States find new ways to resist health law

By Sandhya Somashekhar, Published: August 28

Several Republican-led states at the forefront of the campaign to undermine President Obama’s health-care law have come up with new ways to try to thwart it, refusing to enforce consumer protections, for example, and restricting federally funded workers hired to help people enroll in coverage.

And in at least one state, Missouri, local officials have been barred from doing anything to help put the law into place.

The actions have drawn less attention than congressional efforts to cut off funding for the law, or earlier state decisions to refuse to set up online insurance marketplaces or reject an expansion of Medicaid, which sharply limited the law’s reach.

But the moves could impede Obama’s most significant domestic accomplishment, which, despite having withstood a Supreme Court challenge and a presidential election, still faces doubts about its viability. And they could affect implementation at a crucial time, just as some of the major provisions of the law, also known as Obamacare, are set to go into effect.

Under the law, millions of uninsured Americans will be able to shop for health plans and apply for subsidies to buy them, beginning Oct. 1. The policies will take effect in January, when most Americans will be required to have insurance or face a penalty.

Advocates worry that continued resistance by some states could hinderefforts to coax many of the nation’s 50 million uninsured to sign up for coverage.

“There is a very palpable concern . . . that anti-Obamacare state government people will find ways to gum up the works,” said Leonardo Cuello, director of health reform for the National Health Law Program. Political foes of the health-care law are “constantly putting up barriers to progress being made,” he added.

Critics of the law say that they oppose the Affordable Care Act for political and pragmatic reasons and that it’s important to try to prevent the law from firmly taking root. In Congress, Republican Sens. Marco Rubio (Fla.)
and Ted Cruz (Tex.) are fighting an uphill battle to stop the flow of federal money to the program.

In the states, much of the activity involves “navigators,” a workforce of tens of thousands of people who will be deployed by the administration to provide in-person or over-the-phone assistance for people signing up for insurance.

Navigators are seen as critical to the success of the law, because signing up for coverage could be confusing. But opponents say the navigators may not have enough training to be effective guides and could steer consumers toward inappropriate policies. And they are uneasy about the navigators’ access to private information, such as income data and Social Security numbers.

More than a dozen states have imposed licensing rules and limits on these helpers, with the encouragement of professional insurance agents and brokers, who lobbied heavily for the restrictions.

In Ohio, for example, navigators won’t be allowed to compare and contrast plans for customers. And in Missouri, which has a Democratic governor but a Republican legislature, they are required to immediately cut off contact with any customers who at some point have talked to a professional broker or agent.

While some of the state actions may be politically motivated, “it is very important for people to understand this is not all political or intended as its principle purpose to harm the legislation,” said Ed Haislmaier, a senior research fellow at the Heritage Foundation. “The legislation is not necessarily a good deal for states, and it is quite in the interest of states to do what they are doing.”

About a half-dozen states also have opted not to police some of the law’s consumer protections, including the rule that bars insurers from rejecting applicants with preexisting conditions and a provision that requires insurers to spend at least 80 percent of the premium dollars they collect on medical care.

Texas, Florida, Alabama, Wyoming, Arizona, Oklahoma and Missouri have opted to leave at least part of the job to federal authorities, according to the National Conference of State Legislatures. Some have relinquished the right to enforce the law’s most popular provisions; a Kaiser Family Foundation poll in March found that two-thirds of Americans have a favorable view of the preexisting condition rule.

The states’ decision to take a hands-off approach to enforcing the law effectively expands the role of the federal government, which typically does not regulate insurance.

“The thing that’s so striking about it is that the power of states to regulate insurance is considered one of the most sacrosanct powers in the states’ quivers,” said Sara Rosenbaum, a health law professor at George Washington University, who supports the law. “Compared to the other ways these states have chosen to completely ignore the existence of this law, this one is a quantum leap.”

Officials at the Department of Health and Human Services say the state actions will not substantively get in the way of their efforts. “There is no doubt that there are some who want to make it more difficult for Americans to access affordable health insurance,” spokeswoman Joanne Peters said, “but we are fortunate to have a strong network of partners at the local level that are committed to this effort.”

But even that might not help in Missouri. Last year, voters approved a ballot initiative barring state and local government officials from helping to implement the law. Jen Bersdale, executive director of Missouri Health Care for All, an advocacy group, said she thinks the measure has dissuaded some county health department officials.
from developing plans to sign people up for coverage.

The state, which rejected the Medicaid expansion and declined to set up its own health-insurance exchange, also restricted the work of navigators and decided not to enforce the new rules on insurers.

State Sen. David Sater (R) said the legislature is simply reflecting the will of the people of Missouri, who have expressed through ballot amendments and polls that they do not want the health-care law.

“They don’t want it, so we are just following what our citizens want,” he said. “It’s federalism. It’s the federal government trying to tell us whether we can go to the bathroom or not. It’s ridiculous.”

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