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why implementing the ACA has been harder than we thought

With March 2014 past and the 2014 enrollment period having ended with it, the first major implementation phase of the Affordable Care Act (ACA) also has ended. It is too soon to know how many have enrolled, how many have paid their first month premiums, how many will continue to pay their premiums throughout the year, and how many were previously uninsured, or any details on other key issues that have been raised. But it is not too soon for a general assessment of this initial phase of the ACA roll-out, especially now that we have passed the four-year anniversary of the bill's signing.

The early years primarily involved the initiation of various insurance reforms, including eliminating annual and lifetime limits, allowing people below the age of 26 to remain on their parents' policies, and specifying minimum medical loss ratios—that is, the proportion of premium payments that must be spent on clinical services or quality improvement strategies. There also have been some limited activities on the delivery side, such as the issuance of rules governing Medicare and Pioneer accountable care organizations (ACOs) and the launch of various payment pilot projects, such as the bundled-payment pilots.^a

Early on, the proposed rules for ACOs were met with some grumbling, and the Center for Medicare and Medicaid Innovation was slow to initiate many of its projects. But most ACA-related initiatives proceeded more or less as anticipated—that is, until the inexplicably chaotic and dysfunctional roll-out

of the healthcare insurance exchanges at the federal level and in many states.

Delays Are Becoming More Commonplace

During the second half of 2013, some important provisions began to be delayed or were selectively postponed. The most significant delay was the employer mandate. The requirement that employers with more than 50 employees working at least 30 hours per week either provide coverage of an essential benefit package or pay a fine, unless they were grandfathered because of minimal changes in their prior insurance, was postponed a year until January 2015. The explanations provided were that too many businesses were not yet ready to implement the ACA requirements and that an on-time start date could potentially disrupt an already fragile recovery. Many skeptics and opponents of the ACA have voiced questions as to why businesses were granted a postponement but not individuals. Questions about the effect of this “pay or play” on employment continue to be raised.

The open enrollment period for 2015 was delayed until after the November election. Various requirements regarding when people had to sign-up for insurance to be covered on Jan. 1, 2014, and when they needed to be enrolled to avoid the penalty in 2014 have been stretched for days and sometimes weeks beyond their initial time frame. Thus, people were allowed to sign up late into December and not pay their premiums until mid- or late January for coverage that began Jan. 1, and anyone enrolled in a plan by March 31 (or who finished with the enrollment process by April 15) will be deemed to be covered as long as the coverage begins within three months.

a. See Wilensky, G.R., “Reforming the Delivery System,” *hfm*, January 2012.

In addition, the furor over cancelled individual insurance policies precipitated a variety of exceptions as to who could purchase insurance plans that don't meet the essential benefit plan requirements and when and where nonconforming insurance plans could continue to be sold and held. The Obama administration yielded to the pressure to at least "make better," if not "make good," on the President's promise that "If you like your insurance plan, you can keep your insurance plan." It decided to allow individuals to continue renewing their nonconforming plans until after the 2016 election if they wished to do so, despite the objections of many insurance commissioners who took a quite different stance. The administration has had more difficulty making good on the President's other promise that "If you like your doctor, you can keep your doctor," given the narrow networks that have been adopted by many of the plans in the exchanges.

The Effects on the Newly Insured Are Unclear

Very little information is available thus far about what is happening when people attempt to use their new coverage. This situation seems odd because many of the newly insured individuals would presumably have accumulated unmet medical needs that should result in visits to physician offices or clinics to get free preventive services, needed prescription drugs, or other healthcare services. A few anecdotal reports or articles have been written pointing to considerable confusion about whether the new plans were in effect and difficulties physicians' offices have had in verifying new coverage, but such reports and others about coverage shortcomings are not widespread.

Physicians are now voicing concerns about whether they are going to go without payment for services provided to people who don't continue to pay their premiums but who can't be forced off their new insurance policies until they haven't paid premiums for three months. The insurance companies are responsible for payments to providers for services provided during the first 30 days following nonpayment of premiums, but after that, the service providers are at risk. This is less of a concern—or

at least, not a new concern—for hospitals because many have historically been providing uncompensated care to uninsured individuals.

Opinion polling continues to show that Americans' attitudes regarding the ACA are largely unfavorable, especially among the uninsured. February polls by the Kaiser Family Foundation reported that 56 percent of the uninsured had an unfavorable opinion versus 22 percent who had a favorable opinion. These same polls show that widespread ignorance or confusion about the ACA also continues.

Although much will be made about how closely the final March figures match or exceed the revised Congressional Budget Office (CBO) estimate of 6 million enrolled in the exchanges, it is sobering to remember that CBO continues to estimate that, by 2017 and beyond, approximately 24 million people will be enrolled in exchanges, and there will be 24 million to 25 million fewer uninsured individuals in the United States than there would have been had the ACA not been enacted.

Given the challenges that have arisen since the summer of 2013, the difficulties that some of the states continue to experience with their own exchanges and the "back room" problems that have been reported when it comes to getting accurate information transferred from the federal exchanges to the insurance companies, the operational improvements that must occur during the 2015 and 2016 enrollment periods to achieve the CBO projections are pretty daunting. And that doesn't even begin to take into consideration some of the high premium increases that are starting to be leaked about 2015 premiums.

Given the challenges to date, it should come as no surprise that the administration wanted to start the 2015 enrollment period after the mid-term elections. ●

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