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Obamacare Exchanges —

If you've been following the tortured journey of the Affordable Care Act

(ACA or "Obamacare"), I'm sure you've heard about Individual and Small Business Health Options Program (SHOP) Exchanges. These insurance marketplaces, which are slated to be fully operational by January 1, 2014, are an integral part of the law and a central component of federal health care reform. They are also a bit of an enigma surrounded by many unanswered questions about how they'll work and whether they'll even be ready by 2014.

Although I have my personal doubts about Obamacare Exchanges, I'll do my best to set my biases aside in this article so I can give you an impartial explanation and assessment of these essential devices of the ACA. That said, before I delve into this complicated area of Obamacare (and in the interest of full disclosure), I can't resist sharing a recent quote from Sen. Max Baucus (D-Montana) who was very instrumental in getting Obamacare passed back in 2010 (and who coincidentally recently announced he would not seek reelection in 2014), "*I just see a huge train wreck.*"

What are Exchanges? According to the U.S. Department of Health and Human Services (HHS), Exchanges are competitive marketplaces for individuals and small employers to directly compare available private health insurance options on the basis of price, quality, and other factors. Exchanges are intended to help enhance competition in the health insurance market, improve choice of affordable health insurance, and give small businesses the same purchasing clout as large businesses, *77 Fed. Reg. 18309 (Mar. 27, 2012)*. Exchanges will also serve as the only vehicle through which individuals can receive government subsidies, and employers can obtain a small business health care tax credit.

In addition to serving as government-run health insurance marketplaces designed to match consumers with the best health insurance policy for their needs (similar to how Travelocity matches travel-

ers with travel deals), Exchanges are intended to perform a variety of other functions required by the ACA. Exchanges will be charged with certifying and monitoring qualified health plans (QHP), determining eligibility for enrollment in QHPs, administering insurance subsidies and affordability programs (*e.g.*, premium tax credits), and responding to customer requests for assistance.

How will Exchanges work? The individual and SHOP Exchanges are health insurance marketplaces that will be run by the government. State governments were given the first option to establish and maintain their state's Exchange, but if a state opted not to run the Exchange or has failed to take adequate steps to ensure the Exchange will be ready by January 1, 2014, the responsibility defaults to the federal government. The theory behind Exchanges is that they will eventually become the one-stop shopping venue for consumers to purchase health insurance policies, they will streamline the insurance purchasing process, they will make health insurance more affordable, and they will reduce the number of uninsured Americans.

Application Process: According to the ACA, any lawful resident can enroll in a health insurance plan in the state where they reside. (Unauthorized aliens are prohibited from obtaining coverage through the individual Exchange.) Beginning in 2014, small employers (generally 100 employees or fewer) can offer coverage to their employees through an Exchange. Large employers aren't eligible to participate in the Exchanges until 2017. There will be an initial enrollment period that will run from October 1, 2013 through March 31, 2014, and an annual enrollment period thereafter. The most recent application for Exchange coverage has been reduced from 21 pages to a more manageable three pages for single adults and seven pages for families.

Navigators: To ensure applicants have someone to help guide them through the process, the Exchanges will employ individuals and/or entities called "Navi-

What are They ... and Will They Work?

gators” who will become licensed or certified to assist, educate, enroll, and (essentially) market Exchanges. There is a growing concern that replacing experienced health insurance agents with Exchange Navigators is going to result in turmoil in the health insurance and health care world. This concern seems perfectly reasonable when you consider that navigating the turbulent and confusing waters of the health care world is a bit more complicated than securing a cheap hotel room or helping a client decide whether to take a trip to Hawaii or Costa Rica.

Coverage Options: Health insurance sold through the Exchanges will be available at four levels: bronze, silver, gold and platinum. These four “metal plans” will have actuarial values of 60%, 70%, 80% and 90% respectively, and they will cover at least the ten “essential health benefits” as defined by the federal government (including dental and vision care for kids up to age 19).

Subsidies: Federal subsidies will be pegged to the cost of the silver plan, and will be available to eligible citizens who make up to 400% of the federal poverty level (“FPL”). These subsidies will be phased out as earnings increase, but according to Families USA, up to 26 million Americans will be eligible for subsidies. Families USA also estimates a family of four earning \$94,000 per year that purchases a “silver-level” plan with annual premium of \$12,500, will receive a subsidy of about \$3,500 per year.

The ongoing debate ...

Whether you love Obamacare or hate it, one thing is certain: the jury is still out as to whether Exchanges will be ready and whether they will work as they were sold to the American people. By “work,” I mean whether they will succeed in enrolling members, reducing the number of uninsureds, lowering health care costs, and reducing health insurance premiums.

At this point, even state regulators and legislatures can’t agree on whether Exchanges will work, or whether they will be a good or bad thing. As of May 2, 2013, the Henry J. Kaiser Family Foundation reported that 17 states and the District of Columbia have declared they will run a state-based Exchange, seven states are planning on running their Exchange in partnership with the federal government, and 26 states have defaulted to the federally-run Exchange.

Supporters argue these Exchanges will work because they will make health insurance affordable to the most vulnerable Americans. They believe the Exchanges will help individuals and families buy affordable health insurance from private insurers, they will facilitate subsidy payments, and they will help an estimated 23 million Americans secure affordable health insurance.

On the flip side, skeptics argue the Exchanges do nothing to make health insurance more affordable, they merely shift costs from middle-class Americans to the government and ultimately to private companies and taxpayers. These skeptics believe the federal government is unfairly competing with the private market by requiring consumers to purchase their insurance policies through the government-run Exchanges in order to receive a premium tax credit or cost-sharing reduction subsidy. Moreover, they are quick to point out that health insurance is expensive because health care is expensive, and since there is nothing inherent in a government-run web-based insurance portal that will lower the cost of health care, health insurance costs won’t go down. In other words, because there is nothing in the ACA that will lower the cost of health care (and, in fact, there is quite a bit that will drive the cost of health care upward), these skeptics (and even some Obamacare supporters like Senator Baucus) argue we are all headed for a very expensive train wreck.

As Always ...

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