



Written by [Michael Tennant](#) on March 13, 2014

White House Effectively Delays Individual Mandate Through 2016

The Obama administration has effectively — and quietly — suspended the Affordable Care Act's (ACA) individual mandate, the linchpin of ObamaCare, through 2016, the [Wall Street Journal](#) reports.

On March 5, the Department of Health and Human Services issued a bulletin that included various exemptions to the ACA. The one that received the most attention at the time stated that health plans that do not comply with the healthcare law may now [remain in force through 2016](#) (and, in some cases, 2017), sparing Democrats the fury of millions of voters who would otherwise have received insurance cancellation notices just before the November elections.

Buried in that document — and overlooked by news outlets until now — is a single paragraph stating that the “hardship exemption” the administration extended in December to individuals whose policies had been canceled, originally slated to last through 2014, will now remain available through 2016. What’s more, because the standards for receiving the hardship exemption are so lax, practically anyone can obtain such an exemption.

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The hardship exemption, which allows individuals to escape the clutches of the individual mandate and even purchase low-cost catastrophic coverage that the ACA otherwise restricts to those under age 30, has always been a part of ObamaCare. Originally, however, it was only available to those who had experienced life-altering hardships such as divorce or eviction. Even then, the [Journal](#) noted in December, two of the hardship categories, homelessness and domestic violence, “don’t require any documentation.”

By December, with millions suddenly uninsured by the ACA and unable to get reinsured through Healthcare.gov, the administration added new categories. The first allows an individual whose policy was canceled to apply for an exemption by submitting “a form attesting that your plan was cancelled and that you ‘believe that the plan options available in the [ObamaCare] Marketplace in your area are more expensive than your cancelled health insurance policy’ or ‘you consider other available policies unaffordable,’” writes the *Journal*. This category at least requires the applicant to include a copy of his insurance cancellation notice, though no evidence that other plans are unaffordable is required.

“But,” continues the paper, “people can also qualify for hardships for the unspecified nonreason that ‘you experienced another hardship in obtaining health insurance,’ which only requires ‘documentation if possible.’ And yet another waiver is available to those who say they are merely unable to afford coverage, regardless of their prior insurance. In a word, these shifting legal benchmarks offer an





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exemption to everyone who conceivably wants one.”

Put another way, with the extension of the expanded hardship exemption, until 2017 no one in America is required by federal law — or at least the Obama administration’s unilateral amending of it — to have health insurance, nor need he pay a fine for not being covered. Thus, the individual mandate has become a “paper tiger,” in the words of Breitbart.com’s [John Sexton](#). “If anyone can claim a hardship exemption,” he avers, “the regulation doesn’t mean much.”

Of particular interest is the fact that the Obama administration, not its opponents, is gutting the individual mandate. After all, the administration has argued that the mandate is absolutely essential to ObamaCare’s success, as indeed it is. With insurers forced to cover those with costly pre-existing conditions at below-market rates, a large number of young and healthy people must be forced to purchase insurance at above-market rates to keep the system afloat. Without the individual mandate, the ACA’s other provisions will “make matters worse, not better,” Solicitor General Donald Verrilli told the Supreme Court in 2012.

“The suspension of the mandate,” wrote *New York Post* columnist [Mark Cunningham](#), “means the administration has quietly given up on making the thing [ObamaCare] work.”

“What we’re left with,” he adds, “is a US health-care system whose engine has been partly disassembled — and a mechanic who doesn’t know how to make his plan for rebuilding it actually work, even as he insists we’re already better off.”

The obvious question this raises is why President Barack Obama seems determined to tear down his own signature achievement even as he insists he will veto any bills that would delay or repeal it. “The answers,” says the *Journal*, “are the implementation fiasco and politics.”

Enrollment in exchange plans is [well below the administration’s objectives](#), and enrollment among the young is even further below projections — and that’s true even using the administration’s inflated count of enrollees that includes everyone who has selected a plan, not just those who have actually paid for one. Moreover, a recent McKinsey & Co. survey found that few of those enrolling were previously uninsured and that many of those who looked for coverage on the exchange declined to purchase it because it cost too much. “Some substantial share of the people ObamaCare is supposed to help say it is a bad financial value,” remarks the *Journal*. “You might even call it a hardship.”

The newspaper believes the administration “is also trying to pre-empt the inevitable political blowback from the nasty 2015 tax surprise of fining the uninsured for being uninsured, which could help reopen ObamaCare if voters elect a Republican Senate this November.” For that matter, the election of a Republican Senate is more likely if voters are angry about becoming involuntarily uninsured and then being penalized for it. By giving these voters another two years’ breather, the White House is hoping they won’t be motivated to turn out and dump Democrats this fall.

Insurers aren’t exactly happy about yet another delay of a key ObamaCare provision, rightly seeing it as threatening their business model under the healthcare law. If not enough young and healthy people buy insurance, it could lead to a death spiral of skyrocketing premiums and more costly beneficiaries. “Our sources in the insurance industry are worried the regulatory loophole sets a mandate non-enforcement precedent, and they’re probably right,” the *Journal* reports. “The longer it is not enforced, the less likely any President will enforce it.”

The less that ObamaCare is enforced, the better, generally speaking. But removing some parts and not others makes the law even less sustainable than it already was, which could lead to repeal but could



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also provide the impetus for a fully nationalized, single-payer healthcare system. ObamaCare opponents will need to remind others continually that the ACA, not (for the most part) doctors, hospitals, and insurers, is the cause of their healthcare woes and that the solution is not to treat the symptoms but to excise the underlying disease.



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