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Utah weighs options for opting out of federal health reform

By Kirsten Stewart

The Salt Lake Tribune

Updated: 05/06/2010 09:29:04 PM MDT

Utah and Rhode Island remain the only states undecided about whether to set up temporary high risk insurance pools for the uninsurable as mandated under the new federal health overhaul.

The decision is of little consequence to consumers since the task of running the pools will, by default, fall to the federal government.

But it has political ramifications for Utah Republican Gov. Gary Herbert who, under a tight deadline and with limited information, must weigh what's best for the state while appeasing members of his own party who are pushing to opt out of health reform altogether.

House Speaker Dave Clark, R-Santa Clara, and Senate President Michael Waddoups, R-Taylorsville, wrote Herbert this week reminding him of HB67, new legislation that requires agencies to report to the Legislature before implementing any part of the federal Patient Protection and Affordable Care Act.

That includes "decisions about opting in or opting out," said Clark on Thursday. "We just want to make sure we're on same page."

Meanwhile, Clark has scheduled a special two-hour legislative briefing on health reform for May 19. He said there's no agenda, just a blanket discussion of the new law, its costs and benefits and deadlines for implementation.

But later that day at a Health and Human Services hearing, lawmakers will explore options for opting out of the federal system. That committee's chairman, Sen. Chris Butters, said if there's consensus, he'll carry legislation to do just that.

"It isn't just me. There's a lot of us who want out," said the West Jordan Republican.

There's nothing in the federal overhaul barring states from bowing out of certain requirements. If states choose not to run risk pools or insurance marketplaces, the federal government will step in and do it for them. But states do stand to lose federal funding attached to those programs.

In some cases, such as with the high risk pools, states have determined the money isn't worth the hassle, or risk that it will run out.

Opting out of the new federal law in its entirety, however, could cost the state its Medicaid program and hundreds of millions of dollars.

Such a drastic step this early in the game is ill-advised, said Judi Hilman, executive director of the Utah Health Policy Project.

"As they look into this law, states will find there's a lot of room for flexibility and a lot in there that agrees with our values, including private-market reforms," Hilman said.

There is a waiver provision in the federal law that allows states to petition to set up their own health care systems.

But states can't apply for a waiver until 2017. And they won't qualify unless they've met certain standards, such as universal access to affordable coverage and an uninsured rate of less than 5 percent.

For now, Herbert is focused on the risk pool requirement, one of the first to take effect.

Utah stands to get \$40 million in federal funding to run a federal pool, a stopgap to last through 2014 when all Americans will have access to coverage through insurance marketplaces.

But given Utah's experience with its own pool, known as HIPUtah, Herbert isn't convinced \$40 million will last 3½ years.

Utah subsidizes its existing pool to the tune of \$8.5 million a year. And it only covers 4,000 of the 14,000 people with disabilities and chronic illnesses who might be eligible for the more robust, federal program.

Herbert has asked state insurance officials to do a cost analysis, though much is still unknown about the types of plans that would be offered and how they will be priced.

"His intent is to be as deliberative and transparent as possible, given the unrealistic time frames imposed by the legislation," said Angie Welling, the governor's spokeswoman.

U.S. Health and Human Services officials have agreed to give Utah more time. The pools must be operable at the start of July.

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