

RSC Info Alert: Opting Out of Obamacare ***Is It Really an Option?***

Yesterday, Senate Majority Leader Reid said the Senate health care bill will include a provision allowing states to “opt out” of the government-run plan. Few substantive details are available, but according to news reports, in 2013 all states would have a public option, the government will lure states into participation with federal money (like with other entitlements), determine which states would have to participate - based on whether the government deems their health care to be unaffordable - and a year after the program is in place states would be *allowed* to opt-out. While it sounds like a simple escape clause, it’s really just a political ruse designed to make their bill more politically palatable.

It does, however, bring up a larger question. Assuming states will actually be able to opt out of the government-run plan, will Americans also be allowed to opt out of other aspects of Obamacare?

Can Americans opt out of the burdensome tax increases?

The final legislation will likely include a 40% excise tax on the most expensive health insurance plans (“Cadillac plans”) and/or an income tax increase on “wealthy” individuals and small businesses, as well as new taxes on medical devices and drug manufacturers and insurers. Can Americans affected by these tax hikes opt not to pay them?

Can seniors opt out of the Medicare benefit cuts?

President Obama repeatedly made the false claim that his plan would let you keep your current plan if you like it. The final legislation will almost certainly slash Medicare Advantage, meaning the 22% of Medicare beneficiaries (11 million American seniors) enrolled in a Medicare Advantage plan will see their benefits cut. Will the President allow those who like their current Medicare Advantage benefits to opt out of these cuts?

Can businesses opt out of the job-killing employer mandate?

Businesses may now be forced to offer health insurance to their employees or pay stiff fines. While the Senate claims it doesn’t have a mandate, it still would require employers who don’t offer insurance (regardless of if they can afford to or not) to “free rider” tax for each employee who receives a tax credit for health insurance through a state exchange or pay a fine. Will employers be able to opt out of the mandate and the enormous increase in

labor costs that will go with it? Or will they simply be forced to hire fewer workers, cut workers' hours, and layoff current employees?

Can Americans opt out of the restrictive individual mandate?

If the federal government requires individuals to purchase health insurance, it must also define what qualifies as health insurance. This definition will surely force some Americans to purchase plans that include coverage they cannot afford, don't want or need. CBO and JCT estimate that the new taxes, mandates and regulations on insurers will increase premiums by at least the amount of taxes collected under the Senate Finance bill while other reports found that the youngest 30% of the population will see a 69% increase under the 2:1 age band included in the Senate HELP and House Committee bills.¹ Can Americans opt out of the individual mandate altogether or choose a health insurance plan that doesn't meet the definition of "acceptable" set by bureaucrats in Washington? And if they like their current plan but it doesn't fit Washington's definition, will they be allowed to keep it?

Can states opt out of a budget-busting Medicaid expansion?

The final version of Obamacare is sure to include a large expansion of Medicaid that will place a heavier financial burden on state budgets already overflowing with red ink. Washington Democrats are considering this proposal because it pushes the cost of their takeover of health care off the federal budget, making it seem less expensive. Will states be allowed to opt out of this budget-busting accounting gimmick that is even opposed by some Democrat governors?

¹ Oliver-Wyman analysis October 14, 2009. Available at: <http://www.bcbs.com/issues/uninsured/background/Oliver-Wyman-Report-Showing-Impact-of-Healthcare-Reform-on-Premiums-pdf.pdf>.