

Unknowns Cloud Choice on New Insurance Exchange

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WPLN News
October 26, 2011

Tennessee is treading slowly on the decision of whether to set up a state insurance exchange. The federal healthcare overhaul requires states to provide a system for comparing insurance policies and benefits, or let Washington do it.

Tennessee's decision is complicated, because the national law might still change dramatically.

Everything from court challenges, to possible defunding by Congress, to the 2012 election could affect what the state decides about an exchange.

And much of the law's fine print is still taking shape. So the state is approaching these unknowns like a cautious poker player, waiting to see as many cards as possible before betting. The state's Darin Gordon explains the idea is to keep from overextending.

"We're making sure that as we're looking out ahead and the things that would have to be done, either if the state were to run an exchange or the federal government were to run an exchange, that there's nothing we can't walk away from in 2012, given the sea of uncertainty that's before us."

At the end of this year state planners will give Governor Bill Haslam a recommendation on whether the state should set up its own exchange. Depending what Haslam decides to do, he may need approval from the legislature.

The deadline to get federal money for setting up an exchange is next summer.

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A link to a [draft paper from Tennessee's Insurance Exchange Planning Commission is here](#) (pdf). Its summary includes this passage on uncertainty around the healthcare overhaul:

While the PPACA is currently federal law, it faces several tests. First, federal appellate courts (and likely the U.S. Supreme Court) are considering challenges to the individual mandate and other provisions. Second, the Deficit Reduction Commission established by Congress may recommend changes to the law and/or delays the implementation of various provisions (including but not limited to the premium assistance tax credits and cost-sharing subsidies). Third, the leadership in the U.S. House of Representatives continues to advance arguments for defunding the various programs authorized by the PPACA. Fourth, the presidential and congressional elections in November 2012 may lead to substantial revision to or repeal of the PPACA.

Even if the PPACA remains federal law, the interpretation of the statute continues to evolve. For example, the federal government continues to propose draft text for regulations and subregulatory guidance. The final wording and resulting interpretations will substantially change the context and incentives for various actors in the market. Until these are issued in final form, though, it is difficult to evaluate the likely impact to the market and responses of market actors.

These factors illustrate the substantial uncertainty in which the insurance exchange planning efforts are taking place. For purposes of this white paper, we simply assume that the PPACA as currently written will remain law. However, we continue to plan for contingencies – and the State has structured the sequence of decisions so as to allow for maximum flexibility in the event of any of the eventualities noted above or other, unanticipated developments. In this way, Tennessee can limit the number of decisions

to those absolutely necessary and the timing of such decisions to the point at which we have the maximum possible information. It also enables the State to revisit the various policy questions and re-assess options in light of new developments. Thus, Tennessee can keep open as many options as possible – and make course corrections as warranted.

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