



Examiner Editorial: Obamacare's new tax on health insurance

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"We have to pass the bill so that you can find out what is in it," then-House Speaker Nancy Pelosi, D-Calif., famously said of Obamacare. This seems more and more like an understatement as fresh facts dribble out about President Obama's national health care law.

Now that the election is out of the way, the Obama administration is able to reveal more about its regulatory plans for implementing that law. On Friday, the Department of Health and Human Services released 373 pages of new Obamacare regs, and buried deep within is a 3.5 percent "user fee" -- that is, tax -- on premiums from health plans sold on Obamacare's soon-to-be-established federal exchanges. This tax comes above and beyond Obamacare's \$100 billion excise tax on insurers.

This charge will be imposed on insurers in those states (at this point, perhaps as many as 27) that choose not to operate and fund their own exchanges. Wherever this tax is levied, its cost will be passed on directly to consumers. So far, Obamacare has succeeded in adding one extra layer of bureaucratic expense to the process of buying health insurance.

As the Cato Institute's Michael Cannon points out, the legality of this health insurance premium tax is debatable. Obamacare contains no provision authorizing the federal government to collect such a tax or fee for this purpose. In fact, in justifying the tax, the Department of Health and Human Services is relying on a provision in the Obamacare law on exchanges that begins, in all caps: "NO FEDERAL FUNDS FOR CONTINUED OPERATIONS." This tax appears to do the opposite, generating federal revenues and then spending them.

It was always understood that the federal government would have to create and operate exchanges in states that did not, but no one bothered to include a method for funding federal exchanges. Chalk it up to the hasty, "at-all-costs" legislative methods used to pass Obamacare in the spring of 2010. Democrats, having lost their Senate supermajority at that point, were forced to back a hastily drafted, porked-up Senate version of the bill through the House of Representatives without making changes they thought they'd eventually be able to make.

Whatever legal issues are involved in Obama's new health insurance tax, this provides yet one more example of how Obamacare's true costs will become known only over time. When the law was written and it said "no federal funds" after Jan. 1, 2015, that meant the

exchanges would not impose any recurring costs on the federal government -- or so the Congressional Budget Office thought.

So thanks for the heads up, former Speaker Pelosi. An anxious nation at least is braced for more bad news about Obamacare.