the program’s stability. They were counting on the new wave of enrollees to correct the mix.

Without those new enrollees, there is a greater likelihood of an “adverse-selection death spiral,” with an expensive pool of insureds driving up premiums, causing healthy people to flee the pool, leading to more premium increases, and so on, until the entire system collapses. At the very least, the so-called risk corridors, designed to pay off insurance companies in the event of adverse selection, will become much more costly. The new Republican Congress is not likely to look kindly on calls to bail out insurers.

Things are not going to get better for Obamacare going forward, either. This coming Saturday marks the start of the program’s second open-enrollment period. While a repeat of last fall’s healthcare.gov debacle is not expected, even Secretary Burwell admits that she predicts ongoing problems: “We will have things that won’t go right. We will have outages, we will have downtime.”

When you consider that testing has not even been completed on some aspects of the revised website, such as the Small Business Health Options Program (the exchanges for small businesses), and that the administration expects a greater daily usage than last year (the enrollment period is only half as long, for one thing), horror stories are inevitable.

And all of this comes on top of recent news that more people are losing the plans they have been enrolled in, premiums in the most popular plans are rising an average of 8.4 percent next year, and the health-care law will probably cost more than expected and add as much as \$131 billion

to the deficit by 2024. Not even the world's biggest optimist could find a silver lining in this dark cloud.

It seems as if every other week the president and his supporters tell us that the fight over Obamacare is over. Recent events suggest that it has actually barely begun.

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