

Utah's health reform resistance not expected to block first benefits

Legality » Assistance kicks in over next 6 to 9 months, but lawsuit targets big changes in 2014.

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Utah has thrown up two roadblocks to federal health reform: Attorney General Mark Shurtleff has sued over requirements that go into effect in 2014, and lawmakers are requiring state agencies to report to them before implementing any aspect of the new law.

But neither is expected to stop Utahns from reaping the overhaul's early benefits. And as they do, pundits predict a swing in public sentiment.

"Polls, when performed amid all the uncertainty over what Congress would do, showed opposition," said University of Utah political science professor Matthew Burbank. "But now we're getting information about what the law means and people are starting to look at it and say, 'Oh, I can get my kid on my health insurance plan. That's a good thing.' "

Some of the biggest, most controversial changes to America's \$2.4 trillion health care system won't go into effect until 2014. But key benefits surface over the next six to nine months, just before the 2010 election: \$250 subsidies for some seniors, small-business tax credits and insurance coverage for children with preexisting conditions.

Monkey with these, and Republicans risk "looking like the party against health care," says Burbank.

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The legal attack » Shurtleff and other ranking Republicans, including House Speaker Dave Clark, say there are parts of federal reform they like, including protections for children with pre-existing conditions.

And Shurtleff says his decision to join more than a dozen states in challenging the constitutionality of two aspects of the reform law has nothing to do with politics.

"This is a legal issue," Shurtleff said. "I've sued Republican administrations with other attorneys general when we've felt federal actions abuse states' rights."

The federal lawsuit, filed last month in Florida, targets the law's expansion of Medicaid and requirement that people purchase health insurance. Shurtleff may also file a separate suit challenging the mandate that states create exchanges, or health insurance marketplaces.

These provisions don't kick in for another four years. Shurtleff says there's talk among states of filing an injunction against the law, which would stop them from going into effect.

It would also fast-track the lawsuit, believes Shurtleff. "It would be nice to be able to resolve this quickly."

To get the injunction, states must prove irreparable harm, which Shurtleff argues could be accomplished by showing how much the law will cost states to implement.

"Why should we spend a lot of money trying to implement the law if it could be repealed?" he asks rhetorically.

But the states must also prove the lawsuit has merit, which many legal scholars have questioned.

"States aren't obligated to do any of the things Shurtleff is complaining about," said Lincoln Nehring, an attorney and policy analyst at the Utah Health Policy Project. "Utah is well within its right to do absolutely

nothing. It would be stupid. But it's possible."

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State issues » Complying with some of the earlier dictates may require a Special Legislative Session in May or June to tweak state laws. For example, the reform calls for changes to some existing programs, such as the state's high-risk insurance pool. A special session could open the door to mischief, but Clark, R-Santa Clara, believes the governor will insist on a narrow agenda.

State agencies, meanwhile, must first clear another hurdle -- a requirement to report to the Legislature before implementing federal reform.

It could cause Utah to miss application deadlines for federal grants. And that could hurt already cash-strapped agencies such as the insurance department, a key enforcement arm under the new law.

"Over the past two years, we've lost 12 employees from a staff of 70. Even worse, we're supposed to take 80 hours of furlough," said Tanji Northrup Anderson, the health insurance division director.

"I don't have time to spare," she said. "I have federal reform to deal with and changes to our state reform plan. I've had to borrow two employees from other insurance divisions to get the work done."

In addition, the insurance department is without a leader. Neal Gooch serves as acting insurance commissioner, but also as deputy and assistant commissioner. "To fill all those positions, we would have to lay off six frontline workers," said Anderson.

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Private businesses react » Reform advocates aren't fretting the legal and bureaucratic red tape. They're focused on two other wild cards with the potential for undermining reform -- large employers and insurance companies.

Companies such as Caterpillar Inc. and Verizon have complained about the law reducing the tax deduction they receive for their retiree health programs, which they say could risk coverage for current workers.

Yet another unknown is what will happen to insurance premiums as insurers are held to new standards, acknowledged Korey Capozza, health analyst at Voices for Utah Children.

"We don't know that everyone is going to be a good actor," Capozza said. "Insurers won't be able to deny coverage to sick kids, but they'll be able to hike up premiums for sick kids."

But the law also allows young, healthy adults up to age 26 to stay on their parents' plans, "which insurers should be psyched about, because they're cheap," said Capozza, who believes in time premiums will fall.

The law's slow phase-in "certainly leaves room for shenanigans. But it's a step forward," she said. "And missing from all the political grandstanding and rhetoric is what this is going to mean for the businesses and people who need help most."

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Early benefits of reform

Among provisions that will take effect in the first year of the federal health reform law are the following:

Young adults will be able stay on their parents' insurance until their 26th birthday.

Seniors will get a \$250 rebate to help fill the "doughnut hole" in Medicare prescription drug coverage.

Insurers will have to cover children with pre-existing conditions. And high-risk pools will cover sick adults until health insurance marketplaces and exchanges are up and running.

Small businesses, those with fewer than 50 employees, will get tax credits to cover 35 percent of their health care premiums, increasing to 50 percent by 2014.

Insurers will no longer be able to cancel coverage when someone falls ill, and there will be no more lifetime limits on benefits.

New plans must pay for preventive care without co-payments. All plans must comply by 2018.

A temporary reinsurance program will help businesses pay for early retiree health benefits for workers ages 55 to 64.

New plans will be required to implement an appeals process for coverage determinations and claims.

Parents adopting children after January 2010 will get an extra \$1,000 tax break for a total of \$13,170. And the tax credit will be refundable.

People who frequent indoor tanning salons will pay a 10 percent tax to tan starting July 1.

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