

Travelocity or Trojan Horse?

Cover Story

by Mark Holoweiko
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It hasn't even been two years since "Obamacare" became law. But to many, the run-up to its enactment must seem like a blur of distant memories — "death panel" fears stoked by Sarah Palin, Republican filibuster threats, the qualms of "Blue Dog" Democrats, rowdy Tea Party protests at legislators' town-hall meetings, the death of Senator Edward Kennedy, and Congress' dramatic Christmas Eve vote without a single Republican "Yea."



According to national polls around the time President Barak Obama signed into law the massive "Patient Protection and Affordable Care Act" in March 2010, between 60 and 75 percent of American adults found it "confusing" or "hard to understand" (which partly explains why the Democrats were blown away in the November 2010 mid-term elections).

So, after national health insurance reform dropped from the daily headlines — except for the occasional and conflicting appellate court ruling on its constitutionality — many citizens may not realize that debate over the complex law has continued, along with the steps to implement it.

Yet the argument has raged on among health industry leaders, a wide range of interest groups, and politicians at both the state and federal levels. And no wonder: It's an extension of a Hatfield-McCoy-type policy feud that has lasted for generations, having been around since 1912 (see sidebar).

The latest manifestation in Michigan is Governor Rick Snyder's call for implementing the part of the Affordable Care Act that involves the "health insurance exchange" through which individuals and small businesses would be able to purchase coverage as of January 1, 2014 (assuming the law survives a U.S. Supreme Court ruling on its constitutionality, expected in mid-2012).

Basically, this exchange would be an organized market in which health insurance is bought and sold (not entirely unlike a stock exchange, except that certificates of coverage can't be traded). In theory, this "pooling" of customers who've had zero clout to bargain with health insurance companies — i.e., middle-class people whose employers don't offer coverage, and businesses with fewer than 100 employees — will entice insurers to compete for them on the basis of price and benefits.

The governor's move surprised a lot of folks and elevated the level of debate in this state, since he is on record as opposing the federal law and Michigan is continuing a lawsuit against it, and since the Republican-dominated U.S. House of Representatives voted to repeal the Act last January (though the Senate isn't likely to go along, and the president could veto if it did).

Is the governor going rogue? Thinking of switching parties? Empathizing with the uninsured?

One thing's for sure: he's not marching in lockstep with "Party of No" conservatives. Maybe moderate is the

new rogue. Maybe he feels a kinship with his “compassionate moderate” predecessor, William Milliken. Or maybe he’s just one pragmatic nerd.

MI Health Marketplace

Though it’s fun to speculate, let’s look instead at what Gov. Snyder actually said on the subject during his September 14, 2011, health and wellness special message to the legislature:

“I strongly support establishing a Michigan-based online health insurance exchange that will emphasize free market principles and serve as a competitive marketplace for individuals and businesses to obtain health insurance, including some of our most vulnerable residents who are currently uninsured.

“The Affordable Care Act requires each of the states to establish a health insurance exchange by 2014. If Michigan does not establish its own exchange, then the federal government will step in to operate one for Michigan. While I recognize that all or a portion of the ACA may be repealed or found to be unconstitutional in lawsuits that are currently pending, Michigan must be prudent and plan to reach the best possible outcome under the existing law. Because Michigan needs a health insurance marketplace that best serves Michiganders, I am asking the legislature to adopt legislation to create the MI Health Marketplace.”

Even if setting up a health insurance exchange hadn’t been mandated by the ACA, the governor added, he would “still be in favor of utilizing technology to create a better customer service experience for Michiganders.”

The governor went on to spell out guidelines for the proposed exchange:

“...As the legislature develops the MI Health Marketplace, it...should not create a duplicative regulatory structure for health insurance in Michigan, but should focus on creating an efficient mechanism for customers to easily compare different plans. It should encourage healthy competition rather than simply add new transaction costs to the expenses that individuals and small businesses already face. The MI Health Marketplace should be established as a nonprofit entity, existing outside of the government rather than another level of government bureaucracy...”

“By using technology, the MI Health Marketplace can make the online experience of selecting and purchasing health insurance coverage as easy as selecting and purchasing travel arrangements through websites like Travelocity and Orbitz. This design will incentivize insurance carriers to work hard to earn your business by offering innovative products that strive to control costs and improve quality. The MI Health Marketplace must also be accountable and transparent, by being made subject to the Open Meetings Act and the Freedom of Information Act.”

Snyder noted that his recommendations were developed through a process of consulting with more than 200 Michigan health care stakeholders, including consumers, employers, health plans, diverse health care providers, insurance agents and brokers, labor, local governments and universities.

In order to meet federal deadlines for states to establish their own health insurance exchanges, and to access federal funding, he urged the legislature to authorize the MI Health Marketplace before Thanksgiving.

A series of federal grants would pay for setup and operation of the exchange through 2014. The Snyder administration says that starting in 2015, assessments and fees on health insurers — not state funding — would be used to operate the MI Health Marketplace. And rather than compete with private insurers, the exchange would serve as another way for them to reach customers.

Controversy

On September 22, Republican State Senators James Marleau, Rick Jones, Roger Kahn, Mark Jansen and Patrick Colbeck, along with Democrat John Gleason, introduced Senate Bill 693 to authorize the MI Health Marketplace. The legislation would establish it as a nonprofit corporation, create its governing board, prescribe its powers and duties, provide for assessments and user fees, and take care of other

housekeeping details.

Sen. Marleau, chair of the Senate Health Policy Committee and the bill's primary sponsor, said: "Competition drives prices down and helps ensure quality. The MI Health Marketplace provides competition that will empower residents choosing health insurance."

Two days later, the "free market" Mackinac Center for Public Policy disagreed, calling the proposed MI Health Marketplace a "Trojan Horse" designed to bring an army of federal regulators into Michigan to impose Obamacare's restrictions and mandates.

"Many free market health policy experts who oppose the [Act] say refusing to create an exchange is one of the most important actions states can take to help bring down the federal health care law, while creating one helps entrench it," wrote Jack McHugh, the Mackinac Center's senior legislative analyst.

Suggesting that Michigan should "Just Say No," he maintained that "Obamacare exchanges will impose new regulations, administer new subsidies, standardize coverage, and restrict consumer choice and insurer competition more than it is already."

Although majority Republicans in the Senate were split on the need for Michigan to move ahead with its own exchange, the full Senate acted with surprising speed and approved its version of legislation authorizing the exchange on November 10. The measure passed 25-12, with 13 Republicans joining all 12 Democrats in support, and 12 other Republicans opposing it.

That moves it to the lap of the Republican-controlled House, where the position of Speaker Jase Bolger is somewhere between Sen. Marleau's "It's time to move forward" and the Mackinac Center's "Just say No." As his press secretary, Ari Adler, explained:

"We are holding informational hearings in the House so that members can be as up to speed as possible on health care exchanges, how they work and what their impact will be on the residents and job providers of Michigan. While it's possible the courts will make the discussion on Obamacare moot, Speaker Bolger believes we still need to be ready to deal with this."

"Having health exchanges created by the state would be preferred to having the federal government dictate what Michigan will be doing for health exchanges," Adler continued. "So, while we still have the Obamacare deadline looming over us, we also have some time to make sure we are making the right choices for something less obtrusive and distasteful than the federal mandate."

Senate passage of the legislation angered Tea Party activists, who are expected to pack a mid-December House hearing on the bill. In assessing the legislation's chances in the House, Health Policy Committee Chair Gail Hanes told Gongwer news service that she didn't know if the chamber would take a vote this year. "There are just so many uncertainties. I don't have any members clamoring to vote," she was quoted as saying.

Michigan received a \$1 million federal planning grant for the exchange in 2010. The state is now applying for another grant, and must pass legislation authorizing the exchange by December 31 in order to qualify for federal funds that would cover most technology costs for the exchange website.

Despite splitting the GOP's ranks, the legislation does enjoy broad support from business and health interests, including the Michigan Business and Professional Association, Michigan Chamber of Commerce, Small Business Association of Michigan, Michigan Manufacturers Association, Michigan Health and Hospitals Association, Michigan Association of Health Plans, and Michigan Consumers for Healthcare (a coalition of more than 80 members including AARP of Michigan, Michigan Disability Rights Coalition, Michigan League for Human Services, Michigan Primary Care Association and Michigan Public Health Association). However, most of the trade groups are suggesting modifications, so the devil will be in the details, as usual.

Backstory

When Congress was debating health reform back in 2009, the majority Democrats briefly considered a government-run, single-payer approach known as "Medicare for all." But worries about voter blowback over potentially putting 1,000+ private insurance companies out of business led them instead to propose a "public option" — a government health plan that would compete alongside private carriers, sort of a "Medicare for all who choose it." House Democrats also floated a plan to pay for health reform by taxing the rich, which they defined as households reporting joint income \$350,000 or above.

At first, both the "public option" and soaking the rich polled well with the public. But Tea Party protests at legislators' home-state town halls in summer 2009 raised the specter of a big government health plan adding

to the huge federal deficit. And neither proposal would fly with the “Blue Dog” Democrats, whose approval was needed to overcome a Republican filibuster and pass any kind of health reform.

Ultimately, that left two concepts at the core of the health reform law (to be paid for by a variety of federal program spending cuts, milder tax increases on the wealthy and on private health plans, as well as decreasing subsidies for private plans that administer Medicare):

- The “individual mandate” — a requirement that nearly all under-64 Americans without employer- or government-sponsored health insurance buy adequate coverage as of 2014 (most with the help of federal tax credits and subsidies) or else pay a fine.
- State “health insurance exchanges” through which individuals and small businesses with up to 100 employees could purchase comprehensive coverage as of 2014, selecting from among four levels of premium and benefit options (“bronze, silver, gold, platinum.”)

Ironically, both concepts earlier had been promoted by the conservative Heritage Foundation, supported by Republicans and the health insurance industry, and included by Gov. Mitt Romney in the Massachusetts health plan designed to cover nearly all state residents.

Obama had opposed an individual mandate during the 2008 election campaign, and once Obamacare became law, mostly Republican governors sued to block it in federal court, contending it’s unconstitutional. Conservatives who once advocated the mandate as a matter of “individual responsibility” now opposed it as an “intrusion on personal liberty.”

Although next year’s much anticipated U.S. Supreme Court ruling could spell the end of the individual mandate or the entire Affordable Care Act, most states are moving ahead in some fashion with health insurance exchanges.

As of this writing, 15 states have passed laws establishing exchanges; five, including Michigan, have legislation pending; 15 have taken executive branch action to study or implement exchanges; five legislatures have created entities to study exchanges; and 10 have either taken no action or voted down exchange proposals in 2011.

Impact of Exchanges

When the ACA became law, the Congressional Budget Office estimated that roughly 24 million people would get health coverage through state exchanges by 2019, about 80 percent of them by using federal subsidies averaging \$6,000 a year per person. People earning up to 400 percent of the poverty level (\$88,200 annually for a family of four) would qualify for subsidies. And thanks to that and other health reform measures, 95 percent of Americans would then have health insurance (including 32 million who would otherwise be uninsured), up from 85 percent.

While Republicans argued that the plan would increase the nation’s already-staggering load of debt, the CBO projected that Obamacare would reduce federal budget deficits by \$183 billion over 10 years.

This fall, the Government Accounting Office estimated that “full implementation and effectiveness” of the ACA’s cost-control provisions “would slow the growth in federal health care spending over the long term,” such that spending on Social Security and major health care entitlements would grow from less than 10 percent of GDP in 2010 to 13.5 percent by 2030. Whereas, without Obamacare — due to repeal or court ruling or whatever — spending would rise to 14.5 percent of GDP.

Republicans have proposed to address the dilemma of rising costs for entitlement programs partly by phasing out Medicare as a single government insurance payer, and replacing it with a privately run insurance system in which beneficiary subsidies grow slower than the cost of health care.

Meanwhile, in Michigan, the Snyder administration estimates that in its first year of operation the exchange would help provide coverage for more than 1 million residents — about 520,000 who are uninsured or would come from other plans, plus 500,000 who would be eligible under an expanded Medicaid program.

The MI Health Exchange would enable online, one-stop comparison shopping for health insurance with approved benefits and costs. To simplify matters for Michigan residents, it would also help people determine their eligibility for Medicaid or MI CHILd coverage, and enable those who qualify to enroll through the same website.

Bottom line: There’s a lot to like about the concept of a self-funded health marketplace that extends coverage to most of the uninsured, stimulates competition among private health plans, and potentially lowers the cost of health insurance for most low- and middle-income folks. In fact, it resembles free-market

capitalism far more than it does socialism.

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