



PolicyInsight

An Unfair Exchange: Why Tennessee Should Not Implement Obamacare

Myths	Facts
If we don't build a health insurance exchange, the federal government will come in with its own exchange and operate it here in Tennessee.	We don't know if that will happen. While Congress supplied funding for the states to set up health insurance exchanges, it did not provide the U.S. Department of Health and Human Services with resources to establish a federal exchange in each state that refuses to start its own program. Congress also did not anticipate state resistance to state insurance exchanges and, as a result, the federal government will likely not be ready to implement the systems by the deadlines.
A state exchange lets Tennessee assume control over its own destiny.	Make no mistake: a state exchange is a federal exchange. While a state exchange would be run by a state-appointed board, the federal government would, through its rules, dictate virtually all aspects of how the exchange operates. Moreover, if the state wants to modify how the exchange operates, it would need to seek permission. ¹ If the federal government wants to end participation of a certain provider, it would be able to do so, simply by amending its rules to achieve its goals. In short, a so-called "state" exchange is merely the vehicle to implement Obamacare.
We must act this legislative session or we'll miss the deadlines to have an exchange up and running.	The deadlines are a moving target. Recently, the federal government moved the deadline to apply for an exchange startup grant. The new deadline to apply for a grant is June 29, 2012. ² Clearly, the federal government believes it is possible to apply for a grant to start an exchange and still have the exchange operational by the real deadline of October 1, 2013. ³ Furthermore, some state legislatures are not even in session this year. For example, the Texas Legislature won't convene until 2013.
The Supreme Court case only addresses the individual mandate, so the exchanges will move forward regardless of the Court's ruling.	We don't know what the Supreme Court will decide. Many other aspects of PPACA are facing scrutiny as well. Additionally, the Court is hearing three days of arguments in March, and on one of those days, the Court will quiz lawyers on both sides on the issue of severability—whether the entire law can be struck down if the individual mandate is rejected. The entire law may be struck down or individual portions declared unconstitutional. Additionally, should the Court uphold the law, there will still be legal avenues available for individuals, businesses, and states to challenge the exchanges.
By waiting for the Supreme Court ruling, Tennessee will jeopardize its opportunity to implement a state-based exchange.	States can implement their own exchanges at just about any time. PPACA and its companion rules by HHS allow states to choose to adopt a health insurance exchange at a later time. A state whose exchange is operated by the federal government can, at its discretion, choose to implement a state-run exchange. This can happen at any time in the future. ⁴
Without a state exchange, Tennesseans won't be able to access the tax credits and subsidies available through PPACA.	That issue is still up in the air. While the language of PPACA is clear that only state exchanges qualify for tax credits or subsidies, the Obama administration and the IRS are drafting rules that would qualify federally run exchanges. Even so, federal subsidies and credits for exchanges will mean higher taxes to pay for the giveaways. For every \$1 a state receives from the federal government, it tends to raise its own future taxes between \$0.33 and \$0.42. ⁵
PPACA aside, an exchange is still a good, free market idea.	There is nothing free market about Obamacare exchanges. The exchange mandates of what must be included in an insurance plan reduce the choice of coverage so that price is the only measure on which plans compete. Moreover, there already exists private-sector exchanges that allow users to compare insurance policies. ⁶ The state doesn't need to create a new bureaucracy for a service already provided by the private sector.

¹ Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans. 45 CFR Parts 155 and 156.

² U.S. Department of Health and Human Services. States receive more flexibility, resources to implement Affordable Insurance Exchanges. Press Release, November 29, 2011.

³ Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans. 45 CFR Parts 155 and 156, rule 155.106, Election To Operate an Exchange After 2014.

⁴ Ibid.

⁵ Russell S. Sobel and George R. Crowley. Do intergovernmental Grants Create Ratchets in State And Local Taxes? Testing the Friedman-Sanford Hypothesis. Working Paper No. 10-151. Mercatus Center. 2010.

⁶ ehealthinsurance.com and healthcompare.com are examples.

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