Obama Administration Rule Allows for Increased Insurance Bailouts

On Friday, the Obama administration issued a new rule that will likely lead the government to give billions of taxpayer dollars to health insurance companies involved in the ObamaCare health exchanges. The rule is part of an effort by the Centers for Medicare and Medicaid Services to address fears that under ObamaCare, insurance companies will suffer huge losses because the cost for care of the high numbers of sick enrollees will not be offset by payments from healthy enrollees — because not enough healthy enrollees are signing up for ObamaCare.

Townhall reported last December, "A 'risk corridor' provision in Obamacare allows the federal government to give health insurers a taxpayer bailout if the cost of providing care for those insured through Obamacare is higher than insurers originally estimated when they first set premium prices."

Such a program was created to help prevent insurance companies from raising costs to extremely high rates resulting from a more risky population of people joining the new exchanges.

The Obama administration has assured Americans that the risk corridor program would not cost taxpayers anything. The Daily Caller wrote, "CMS has issued guidance in the past promising that if the money collected from successful insurers wasn't enough to cover all the payments due to the struggling ones, payments would be reduced and shortfalls made up for the following year."

But insurance companies asserted that the rules fail to consider that some insurers may take even bigger hits than anticipated. America's Health Insurance Plans addressed these concerns to CMS in April, explaining that minimizing the risk-aversion program could ultimately lead to higher premium rates. As a result, CMS is now moving away from its budget-neutral promise, citing worries from "some commentators."

"We appreciate that some commenters believe that there are uncertainties associated with rate setting, given their concerns that risk corridors collections may not be sufficient to fully fund risk corridors payments," the rule reads. "In the unlikely event of a shortfall for the 2015 program year … HHS will use other sources of funding for the risk corridors payments, subject to the availability of appropriations."

To alleviate insurance companies' concerns over ObamaCare losses, federal regulations originally allowed insurers access to bailout funds after they spend $60,000 on an individual, but in December, the Department of Health and Human Services introduced new regulations lowering the limit to $45,000.

The Department of Health and Human Services has the power to use taxpayer money to reimburse insurance companies up to 80 percent of their additional cost in the first three years of the law's existence. Americans for Prosperity's website explained, "If the cost of insuring individuals under the PPACA is 3% higher than estimated, insurance companies receive a 50% taxpayer reimbursement of the difference. If the cost of the ACA is 8% higher than estimated, which is a significantly more likely outcome, insurance companies receive an 80% taxpayer reimbursement. This bailout of insurance companies could end up costing taxpayers billions of dollars."

In a notice published on December 2 in the *Federal Register*, the Obama administration acknowledges that insurers have valid concerns when they observe that they may be saddled with sicker customers that cost more money in the new insurance exchanges because healthier Americans will likely be staying on their existing health plans for another year.

In an effort to combat "insurance bailouts," Senator Marco Rubio of Florida, along with a half dozen other senators — Saxby Chambliss (R-Ga.), James Inhofe (R-Okla.), Mike Lee (R-Utah), Mitch McConnell (R-Ky.), Rand Paul (R-Ky.), and David Vitter (R-La.) — introduced the "Obamacare Taxpayer Bailout Prevention Act," which would strip a provision in the Affordable Care Act related to the risk corridors.

According to Rubio, the risk corridors serve as a "blank check" for the healthcare industry. In an opinion piece written by Rubio, he explained that risk corridors could be structured so as to protect taxpayers, but the healthcare law provision did "no such thing." "The idea that the federal government should be bailing out insurance companies in order to make Obamacare work, that's not something a lot of people are aware of," Rubio told Fox News. "And I haven't taken a poll on it, but I guarantee you it would be hugely unpopular."

"The White House has said … it will have to be budget neutral, that no money from taxpayers or general revenue will be spent in bailing out the exchanges. And all I'm offering now is a bill that will say: 'Let's codify what you've already agreed to do,'" Rubio said at the Reuters Health Summit in Washington.

Robert Zirkelbach, spokesman for America's Health Insurance Plans, has emphasized that the three-year program is just temporary and that it is not entirely out of the ordinary for new laws. "There's a lot of uncertainty about what the markets are going to look like," he said, noting the payments are designed to help stabilize the market.

President Obama told insurance executives in November that the government's assistance to the insurance companies will be limited. But as noted by Rubio, "President Obama's November 14 decree can only be implemented if the American taxpayer provides a bailout safety provision funded on their dime."

Townhall observed that the Congressional Budget Office had not considered bailouts when calculating the cost of ObamaCare, and that if the bailout proceeds, the healthcare law will add billions to the deficit.

In its cost estimate, the Congressional Budget Office predicted the provisions would create a net gain of $8 billion for the budget over the program's three-year life because some companies that have lower-than-expected costs would be required to share their windfall with the federal government.

However, some have taken issue with this estimate. Seth Chandler, law professor at the Univeristy of Houston Law Center and contributor for ACA Death Spiral, writes:

> I've done the math and I don't see how CBO is getting this $8 billion number unless it is assuming either very high enrollment in policies covered by risk corridors or very high rates of return made

> by insurers. Or it made a mistake. I don't think CBO's own numbers support very high enrollment in policies covered by risk corridors and I don't believe either an emerging reality or CBO's own rhetoric justify assuming very high rates of return. So I think CBO ought to take a second look at its prediction. People should not yet make policy decisions based on the CBO estimate.

Chandler proceeds to break down his analysis of the CBO estimate and raise serious doubts about the legitimacy of the figures.

Meanwhile the Obama administration remains confident that the funding for the risk corridor program will not fall short as it assumes that healthier younger people will sign up for health coverage in the near future.