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## Utah governor to abide by health law mandates, for now

Courts • Ruling puts states in hot seat: Expand Medicaid?

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Gov. Gary Herbert said Utah will abide by the mandates of federal health reform, for now, but vowed to do what he can “to replace bad policy on health care with good.”

Unless Congress succeeds at amending or repealing the law, Herbert may not have much wiggle room. The U.S. Supreme Court upheld the entire law on Thursday, an opinion state attorneys are still digesting.

“There’s a lot of uncertainty. We had uncertainty before the decision and we have even more uncertainty after,” Herbert said at a monthly news conference at KUED.

But one big decision now facing the Republican governor — and governors across the country — is what to do with Medicaid.

The ruling upheld the law’s call for a massive expansion of who qualifies, along with millions in federal funding to support it. But the court said the federal government can’t yank existing Medicaid funding from states that say no to the expansion.

To grow Medicaid or not: it’s a question Herbert won’t have long to answer, given that the health law goes into full effect in 2014. And it won’t be an easy one, given Medicaid’s politically fraught history.

“I don’t envy him,” said Rod Betit, who ran Utah’s health department and Medicaid program before he took the helm of the Utah Hospital Association. “Health care has certainly risen to the top of his major concerns.”

The Affordable Care Act set out to guarantee that Americans have access to health insurance, and by extension, medical care, thereby improving their health and hopefully cutting costs.

And for more than a third of Utah’s 368,200 uninsured — 139,000 working poor adults — the path to coverage is supposed to be Medicaid.

The law transforms Medicaid “into a program to meet the health care needs of the entire nonelderly population with income below 133 percent of the poverty level,” wrote Chief Justice John Roberts. For states that balk, the threat of losing what amounts to 10 percent of their budgets is “economic dragooning,” opined Roberts.

Most of Utah’s current \$1.8 billion Medicaid program is funded by the U.S. government.

Bound for the state under the expansion is another \$4.1 billion to \$4.7 billion between 2014 and 2019, estimates the Kaiser Foundation. The feds pick up 100 percent of the expansion’s costs for the first three years and 90 percent after that.

That’s a lot of money flowing to hospitals and drug and device makers who, in exchange for 30 million newly-insured Americans, agreed to new taxes and cuts in Medicaid and Medicare reimbursement.

But Utah’s share of the expansion price tag, between \$174 million and \$227 million by 2019, threatens to squeeze its ability to pay for other priorities, such as schools and roads.

“I’m not going to do something that is going to bust our budget, I can tell you that,” said Herbert, emphasizing as he has in the past that states, not Washington, should lead on health reform.

Senate President Michael Waddoups anticipates that “based on the financial situation we all see ourselves in,” the state won’t expand its Medicaid coverage. “I think we’d have to see something pretty compelling to put significant dollars in there,” he said, adding that legislative leaders are scheduled to meet with the governor on Monday to discuss the issue further.

Complicating matters: The court was clear that its ruling does not apply to smaller, past and future changes in eligibility to Medicaid.

Congress has been tinkering with Medicaid’s eligibility rules since the program was created in 1965. So have states, several of which already open the program to people at 133 percent of federal poverty, the law’s expansion population.

The law also removes the asset test for children, a rule that blocks access for kids in families with cars and other valuables. This test has been abandoned by 48 states, excluding Utah.

The question, said Lincoln Nehring at Voices for Utah Children, is “does that fall into the Medicaid expansion or Congress tinkering with the rules? The guidance is going to have to come from [federal health and human services officials] and the Justice Department.”

Either way, states will have to figure out how to cover their working poor, single adults earning less than \$12,000 a year. This group rarely has access to employer benefits and under the health law, they aren’t eligible for federal subsidies to help them purchase coverage on Utah’s online “exchange,” said Judi Hilman, executive director at the Utah Health Policy Project.

Joseph Mario, president and CEO of Molina Healthcare, an insurance group administering Medicaid in Utah, said studies have shown Medicaid to be a more cost-effective way to “reach this population” than private coverage.

Few private insurers have participated in Medicaid in any meaningful way, he said. “Our patients are different than those on Medicare or commercial plans. They’re poorer, and often don’t speak English or have transportation and substance abuse problems. They tend not to have stable addresses, and have

literacy issues.”

Jennifer Hyvonen, at Fourth Street Clinic in downtown Salt Lake City, said expanding Medicaid is a no-brainer. Homeless patients at the clinic don't qualify unless they are disabled or have dependents.

But when the clinic has sought to get Medicaid on a hardship basis for dying patients, she said, the state has refused to cover hospice, but ultimately covered the costs when the patients ended up intubated in an intensive-care unit. She anticipates 60 percent of the clinic's patients could be on Medicaid by the end of 2014.

“If we could get those patients on Medicaid prior to that crucial care stage, we could save the state a lot of money,” she said.

Tribune reporter Heather May contributed to this story.

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