

**From:** Jacobs, Chris (RPC)  
**Sent:** Monday, July 11, 2011 10:47 AM  
**To:** Jacobs, Chris (RPC)  
**Subject:** Obamacare Exchange Regulations: More New Federal Requirements

HHS just released part of its Exchange regulations – a 244-page regulation regarding the [establishment of Exchanges](#), and a separate 103-page regulation [regarding risk adjustment](#). While the Administration is [trying to sell Exchanges](#) as providing competition and flexibility, **the 347 pages of regulations contain the word “require” a whopping 811 times** (628 instances in the Exchange regulation, and 183 in the risk adjustment regulation). It’s worth asking: **How flexible can a piece of regulation that has 811 separate references to mandates and requirements be?**

As noted previously, the documents just released comprise only **\*part\*** of the regulations necessary for states to implement health insurance Exchanges under Obamacare. Page 11 of the Exchange rule notes that most of the critical elements of Exchanges are NOT included in today’s regulations:

Subjects included in the Affordable Care Act to be addressed in separate rulemaking include but are not limited to: (1) standards for individual eligibility for participation in the Exchange, advance payments of the premium tax credit, cost-sharing reductions, and related health programs and appeals of eligibility determinations; (2) standards outlining the Exchange process for issuing certificates of exemption from the individual responsibility requirement and payment under section 1411(a)(4); (3) defining essential health benefits, actuarial value and other benefit design standards; and (4) standards for Exchanges and QHP issuers related to quality.

So in other words, states will NOT have all the information they need to decide whether and how to construct their Exchanges after today’s release. Moreover, if you think the 811 references to federal mandates and requirements included in today’s regulation will place an onerous burden on states and individuals, just wait until ALL of Obamacare’s regulations are released...

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