



Written by [Michael Tennant](#) on July 11, 2012

Rick Perry Becomes Sixth Governor to Reject Two ObamaCare Provisions

Texas Gov. Rick Perry has announced that the Lone Star State will not participate in two ObamaCare programs: The expansion of Medicaid to cover more individuals and the creation of a state insurance exchange.



“Both represent brazen intrusions into the sovereignty of our state,” Perry declared in a [letter](#) to Health and Human Services (HHS) Secretary Kathleen Sebelius.

Texas has thus become the sixth state — after Florida, South Carolina, Wisconsin, Mississippi, and Louisiana — to opt out of these two provisions of the Patient Protection and Affordable Care Act (PPACA). All of these states are headed by Republican Governors.

“Neither a ‘state’ exchange nor the expansion of Medicaid under the Orwellian-named PPACA would result in better ‘patient protection’ or in more ‘affordable care,’” Perry wrote. “What they would do is make Texas a mere appendage of the federal government when it comes to health care.”

The PPACA requires states to establish insurance exchanges on which individuals who do not have employer-sponsored health insurance can shop for the plan that best meets their needs at a price they can afford. If a state fails to establish an exchange, the federal government will do so.

Southern Methodist University law professor Tom Mayo questioned Perry’s decision to forego setting up an exchange, telling [KXAS-TV](#) that Perry is therefore “inviting the federal government to come in and do it for us.”

“I don’t see how that protects state sovereignty,” he added.

However, as Perry pointed out in his letter:

The PPACA does not truly allow states to create and operate their own exchanges. Instead, it gives the federal government the final say as to which insurance plans can operate in a so-called “state” exchange, what benefits those plans must provide, and what price controls and cost limits will apply. It leaves many questions to be answered later through federal “future rulemaking.” In short, it essentially treats the states like subcontractors through which the federal government can control the insurance markets and pursue federal priorities rather than those of the individual states.

Indeed, the existing regulations for creating exchanges, contained in a final rule issued by HHS in March, are incredibly detailed and complex, according to [Nicole Kaeding](#), state policy analyst at Americans for Prosperity:

The 644-page rule included the word “must” over 1,000 times and “require” more than 320 times. The rule gets so specific as to dictate what items a state must include on its exchange website and how its call center must operate. Under the regulation, any state hoping to create an exchange must first apply to HHS using its “exchange blueprint” template. Secretary Sebelius has sole authority to approve or deny the application. Additionally, any “significant change” must also be



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approved by the secretary.

The rule itself says that the “minimum functions [outlined in the rule] ... are a floor not a ceiling.” Proponents ... argue that if a state doesn’t create an exchange, the federal government will. Under these thousands of pages of regulations and frameworks established by HHS, there is no distinction between the two. States only have the option to further concentrate control in the hands of bureaucrats, not keep it where it belongs: between patients and doctors.

Moreover, Kaeding observes, because “Congress did not provide tax subsidies to aid individuals’ purchases in federal exchanges ... businesses in states that do create state exchanges will face higher fines than businesses in states that do not.”

In other words, states have nothing to gain and everything to lose by establishing exchanges. Perry is therefore right to reject them.

“Through its proposed expansion of Medicaid, the PPACA would simply enlarge a broken system that is already financially unsustainable,” Perry informed Sebelius. “Medicaid is a system of inflexible mandates, one-size-fits-all requirements, and wasteful, bureaucratic inefficiencies. Expanding it as the PPACA provides would only exacerbate the failure of the current system, and would threaten even Texas with financial ruin.”

Under ObamaCare, beginning in 2014 states are to be given funds to expand Medicaid to cover individuals making up to 133 percent of the federal poverty level; states that refused to do so will be denied those funds. In addition, while Washington will cover the entire cost of this expansion for the first three years, eventually states will have to pay 10 percent of it. Arlene Wohlgemuth of the Texas Public Policy Center told [Fox News](#) that this provision would increase Texas’ Medicaid spending by 65 percent, bringing it to “46 percent of our entire state’s budget” — clearly an unsustainable burden.

However, the Supreme Court, in its otherwise disastrous ruling on the PPACA, held that the federal government could not withhold Medicaid funds from noncompliant states, opening the door for states to take the money but not spend it on covering more people. That is what Perry and the other five Governors have stated they will do.

“Gov. Perry has consistently rejected federal funding when strings are attached that impose long-term financial burdens on Texans, or cede state control of state issues to the federal government,” reads a [press release](#) from Perry’s office.

Note that Perry does not categorically reject federal funding, nearly all of which is unconstitutional; he simply wants to be given cash unconditionally. He plainly has no problem with the existence of Medicaid. In fact, as governor he has “poured a lot more money into Medicaid ... and proposed to use Texas resources to expand healthcare for Mexican nationals,” according to the *Atlantic*’s [Conor Friedersdorf](#). Now he is calling for Medicaid to be converted to a block-grant program so that states can spend the funds as they see fit. In addition, he is a rather inconsistent foe of national healthcare programs: In 1993 he [praised](#) then-First Lady Hillary Clinton for her “most commendable” efforts at healthcare “reform,” which turned out to be an even more blatant takeover of the healthcare system than ObamaCare. Thus, while Perry’s refusal to participate in some provisions of ObamaCare is certainly welcome, no one should mistake it for a principled stand against big government.

Whether the result of politics, principle, or a little of both, state opposition to ObamaCare serves as a reminder that federalism in America is not yet dead. With enough such efforts, states may even be able to nullify ObamaCare altogether, as they have thus far effectively done with the [REAL ID Act](#). In the



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words of Rick Perry, "Thank God and our nation's founders that we have the right to do so."

Photo of Texas Governor Rick Perry: AP Images



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