Trying to Salvage ObamaCare, HHS Forces Insurers to Offer Free Coverage

Just how badly is ObamaCare going? Badly enough that the Obama administration is trying to force insurance companies to cover people for free — and then to turn insurers who don't comply into fall guys for any future bad news.

The problem for the administration is that ObamaCare has forced the cancellation of millions of Americans' health plans — the ones the president said they could keep if they were happy with them — while making it next to impossible for them to sign up for new plans through Healthcare.gov. According to the *Wall Street Journal*, an "estimated four million to five and a half million people … had their individual health plans liquidated as ObamaCare-noncompliant," but just over 1.1 million have signed up for coverage under ObamaCare: 364,682 through state and federal insurance exchanges and 803,077 through Medicaid.

As *The New American* reported, however, of the nearly 365,000 who have selected plans on exchanges, the administration isn't saying how many have actually paid for, and therefore attained, coverage. That may be, in part, because no one really knows. Writing for *Forbes*, Avik Roy cited insurance-industry insiders' estimates that only five to 15 percent of individuals who have selected plans have actually paid their first month's premiums — a result of exchange systems that have sent the wrong data to insurers or, as in the case of Healthcare.gov, still lack the ability to transmit payments to insurers.

The administration is also being tight-lipped about the types of individuals enrolling on the exchanges, suggesting that most of the people signing up for coverage are those with pre-existing conditions that will be costly to treat, not the young and healthy whose premiums are needed to offset the cost of this coverage.

In short, few people have genuinely purchased coverage that will take effect on January 1, leaving millions of Americans without coverage; and many of those who have sought to buy insurance are the ones most likely to do real harm to insurers' bottom lines. Thus, it's not hard to see why "federal officials are worried, even panicked, about what comes next," in the words of *Reason*'s Peter Suderman.

Suderman based his opinion on a December 12 Department of Health and Human Services (HHS) announcement. In a press release, HHS stated that it would be "requiring insurers to accept payment through December 31 for coverage that will begin January 1, and urging issuers to give consumers additional time to pay their first month's premium and still have coverage beginning Jan. 1, 2014." HHS is also “strongly encouraging insurers to treat out-of-network providers as in-network to ensure continuity of care” and “to refill prescriptions covered under previous plans during January.”

In the course of a conference call about the changes, Suderman reported, “the administration even suggested that insurers should consider accepting as enrolled anyone who has signed up for a plan by December 23 — even if the person in question has not paid the first month’s premium at all. Payments could be made after January 1, and after coverage kicked in.”

Moreover, while the press release said HHS was simply “urging” and “strongly encouraging” insurers to offer free coverage to people who haven’t paid for it, “the government is using the full force of its regulatory powers, under Obamacare, to threaten insurers if they don’t comply,” noted Roy.

> All you have to do is read the menacing language in the new regulations that HHS published this week, in which HHS says it may throw otherwise qualified health plans off of the exchanges next year if they don’t comply with the government’s “requests.”
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> “We are considering factoring into the [qualified health plan] renewal process, as part of the determination regarding whether making a health plan available … how [insurers] ensure continuity of care during transitions,” they write. Which is kind of like the Mafia saying that it will “consider” the amount of protection money you’ve paid in its decision as to whether or not it vandalizes your storefront.

Forcing insurers to cover people for free, of course, amounts to an illegal taking under the Fifth Amendment, Roy pointed out.

But it will be up to insurers to sue to protect their rights. Like battered wives, they are unlikely to do so. Companies such as Aetna and Humana are so terrified that the administration will run them out of business that they are more likely to do what they’re told, and quietly pass the costs on to consumers. The chaos and recriminations have made insurers such as UnitedHealth, who have largely stayed out of the exchanges, look smart.

Indeed, if Suderman is correct that the administration “is worried about what’s coming, and plans to blame insurers who don’t take the administration’s encouragement when the bad news arrives,” it will make those insurers who have avoided the exchange trap appear positively brilliant.

Ever since ObamaCare’s embryonic stage, opponents have been arguing that it amounts to a federal takeover of the healthcare system — an assertion PolitiFact.com dubbed 2010’s “lie of the year,” to the huzzahs of the law’s supporters. But with Uncle Sam now essentially requiring insurers to cover people gratis, Roy asked, “If Obamacare wasn’t a government takeover of the health insurance industry, then what is it now?”