From: Jacobs, Chris (RPC)
Sent: Monday, July 18, 2011 12:44 PM
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Subject: Yet Another Way Obamacare Will Raise Premiums

A week after the release of Obamacare's Exchange regulations, states are still looking through the nearly 350 pages of Washington requirements to analyze how the various federal mandates will impact their insurance markets. Because ALL components of the insurance market reform regulations – including provisions regarding eligibility determinations and insurance subsidies – are not public yet, it's difficult to assess exactly how bad Obamacare will be. But one provision in particular included in the Exchange regulation seems ripe for abuse – and could raise health insurance premiums considerably.

At issue is the large number of "special enrollment periods" outside of the annual open enrollment season under which individuals can sign up for plans and subsidies. These special enrollment periods will encourage healthy individuals to wait until they become sick and need coverage to buy it, raising premiums for everyone else. For instance:

- An individual can obtain coverage when he "is determined newly eligible or newly ineligible for" insurance subsidies. Under this provision, a voluntarily uninsured worker in a family of four making $90,000 a year could request a $5,000 pay cut upon a cancer diagnosis, and become immediately eligible for taxpayer-subsidized coverage (because the family's income would fall under 400% of federal poverty, making the family eligible for subsidies).
- An individual can also obtain coverage when he "has a change in eligibility for cost-sharing reductions, regardless of whether such individual is already enrolled in a QHP [qualified health plan]." Under this circumstance, an uninsured worker making 260% of poverty could, upon receiving an adverse medical diagnosis, ask for his pay to be cut to under 250% of poverty – because that change in cost-sharing status would make him immediately eligible for government insurance subsidies.
- An individual can obtain coverage when that individual "gains access to new QHPs as a result of a permanent move." Here, individuals could easily game the system by moving from Philadelphia, PA across the Delaware River to Camden, NJ; that move would change their choice of plans, thus triggering a "special enrollment period." Anecdotal evidence suggests that some individuals may already be "moving" by utilizing mailing addresses in other nearby jurisdictions to obtain lower premiums; it's possible to envision a scenario whereby an individual in Washington, DC could use a friend's mailing address to "move" to Arlington, VA, and thus become immediately eligible for coverage and subsidies.
- "An Indian…may enroll in a QHP or change from one QHP to another 1 time per month." While this exemption is due to interactions with the Indian Health Service, it again gives Indians a strong disincentive to obtain coverage until they need it – because they know insurance will be available to them at any point in time.

This potential for abuse is exacerbated by a provision in proposed rule specifying that under special enrollment periods, individuals can "enroll in or change from one QHP to another." In other words, individuals can "buy up" from a Bronze plan to a Gold or Platinum plan during a special enrollment period. This provision not only gives individuals an incentive to "game" the system to obtain coverage, it also encourages them to "game" the system to obtain richer coverage at periods when they know they will have high health expenses.

Unfortunately, these examples are far from abstract. Data from multiple insurance companies suggest that, where an individual mandate has already been enacted, people will pay the penalty associated with the mandate while healthy, only to obtain coverage and run up high health costs once becoming sick – placing more upward pressure on insurance premiums.

Candidate Obama promised to cut premiums by $2,500 for the average American family. But the draft Exchange regulation, by giving individuals a strong disincentive to buy coverage until they need it, will only lead to another upward premium spiral.

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