



## Conservatives press the states to keep fighting ‘ObamaCare’

By Sam Baker – November 9<sup>th</sup>, 2012

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With a decision deadline just days away, Republican governors are under increasing pressure from national conservatives to reject as much as they can of President Obama’s healthcare law.

Resistance at the state level is the best tool that remains for Republican critics of the healthcare law since Obama’s reelection essentially guarantees that it will not be repealed.

States face two critical decisions: whether to participate in the law’s Medicaid expansion, and whether to set up their own insurance exchanges or leave the task to the federal government. In the wake of Obama’s win Tuesday night, conservatives are stepping up the pressure on governors to say no to both programs.

Americans for Prosperity (AFP), the conservative advocacy group linked to the Koch brothers, pushed governors ahead of the Nov. 16 deadline to make a decision on their exchanges.

“States can and do have the power to reject federal attempts to compel their action. Governors should use that power to tell the federal government no,” AFP State Policy Manager Nicole Kaeding said in a statement Friday. “By creating an exchange, states will serve as de-facto administrators of the federal government implementing its rules, regulations and mandates.”

The Nov. 16 deadline isn’t written into law — it’s simply the benchmark by which the Health and Human Services Department has asked states to make a decision. Forgoing an exchange is a way to show resistance to “ObamaCare,” but the strategy comes with risks.

The federal government can run a fallback exchange in states that don’t set up their own — meaning that, by digging in against the healthcare law, governors would actually be giving the federal government more control over their states’ healthcare markets.

AFP said all exchanges are bound by too many rules for the distinction to make much of a difference. Although states have the ability to make key decisions — for example, whether to accept all insurance plans that meet certain federal standards, or negotiate

directly with a more selective group of carriers — there are some federal standards for all exchanges.

HHS has bent over backward to get states to set up their own exchanges, and can spend without limit on grants to help states set up the necessary infrastructure.

“Federal funds are flowing freely to buy state compliance, but state budgets will take the hit in two short years,” Kaeding said. “Creating an exchange puts state taxpayers on the hook for millions of dollars every year. States should reject these bloated bureaucracies.”

Michael Cannon, a health policy analyst at the libertarian Cato Institute, also said states should not move forward on exchanges.

“A state-created exchange is not a state-*controlled* exchange,” Cannon wrote in a blog post Friday. “All exchanges will be controlled by Washington.”

He also said states should not take part in the law’s Medicaid expansion, which became optional as a result of the Supreme Court’s landmark healthcare ruling this past summer.

The court said, in part, that the Medicaid expansion was too good a deal for states to realistically turn down. And while that gave them the ability to opt out, it’s still an attractive offer for strained state budgets.

The health law expands Medicaid to 133 percent of the federal poverty line, and the federal government will initially cover the entire cost of the expanded program — allowing states to cover more people, basically for free. And as the federal share begins to decline, states will be able to drop out.

“Now is not the time to go wobbly,” Cannon wrote. “ObamaCare is still harmful and still unpopular. The presidential election was hardly a referendum, as it pitted the first person to enact ObamaCare against the second person to enact it. Since the election, many state officials are reaffirming their opposition to both implementing exchanges and expanding Medicaid.”

Prominent Republican governors including Rick Perry (Texas), Bob McDonnell (Va.) and Rick Scott (Fla.) have said they will not implement either exchanges or the Medicaid expansion.