



Nebraska's Caution Wise on Implementing Federal Health Law

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By Dick Clark

At the end of April, the Nebraska Department of Insurance announced that health insurance policies for individuals and small groups from previous years could be extended until at least 2016.^[1] This decision comes in response to the federal government's transitional plan, disclosed last November, that delayed the rollout of the Small Business Health Options Program (SHOP) for another two years. The policy change could impact 200,000 Nebraskans,^[2] and it serves as an illustration of the constantly moving goal lines faced by state agencies striving to maintain compliance with the federal law. It is also a reminder that things could have been much worse.

In November 2012, Governor Dave Heineman announced that his administration would not apply for a federal grant to establish a state-based health insurance marketplace under the Affordable Care Act (ACA). Explaining this decision, the governor cited Nebraska Department of Insurance analysis indicating that building a state exchange would cost the state more than three times as much as electing to use the federal exchange created under the 2010 law, and that creating a state exchange did not really give the state any meaningful ability to guide policy.^[3] Senator Jeremy Nordquist criticized this decision and accused the governor of giving up local control, adding that reliance on the federally facilitated exchange meant missing out on a "new industry" for the state.^[4] Recent news reports from other states indicate that this new industry would have posed a tremendous risk for Nebraska taxpayers.

Nebraska was joined by twenty-six other states in opting against state health insurance exchanges. Seventeen states chose to undertake the creation of state exchanges, and the remaining seven states chose a hybrid of the two, called a "Partnership Marketplace."^[5] Little more than a year later, a growing number of states that chose to set up state exchanges are running into serious trouble. A quarter of state exchange executive directors have resigned or taken extended leave,^[6] and states are increasingly throwing up their hands on failed attempts to implement state exchanges complying with the ACA and the ever-changing landscape of regulations and waivers spawned by the healthcare law. Some are now predicting that half of the state-based exchanges are likely to be shut down.^[7]

Massachusetts, whose 2006 law is often cited as the inspiration for much of the ACA, is dumping its non-functioning system and starting over with software that has been used in other

states.[8] Maryland, too, is scrambling to shift to a different IT system after a massive crash on the system's official launch day.[9] That state is now migrating to software that has been employed in Connecticut.[10]

The most spectacular failure, though, seems to be Oregon's. Despite being among the first states to be approved to go ahead with a state exchange and receiving an infusion of \$300 million in federal grants, the state's efforts have not yet been able to produce a website where insurance-seekers can sign up for coverage.[11] After this massive expense and the subsequent initiation of an inquiry by the FBI,[12] it appears that the federal government will run Oregon's health insurance exchange after all.[13] Perhaps most telling as to what might have happened in Nebraska is the example of state exchanges in states with comparable population sizes. One statistic stands out: state-based exchanges with the highest costs per enrollee tended to be those with smaller populations, closer in size to Nebraska's.[14]

It is not just Nebraska's chief executive who has exercised caution in this area. The Nebraska Unicameral has also proceeded carefully on implementation of various elements of the ACA, most notably by defeating two attempts to expand Medicaid in the state. Legislators correctly recognized the danger of further expanding Nebraska's most expensive program, and they expressed concerns about the crowding out of traditional Medicaid recipients.[15] Contrary to the predictions of those advocating for Nebraska to rush to participate in expansive federal projects, Nebraska taxpayers—who are federal taxpayers, too—have been well-served by a healthy dose of official skepticism toward these proposals.

[1] "Pre-2014 health policies can be extended to 2016." *Lincoln Journal-Star*. April 30, 2014. [URL: http://journalstar.com/business/local/pre--health-policies-can-be-extended-to/article_def703bc-5e17-579d-aa47-239b666ac49b.html]

[2] Jordon, Steve. "Nebraska to allow further health policy extensions." *Omaha World-Herald*. May 1, 2014. [URL: <http://www.omaha.com/apps/pbcs.dll/article?AID=/20140430/LIVEWELL26/140509955>]

[3] "Heineman Says Feds, Not State, To Run Health Insurance Exchange." NET. November 15, 2012. [URL: <http://netnebraska.org/article/news/heineman-says-feds-not-state-run-health-insurance-exchange/>]

[4] *Ibid.*

[5] "State Decisions For Creating Health Insurance Marketplaces, 2014." The Henry J. Kaiser Family Foundation. 2014. [URL: <http://kff.org/health-reform/state-indicator/health-insurance-exchanges/>]

[6] Archambault, Josh. "25% of ObamaCare's State-Based Exchange Heads Have Resigned Or Taken Medical Leave, More Sure To Follow." *Forbes.com*. December 19, 2013. [URL:

<http://www.forbes.com/sites/theapothecary/2013/12/19/25-of-obamacares-state-based-exchange-heads-have-resigned-or-taken-medical-leave-more-sure-to-follow/>]

[7] Mangan, Dan. “One by one, states shutter health insurance exchanges.” CNBC. May 6, 2014. [URL: <http://www.cnbc.com/id/101646874>]

[8] Hurtubise, Sarah. “Massachusetts To Dump Obamacare Exchange And Start Over.” *The Daily Caller*. May 5, 2014. [URL: <http://dailycaller.com/2014/05/05/massachusetts-to-dump-obamacare-exchange-and-start-over/>]

[9] Davis, Aaron C. “Maryland officials were warned for a year of problems with online health insurance site.” *Washington Post*. January 11, 2014. [URL: http://www.washingtonpost.com/local/maryland-news/maryland-officials-were-warned-for-a-year-of-problems-with-online-health-insurance-site/2014/01/11/f094ad94-6a98-11e3-8b5b-a77187b716a3_story.html]

[10] Mangan.

[11] Millman, Jason. “How Oregon wound up with the nation’s worst Obamacare Web site.” *Washington Post*. March 20, 2014. [URL: <http://www.washingtonpost.com/blogs/wonkblog/wp/2014/03/20/how-oregon-wound-up-with-the-nations-worst-obamacare-website/>]

[12] Budnick, Nick. “FBI, inspector general investigators probing Cover Oregon health insurance exchange debacle.” *The Oregonian*. May 2, 2014. [URL: http://www.oregonlive.com/health/index.ssf/2014/05/fbi_inspector_general_investig.html]

[13] Goldstein, Amy. “Obama administration prepares to take over Oregon’s broken health insurance exchange.” *Washington Post*. April 24, 2014. [URL: http://www.washingtonpost.com/national/health-science/obama-administration-prepares-to-take-over-oregons-broken-health-insurance-exchange/2014/04/24/ff9aa220-cbc4-11e3-95f7-7ecdde72d2ea_story.html]

[14] Rovner, Julie. “HealthCare.Gov Looks Like A Bargain Compared With State Exchanges.” *NPR*. May 8, 2014. [URL: <http://www.npr.org/blogs/health/2014/05/08/310721495/healthcare-gov-looks-like-a-bargain-compared-with-state-exchanges>]

[15] Clark, Dick. “Legislative Update: Achievements and Room for Improvement on Taxes and Spending.” *Platte Chat*. Platte Institute for Economic Research. April 1, 2014. [URL: <http://www.platteinstitute.org/research/detail/legislative-update-achievements-and-room-for-improvement-on-taxes-and-spending>]