



Insight

Questions the Administration Still Needs to Answer

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This morning President Obama announced an “[administrative fix](#)” to the Affordable Care Act (ACA), in response to the outrage over millions of cancelled health insurance plans. However, this so-called “fix” doesn’t quite add up.

The administration still needs to answer questions regarding how their latest Obamacare delay will work:

1. Will individuals on a reinstated plan need to pay the individual mandate penalty in 2014?

The ACA requires all individuals who fail to enroll in a “qualified” health plan to pay a penalty starting in 2014. Many of the plans that are being discontinued or altered due to Obamacare do not currently meet these requirements. If enrollees are allowed to keep their plan, will they be forced to pay a penalty anyway?

2. Are these health plans required to start enrolling individuals with pre-existing conditions, the key goal of Obamacare?

The reason some of the plans on the individual market are currently affordable is because they have a relatively healthy group of people in their insurance pool. Currently, insurers can accept or deny applicants based on their health status or past health problems. Obamacare prohibits this practice starting in 2014. For 2013 plans to continue in 2014 at their same premium rates, they would need to continue to look at applicants’ health status.

3. Will these health plans need to re-tool their pricing to comply with ACA regulations on Community Rating? Or will they be able to price according to health status?

Another Obamacare insurance market reform was the requirement that insurers price applicants as a pool, and not price their plans with regard to health status. Insurers will be allowed to price according to age, but with a 3 to 1 age ratio; meaning that the oldest applicant can only be charged three times the premium rate of the youngest. If plans are allowed to continue at their current prices, they will be skirting this regulation.

4. Will insurance companies selling plans on the exchanges need to re-adjust their prices now that their risk pools may be smaller?

Exchange plans were pricing assuming they would get a large mix of individuals in their plans; including those who had insurance on the individual market prior to the ACA who would need to go on the exchanges once their plans were discontinued. If that is not going to happen, will there be a need to re-price exchange plans?

5. Do state insurance administrators need to ignore federal law to approve these plans for

sale?

State insurance regulations can go above and beyond what federal law says, but the federal regulations serve as a “floor.” The plans available on the market in 2013 will no longer be in legal compliance in 2014, and approving them for sale in 2014 will likely mean that states are ignoring federal law.

6. Have insurance companies in some states missed the deadline for 2014?

States regulate their insurance market in a variety of ways. Some don’t require companies to re-file their insurance plans annually, and some require a 30 or 60 day review period before the plan can be sold if rates change. Within some states, a 60 day review period would mean that plans could not continue in January.

7. What happens to people who have already paid for their exchange plans?

Not all, but some of the 106,000 individuals who have selected plans on their state exchange, have already paid for that coverage. If one of those consumers wants to stay on their previously cancelled plan, can they cancel their exchange coverage? Will we see a drop in the 106,000 enrollees now that some may be able to keep their old plan?

8. Does the administration understand its own law?

Obamacare includes a complex set of market reforms; the only way this law has a chance of working is if the risk pools are large enough and balanced in order to cover the cost of insuring older, sicker enrollees. There is a fundamental cost-shift onto younger, healthier individuals that no longer works if those younger and healthier individuals can keep their plans on the individual market.