October 17, 2013

Richard Epstein writes on the opening healthcare problems.

It is now common knowledge that the bugs in the Obamacare website have been embedded in the system from the start. For the past two weeks, not only have many individuals found it impossible to access the website, but they are often frozen in place once they pass through the initial portal. The problems will just get worse. The current law requires extensive communications between enrollees and their chosen insurance carriers, as well as massive interaction with both federal and state organizations. As a result, web traffic builds up behind bottlenecks and leads to massive frustration. As I warned last May, watching Obamacare unravel is a painful business.

Health and Human Services Secretary Kathleen Sebelius has tried to put a positive gloss on the messy situation with the dubious observation that the system glitches are due to heavy consumer demand. Her statement subtly implies that the nation's alleged need for the program is the cause of its momentary glitches. She claims that things are "getting better by the day." Not so. The government site was not built for heavy traffic, nor was it tested before going live. It is no mean feat to try to fix a balky computer system on the fly.

As a result of these problems, calls to delay the implementation of the individual mandate are now reaching a fever pitch, such as Peggy Noonan's to delay the individual mandate a year. The bugs need to be worked out before ordinary people are slapped with fines for failing to enroll in the derelict system before the penalty deadline now set for March 31, 2014.

Thus far, the Obama Administration has been mum on the sources and extent of the difficulties. But make no mistake about it: they reflect the broader structural weaknesses of the program, which were hidden from view by the disastrous launch. Nonetheless, the system's basic design is flawed, and its gaffes will become only more apparent as implementation moves forward. ..

Shikha Dalmia thinks things are worse then is commonly understood.

By all accounts, the roll out of Obamacare's insurance exchanges has been a fiasco of epic proportions. But diehard supporters claim that this is a minor roadblock that won't affect the law's long-term future. "Obamacare is here," lectured liberal columnist Eugene Robinson. "Get used to it."

Robinson might be right. Then again when funny man Jon Stewart echoes Tea Party "wackos" to demand a one-year delay of the individual mandate, the lynchpin of the edifice, you know all is not well. And Stewart is hardly alone. CNN anchor Wolfe Blitzer is also recommending a delay.

The reality is that the way President Obama ramrodded this law through Congress has left him very little margin for error. The next couple of months will make or break the program.

Two weeks into the launch and its problems only keep multiplying. Consumers still can't log into the federal exchange website, let alone compare plans, apply for the promised subsidies and buy coverage. The site—whose staggering $634 million construction cost is more than that of

LinkedIn and Spotify combined—has already been shut down once for repairs, but the problems persist.

Thing are so bad that the administration won't even reveal basic information about enrollment rates. Nor will it make its IT folks available to explain the technical glitches, insisting that "pent up demand" is overwhelming capacity.

But experts whom Reuters consulted believe that the architecture of the websites is fundamentally flawed and needs to be radically overhauled. For example, when individuals "apply" for coverage, the website automatically opens over 90 separate files and plugins to stream information from the user's computer. The flood of traffic paralyzes the connection. ...

Megan McArdle says the law needs a drop dead date.
Exactly how bad are things on the federal health-care exchanges? The working assumption among most journalists, including me, is that they would be fixed in a few weeks -- that is, by the end of this week. But yesterday's New York Times brought a deeply reported piece from Robert Pear, Sharon LaFraniere and Ian Austen. There is too much information in the piece for an excerpt to do it justice, so I'll summarize, with some editorial comments -- but you should read the whole thing to get the full flavor:

-- One person familiar with the project says it's only about 70 percent of the way there, and has heard estimates of somewhere between two weeks to two months to fix it. As a programmer I know points out, "two weeks to two months" is the programming equivalent of "40 days and 40 nights": "A long time, but I have no way of knowing how long." When I used to hear estimates like that, I used to assume it would be coming in on the late end of that range, earliest.

-- The administration delayed writing major rules until after the 2012 election, because it didn't want to give Republicans any ammunition for their campaign. (This actually was noted at the time: "When it comes to health care, delaying regulations could help the president politically by avoiding discussion of the controversial health reform law. But that makes life difficult for states and industries that need to prepare for the coming changes," wrote the National Journal. But most of us didn't understand just how badly this was affecting implementation.)

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Michael Astrue who was HHS General Counsel and Commissioner of Social Security says these problems are not mere "glitches."

... The department will surely ameliorate some problems in the coming months simply by buying additional capacity and fixing sloppy code. More enduring problems, however, will continue to plague HHS.

HHS blundered when it allowed states to rely on self-attestation to verify eligibility for public subsidies in states that built their own exchanges. Experience with the Earned Income Tax Credit and other programs strongly suggests that in states that rely on self-attestation a high percentage of those who receive subsidies—probably 20-25 percent—will be ineligible. HHS has refused to explain how it will recoup payments from ineligible recipients. The official responsible for preventing this waste, fraud, and abuse, the HHS inspector general, has been silent about this problem as well.

HHS also blundered when it built its computer system in violation of the Privacy Act. In short, if you enroll in a health plan through an exchange, family members and recent ex-spouses can access the system and change your coverage without the legally required written permission. Traditional consumer and privacy advocates, such as Public Citizen and the American Civil Liberties Union, have taken a dive on this issue, and again the HHS inspector general has remained silent.

HHS opened the door to large-scale fraud by providing funding for tens of thousands of "navigators"—people who are supposed to persuade the uninsured to apply for coverage and then assist them in the application process. Instead of hiring well-screened, well-trained, and well-supervised workers, HHS decided to build political support for the Affordable Care Act by pouring money into supportive organizations so they could launch poorly trained workers into their communities without obtaining criminal background checks or creating systems for monitoring their activities. ...

We start our weekend with late night humor from **Andrew Malcolm**.

Letterman: The Washington Redskins are under a lot of pressure to change their name because so many people are offended by the word 'Washington.'

***Leno:** A CBS News Poll says 72% of Americans blame Republicans for the government shutdown while 61% blame the Democrats. See, this is why we have a debt crisis. That adds up to 133%.*

***Letterman**: Have you seen the new $100 bill? A lot of people are upset. First of all, it's only worth $10. And Ben Franklin's face has been replaced by Ben Affleck.*

***Fallon:** A new study says American workers lack the problem-solving skills of workers in other countries. Asked about that, American workers said, "But what should we do about it?"*

***Leno:** Syrian President Assad says he may run for reelection next year. Says he's looked over the election results for 2014 and they look good for him.*

Hoover Institution

The Obamacare Train Wreck

Defunding or repealing the law is practically impossible, but here's how we can fix it.

by Richard A. Epstein

It is now common knowledge that the bugs in the Obamacare website have been embedded in the system from the start. For the past two weeks, not only have many individuals found it impossible to access the website, but they are often frozen in place once they pass through the initial portal. The problems will just get worse. The current law requires extensive communications between enrollees and their chosen insurance carriers, as well as massive interaction with both federal and state organizations. As a result, web traffic builds up behind bottlenecks and leads to massive frustration. As I warned last May, watching Obamacare unravel is a painful business.

The Bright Side of Bad News

Health and Human Services Secretary Kathleen Sebelius has tried to put a positive gloss on the messy situation with the dubious observation that the system glitches are due to heavy consumer demand. Her statement subtly implies that the nation's alleged need for the program is the cause of its momentary glitches. She claims that things are "getting better by the day." Not so. The government site was not built for heavy traffic, nor was it tested before going live. It is no mean feat to try to fix a balky computer system on the fly.

As a result of these problems, calls to delay the implementation of the individual mandate are now reaching a fever pitch, such as Peggy Noonan's to delay the individual mandate a year. The bugs need to be worked out before ordinary people are slapped with fines for failing to enroll in the derelict system before the penalty deadline now set for March 31, 2014.

Thus far, the Obama Administration has been mum on the sources and extent of the difficulties. But make no mistake about it: they reflect the broader structural weaknesses of the program, which were hidden from view by the disastrous launch. Nonetheless, the system's basic design is flawed, and its gaffes will become only more apparent as implementation moves forward.

Republicans are howling to repeal and defund Obamacare. As a policy matter, that is surely the correct move. But as a political matter, the prompt repeal of Obamacare is just not going to happen over the uncompromising opposition of a Democratic president and a Democratic Senate. So, if the first-best solution is not possible, more modest fixes for Obamacare are in order until Republicans start winning elections. Here are three areas of the law to change: the employer mandate for employees who work 30-hours-per-week; the coverage rules; and the medical loss ratio.

Part-Time Employment

As of January 1, 2014, Obamacare's employer mandate kicks in with respect to employees who work thirty or more hours per week for a single employer. Just finding out who falls on which side of that line is no easy task. Much employment is seasonable, which could make it difficult to classify individual employees on one side of the line or the other without a close examination of their working history, which then has to be updated on a periodic basis.

But the larger difficulty is structural. As Andrew Puzder recently argued in the Wall Street Journal, the closer we come to implementation of the employer mandate, the stronger the pressure becomes for employers to hire part-timers who unambiguously work less than 30 hours per week. It will not happen in all cases. But in some significant fraction of cases it will be cheaper for a firm to hire more workers on a part-time base than fewer workers on a full time basis.

Alternatively, some employers will find it more efficient to hire fewer high-skilled workers with overtime payments in order to minimize the mandate's burden. Both of these Obamacare-driven strategies are inefficient because neither would be adopted in a tax-free world, with higher optimal output.

The administration wanted to keep the hours exemption low in order reduce the number of employers who would avoid the mandate. What they did instead was to put the cart before the horse. In the effort to force-feed the healthcare market, they managed to cast a major pall over a struggling labor market. It is far better to expand labor markets in ways that create more wealth instead of restricting them for the sake of a botched employer mandate.

Obamacare's Coverage Rules

A second major problem with Obamacare is how it sets healthcare rates in individual markets. The administration's insistence that these be called "exchanges" or "markets" belies their coercive and confused nature. An open exchange is one that allows companies that meet certain minimum standards of probity and financial responsibility to sell their goods or services on terms and conditions that they choose to offer: think eBay. But none of that is tolerated on the Obamacare exchanges, as all parties are rigorously scripted to the kinds of services they can offer and the prices that they can charge.

In this case, the first problem is that the set of minimum benefits under the various plans is defined so generously that people will have to pay for services that they would never chose to acquire in a voluntary market. The clear implication is that the higher coverage generates social losses, not social gains. The inclusion of exotic items (e.g. habilitative care) not only raises the price of access, but it also makes it harder to get sensible benchmark pricing in what was, until the advent of the ACA, a non-existent market. Cutting back on these benefits should go a long way to controlling some of the price issues that have surfaced with the initial quotes, and bring healthcare costs in to greater alignment.

Under the current system, too many people make a beeline for coverage in the hopes of receiving huge subsidies—subsidies large enough to lure them away from private plans for which they pay market rates. That migration undermines private insurance companies that currently serve these people. It also requires cross-subsidies from healthier individuals to pick up the slack built into the system. The required revenues will not come from direct government payments, but only from other plan participants, namely younger enrollees now forced to pay above-market rates to supply the subsidy—if they chose to participate, which they often won't.

This form of community rating has pronounced effects. Under the ACA, the maximum allowable rate differential is three-fold between a young person and a senior, but the market differential is about five-fold. Under those circumstances, the young person is likely to resist even movie-star exhortations to enroll in a plan that offers a net negative.

That tendency will increase because of the generous accommodations Obamacare makes for applicants with preexisting conditions. Most insurance plans design their enrollment and premium strategies to combat the constant risk of adverse selection. People have private information about their healthcare status, and thus are more likely to purchase healthcare at standard group rates when aware of their own precarious healthcare position.

Most traditional plans use various devices to control the risk of adverse selection. These include an individual disclosure, which allows firms to raise prices or exclude customers. With group plans, it is commonplace to require a minimum level of employee participation to prevent individual opportunism. But Obamacare goes in the exact opposite direction and requires insurers to enroll parties who know of their increased risk.

There is today a huge public ground swell that insists that no one should be excluded from healthcare on the grounds of their preexisting conditions. Nothing in the short run can stop that dynamic. But it is at least possible to slow down its effects. Thus, if open enrollment is allowed at any time, at least require all persons who enroll to remain in the plan for a year so that the insurer can earn back some of the money that it loses thanks to these strategic enrollments.

There is a limit to the size and quantity of subsidies that can be required. Pushing the balance back may well make access to the exchanges a more attractive proposition for those who right now are likely to stay out. Even if some community rating system is sacrosanct, its size is not. Tapering down on the program is a sensible mid-level strategy. The blunt truth is that the Republicans have to win elections in order to force a fundamental overhaul.

The Medical Loss Ratio

Ascurrently constituted, the ACA imposes extensive restrictions on the way in which insurance companies spend their premium dollars. In an ordinary business environment, the savvy firm is always making trade-offs at the margin between its medical and administrative expenses. Finding the right combination lets firms compete effectively in the marketplace. There is, moreover, no single ratio that works for all firms: much depends on the composition of its insured, the nature of its specialization, the local regulatory environment, and many other factors.

The medical loss ratio pays scant attention to these differences and limits the amount of "administrative expenses" that can be spent to 20 percent of individual plans and 15 percent of small group plans. Since 2012, firms that do not meet their respective targets have been required to issue rebates to their customers.

This boneheaded system is yet another example of how Obamacare forces private insurance companies to incur costly administrative expenses in order to deliver inferior services to their customers. This system is based on the peculiar belief that government agencies know, in the abstract, which expenses count as administrative, and how much they can be. It also assumes that governments should force firms into predetermined paths even though businesses, facing competitive pressures, have a far better grasp of how their cost structures should operate. These requirements are a back-handed form of price regulation, which should and could be eliminated right now without gutting the core of Obamacare.

Getting from Here to There

Repealing Obamacare should be a high priority for the Republicans if they can win national elections. But they can only get there if they play the short-term game well. The usual three imperatives for healthcare are to ensure access and quality while controlling price. I know of no top-down administrative system that can begin to reach those three goals. The efforts to force access and mandate quality are not only counterproductive, but they will also drive up prices in ways that undermine both access and quality.

The only viable counterstrategy treats deregulation as the first line of attack on the inefficiencies of the current system. Reduce costs and avoid regulatory nightmares, and access to care will rise as rates decline and quality of care improves. Once this is done, targeting subsidies at certain individuals to allow them to purchase healthcare plans that the market offers, such as the Healthy Indiana plan, without taking over management of the system, will result in greater access without compromising quality.

Playing hardball is a losing strategy. The Republicans will never get their turn unless they use today's computer glitches and enrollment delays as a platform on which to propose modest market-enhancing reforms. This might give the public the confidence in the GOP's ability to work on more substantial reforms down the road.

Reason

Obamacare Might Well Be Imploding

by Shikha Dalmia

By all accounts, the roll out of Obamacare's insurance exchanges has been a fiasco of epic proportions. But diehard supporters claim that this is a minor roadblock that won't affect the law's long-term future. "Obamacare is here," lectured liberal columnist Eugene Robinson. "Get used to it."

Robinson might be right. Then again when funny man Jon Stewart echoes Tea Party "wackos" to demand a one-year delay of the individual mandate, the lynchpin of the edifice, you know all is not well. And Stewart is hardly alone. CNN anchor Wolfe Blitzer is also recommending a delay.

The reality is that the way President Obama ramrodded this law through Congress has left him very little margin for error. The next couple of months will make or break the program.

Two weeks into the launch and its problems only keep multiplying. Consumers still can't log into the federal exchange website, let alone compare plans, apply for the promised subsidies and buy coverage. The site—whose staggering $634 million construction cost is more than that of

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Thing are so bad that the administration won't even reveal basic information about enrollment rates. Nor will it make its IT folks available to explain the technical glitches, insisting that "pent up demand" is overwhelming capacity.

But experts whom Reuters consulted believe that the architecture of the websites is fundamentally flawed and needs to be radically overhauled. For example, when individuals "apply" for coverage, the website automatically opens over 90 separate files and plugins to stream information from the user's computer. The flood of traffic paralyzes the connection.

None of this is unexpected. In fact, insurance companies now say they'd been warning the administration for months that the exchange was not ready for prime time.

But the same reason the administration rushed to launch is also why it can't afford any extended delays now.

The law requires every American to have coverage by sometime early next year, although the administration keeps changing its mind about the precise date. But failure to have coverage by whatever date it eventually decides would result in a $96 fine for individuals and $285 for families. But extracting fines without giving people viable purchase options will generate even more outrage against a law that a majority of Americans already dislike.

However, postponing the individual mandate is not an option either, even though that would be the right thing to do given that the administration has delayed the employer mandate. That's because insurance companies need young and healthy people in the pool to offset the costs for the older and sicker patients that they are now required to cover at affordable rates. Suspending the mandate will mean that their most lucrative customers will bow out, making it impossible for them to honor the premiums that they are offering without going under. This could jeopardize patients far beyond those in the exchange.

But if the law ends up raising prices and/or throwing people out of coverage—the exact opposite of what it promised—Republicans will obtain potent ammunition against Democrats ahead of next year's mid-term elections. And not just Republicans.

The New York Times reported over the weekend: "Even some supporters of the Affordable Care Act worry that the flaws in the system, if not quickly fixed, could threaten the fiscal health of the insurance initiative, which depends on throngs of customers to spread the risk and keep prices low."

(At this rate, Jon Stewart and Ted Cruz might both find themselves marching together to defund Obamacare!)

So long as President Obama is in the Oval Office, Republicans can't repeal the law outright, it is true. But its implosion will put them in a far stronger position to hold it up pending an overhaul. It could be their great opportunity to convert it into a free market system, as I have noted previously. (Richard Epstein has laid out his own three-part overhaul plan.)

It is never a good idea for a president to drag a country into war without broad-based support. That's because he needs political cover to stick it through when things inevitably go wrong.

What's true of war is even truer of a radical overhaul of one-sixth of the domestic economy. President Obama ignored that and pushed Obamacare without doing the hard work of putting together something that the other party could support. Now he can hope for no cooperation, only full-bore obstructionism.

Obamacare's problems ultimately are not technical but political—and they might be just beginning.

Bloomberg News

Obamacare Needs a Drop-Dead Date

by Megan McArdle

Exactly how bad are things on the federal health-care exchanges? The working assumption among most journalists, including me, is that they would be fixed in a few weeks -- that is, by the end of this week. But yesterday's New York Times brought a deeply reported piece from Robert Pear, Sharon LaFraniere and Ian Austen. There is too much information in the piece for an excerpt to do it justice, so I'll summarize, with some editorial comments -- but you should read the whole thing to get the full flavor:

-- One person familiar with the project says it's only about 70 percent of the way there, and has heard estimates of somewhere between two weeks to two months to fix it. As a programmer I know points out, "two weeks to two months" is the programming equivalent of "40 days and 40 nights": "A long time, but I have no way of knowing how long." When I used to hear estimates like that, I used to assume it would be coming in on the late end of that range, earliest.

-- The administration delayed writing major rules until after the 2012 election, because it didn't want to give Republicans any ammunition for their campaign. (This actually was noted at the time: "When it comes to health care, delaying regulations could help the president politically by avoiding discussion of the controversial health reform law. But that makes life difficult for states and industries that need to prepare for the coming changes," wrote the National Journal. But most of us didn't understand just how badly this was affecting implementation.)

-- Despite evidence to the contrary, the administration kept insisting that everything was absolutely on track to launch Oct. 1.

-- This passage is so extraordinary that it requires excerpting:

"Deadline after deadline was missed. The biggest contractor, CGI Federal, was awarded its $94 million contract in December 2011. But the government was so slow in issuing specifications that the firm did not start writing software code until this spring, according to people familiar with the process. As late as the last week of September, officials were still changing features of the Web site, HealthCare.gov, and debating whether consumers should be required to register and create password-protected accounts before they could shop for health plans."

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-- The Centers for Medicare & Medicaid Services inexplicably decided to take on the role of central project manager itself, assuming responsibility for integrating all the various software pieces they'd subcontracted, rather than assigning that role to a lead contractor. CMS is not known to maintain a pool of crack programming talent with extensive project management experience that can be deployed to this sort of task.

-- Henry Chao, the Health and Human Services Department's digital architect of the insurance marketplace, seems to have been sounding the alarm bells internally. (He certainly was externally; he famously told a group of insurers in March that "I'm pretty nervous -- I don't know about you. … Let's just make sure it's not a third-world experience.") Chao was worried that the systems wouldn't work, a concern to which higher-ups apparently responded by basically telling him in effect that, according to the Times piece, "failure was not an option."

-- Neither the consumer side nor the insurer side is working. A New York Times researcher made more than 40 attempts from Oct. 1 to Oct. 12 to log in, with no luck. Meanwhile, the Times confirms Bob Laszewski's report that insurers are getting virtually no usable data from the exchanges. As the Times puts it, "just a trickle of the 14.6 million people who have visited the federal exchange so far have managed to enroll in insurance plans, according to executives of major insurance companies who receive enrollment files from the government. And some of those enrollments are marred by mistakes. Insurance executives said the government had sent some enrollment files to the wrong insurer, confusing companies that have similar names but are in different states. Other files were unusable because crucial information was missing, they said."

Insurers began warning in 2012 that they were worried about these systems making their delivery dates, a concern that the Government Accountability Office echoed in June. Now we know why: The systems weren't on track to meet their delivery dates.

This is stunning. It's far worse than I imagined, and I am pretty cynical. The law's supporters are engaged in some high-speed blamestorming: It's the Republicans' fault for not giving the law more money, or it's the fault of Republican governors who didn't build their exchanges, or maybe it's one of the vendors -- CGI, the firm with the largest contract, is the most favored target, but at various times, the administration has clearly been teeing up to blame Experian or Oracle. Or perhaps the fault lies in federal procurement rules, which prevented the government from getting the right kind of staff and service. A lot of that shows up in the article; there's a long prelude about the political barriers that the administration faced. But ultimately, the litany of mistakes that the administration made overwhelms these complaints.

I'm a longtime critic of federal contracting rules, which prevent some corruption at ruinous expense in money, quality and speed. But federal contracting rules are not what made the administration delay writing the rules and specifications necessary to build the system until 2013. Nor to delay the deadline for states to declare whether they'd be building an exchange, in the desperate hope that a few more governors might decide -- in February 2013! -- to build a state system after all. Any state that decided to start such a project at that late date would have had little hope of building anything that worked, but presumably angry voters would be calling the governor instead of HHS.

Federal contracting codes, so far as I am aware, do not emit intoxicating gases that might have caused senior HHS officials to decide that it was a good idea to take on the role of lead contractor -- a decision equivalent to someone who has never even hung a picture deciding that they should become their own general contractor and build a house. Nor can those rules explain their lunatic response when they were told that the system was not working -- “failure was not an option."

Nor can you really blame the Republicans -- an argument that makes sense only if you don’t examine it very closely. It starts by assuming (but never stating) that the administration passed a law that didn't work as written, and then posits a civic duty for the opposition not to oppose laws that they oppose, but instead to help the majority party turn an unworkable law into something more to said party’s liking. This is absurd. Moreover, it’s not even a very good explanation for most of these problems. Maybe CMS turned lead contractor because they couldn’t get more funds to hire private help, but lack of funds does not explain why HHS took so long to write regulations and specifications, keeping insurers at loose ends until as late as this summer, and preventing their biggest contractor from writing code until spring. It does not explain why officials decided to launch a system that was so badly behind schedule, or to keep insisting, against all evidence, that it wasn’t broken. What explains this long train of poor decision-making is some combination of bureaucratic inertia, a desire to hide what they were doing from voters who might not like it and a terrifying insouciance about how easy it might be to build a system of this size and complexity.

My best guess is that by the time HHS officials realized that they hadn’t left enough time, the only possibilities were: 1. Ask Republicans for a delay; or 2. Launch a not-very-well-built-or-tested system upon an unsuspecting public. No. 1 would have been unpleasant for several reasons. Obviously, it would have been a huge political black eye. Republicans would probably have responded by joyously agreeing to a delay -- of a year or more, which would either mean launching right before the 2014 elections or possibly never launching at all. Administration officials weren’t going to put the president’s signature achievement at risk that way.

After all, if they launched a nonfunctioning system, at least the state exchanges would hopefully work, and if enough people in the states signed up, it would be too late for Republicans to demand a rollback. They’d get the system working in a few weeks, and then everything would be fine. I’m guessing that even at the end, the senior officials didn’t realize just how bad this was.

But given that they didn’t even announce that they were taking the system down for more fixes this weekend, I’m also guessing that it’s pretty bad. Bad enough that it’s time to start talking about a drop-dead date: At what point do we admit that the system just isn’t working well enough, roll it back and delay the whole thing for a year?

Yes, I know what I’m suggesting is a major, horrible task. And I’m aware that since I opposed the law in the first place, people will take my suggestion with a huge grain of salt. Fair enough, but hear me out.

If the exchanges don’t get fixed soon, they could destroy Obamacare -- and possibly, the rest of the private insurance market. The reason that the exchanges were so important was that they were needed to attract young, healthy people into the insurance system. The worry was that if insurance is hard to buy -- if you have to do your own comparison shopping and then call the insurance company, and fax in some paperwork and two years of tax returns -- that the young and the healthy simply won’t do it. Sick people and old people who were getting huge subsidies -- and maybe the ability to buy insurance on the private market for the first time in a long while -- would overcome any obstacles, because if you’re spending $15,000 a year on health care, it’s worth a lot of your time to make sure that you have insurance. But if your biggest annual health-care expense is contact lens solution, you may just decide to skip it and pay the fine.

The administration estimates that it needs 2.7 million young healthy people on the exchange, out of the 7 million total expected to apply in the first year. If the pool is too skewed -- if it's mostly old and sick people on the exchanges -- then insurers will lose money, and next year, they'll sharply increase premiums. The healthiest people will drop out, because insurance is no longer such a good deal for them. Rinse and repeat and you have effectively destroyed the market for individual insurance policies. It's called the "death spiral," and the exchanges, like the mandate, were designed to keep it from happening.

Without the exchanges, the death spiral seems almost assured. The amount of work required to find a policy, figure out your subsidy, buy coverage and file the paperwork will be very high. And it's unlikely that folks who can't even be bothered to go to ehealthinsurance.com right now will do it. The Affordable Care Act made the task of signing up young healthy people on the exchanges even harder with its much-loved requirement that companies allow kids to stay on their parents' policies until they're 26, which took millions of potential buyers out of the pool. The ones who are left are going to be disproportionately poorer and less well educated than the middle-class offspring who can get cheap insurance through mom and dad. There's a reason that virtually every person you've seen written up in an article as they tried to get insurance at a community center or clinic is some combination of over 55, retired or afflicted with a serious chronic condition.

Once the death spiral happens, it's very difficult to recover from. That's why if the exchanges don't work soon, we need to hit the reset button and try again next year. This will be very, very difficult: Insurers are already selling policies under the new regulations, and those regulations have driven up costs for existing buyers. People who have been counting on being able to buy insurance through the exchanges will have to spend another year without. And of course, it will be politically embarrassing. But it will be even more politically embarrassing to get to December and find out that we have commanded millions of Americans to buy insurance on a system that doesn't work. And it is not a good bargain to cover some people now, but in doing so, to make insurance unaffordable for millions more in a few years. If we can't launch the system correctly, then we need to wait until we can.

In the private sector, this system would already have been rolled back, probably less than 48 hours after it was rolled out. The government has more time, but not that much more, because every day they wait adds to the chaos that will occur if they have to pull the plug in December. If the system cannot reliably process 50 percent of its users on Nov. 1 -- and I mean from end to end, including sending a valid enrollment file to the insurer -- then the administration should ask for a one-year delay of Obamacare's various regulations, including the individual mandate. Congress, including Republicans, should be ready to give it to them, with no strings attached.

Perhaps Nov. 1 seems too aggressive to you. I chose that date because it's when Jon Kingsdale, who ran the Massachusetts exchange for its first five years, said we would be "really in deep doo-doo." Well, let's say Nov. 15 -- the date when almost all the experts I've heard say we really need to be running at full speed, to handle the crush of applications sure to come between Thanksgiving and the mid-December deadline for buying insurance that starts in January.

Whatever it is, that date needs to be set now. Otherwise the political temptation will be -- as it clearly has been all along -- to declare that everything's fine and we should keep going just in case it all works out in the end. The administration's desire to avoid a giant political embarrassment is entirely understandable. But the rest of us have an even deeper and more important interest in a functioning market for health insurance.

Weekly Standard

[An Inauspicious Debut]

The health exchange meltdowns are not just 'glitches.'

by Michael Astrue

For over a year it has been common knowledge within the Obama administration that the Department of Health and Human Services (HHS) could not launch its network of health exchanges for the Affordable Care Act in a minimally acceptable way. That knowledge did not stop the HHS publicity machine from constantly assuring the American public that its computer systems would be ready for the first enrollment period. That knowledge did not stop carefully scripted HHS employees and contractors from making similar false assurances to two House committees just weeks before the botched October 1 launch.

As the HHS day of reckoning approached, the publicity machine shifted gears and began acknowledging the likelihood of "glitches," a brilliant rhetorical technique designed to dismiss all HHS failures as minor and fixable. President Obama echoed this "glitches" theme, and it worked. A mesmerized *USA Today*, for one, characterized the catastrophic October 1 breakdowns as "glitches" despite ample evidence of meltdowns in the HHS systems. Nobody in Hawaii could access prices for the plans; North Carolina recorded only one policy purchase. The launch has even interfered with the Massachusetts exchange, which functioned well for years prior to being integrated into the HHS systems. The federal exchange was inaccessible for much of the week, and was taken out of service the first weekend for repairs.

The new HHS talking points assert that the department will quickly fix last week's failures. Many in Congress and the media are parroting those points, even though almost every prediction HHS has made to date about the exchanges has turned out to be untrue. Its newest assurances are untrue as well.

The department will surely ameliorate some problems in the coming months simply by buying additional capacity and fixing sloppy code. More enduring problems, however, will continue to plague HHS.

HHS blundered when it allowed states to rely on self-attestation to verify eligibility for public subsidies in states that built their own exchanges. Experience with the Earned Income Tax Credit and other programs strongly suggests that in states that rely on self-attestation a high percentage of those who receive subsidies—probably 20-25 percent—will be ineligible. HHS has refused to explain how it will recoup payments from ineligible recipients. The official responsible for preventing this waste, fraud, and abuse, the HHS inspector general, has been silent about this problem as well.

HHS also blundered when it built its computer system in violation of the Privacy Act. In short, if you enroll in a health plan through an exchange, family members and recent ex-spouses can access the system and change your coverage without the legally required written permission. Traditional consumer and privacy advocates, such as Public Citizen and the American Civil Liberties Union, have taken a dive on this issue, and again the HHS inspector general has remained silent.

HHS opened the door to large-scale fraud by providing funding for tens of thousands of "navigators"—people who are supposed to persuade the uninsured to apply for coverage and then assist them in the application process. Instead of hiring well-screened, well-trained, and well-supervised workers, HHS decided to build political support for the Affordable Care Act by pouring money into supportive organizations so they could launch poorly trained workers into their communities without obtaining criminal background checks or creating systems for monitoring their activities.

As a practical matter, these navigators are unaccountable, and yet they will be asking people for Social Security numbers and other sensitive information. It will not take long for navigators to become predators, and HHS has no plan to deal with the new breed of predators it is creating. The somnolent HHS inspector general has been silent about this scheme that will inflict widespread fraud and identity theft on vulnerable Americans.

Finally, we should all remember that the Minnesota exchange illegally disclosed the Social Security numbers of 2,400 of its state's citizens 18 days *before* its exchange opened for business. With HHS's convoluted patchwork of contractors, including the data centers of "the cloud," tens of thousands of people have now gained access to our personal data. The churning of marginal employees through the lowest bidders of "the cloud" particularly increases the risk of massive disclosures like those that Edward Snowden recently inflicted on the intelligence community and Bradley Manning inflicted on the military. Our greatest vulnerability may not be the hardware or the software, but the integrity of the contractors who use these tools. With regard to this issue, the HHS inspector general has once again maintained his unblemished record of inertia and silence.

You will be told many times in the coming months that continuing computer issues are mere "glitches." Instead, failures of the exchanges will be common and serious. These failures will wreck the lives of many Americans when their identities are stolen by hackers or navigators, or their Social Security numbers are inadvertently disclosed by an unaccountable Affordable Care Act bureaucracy. When you hear assurances about "glitches," remember that their purpose is to mislead.

Michael Astrue served as HHS general counsel (1989-92) and commissioner of Social Security (2007-13).

IBD

Late NIght

by Andrew Malcolm

Fallon: Joe Biden canceled a speech at a Democratic fundraiser the other night because of the partial government shutdown. Then it got awkward. When the committee announced Biden wasn't coming, attendees doubled their donations.

Fallon: A new study says 9% of Americans have considered giving up their U.S. citizenship. It's gotten so bad that even Obama said, "Are you sure I wasn't born in Kenya?"

Fallon: Things aren't exactly going smoothly for the Olympics over in Russia. In fact, yesterday President Vladimir Putin lit the Olympic torch in a ceremony and just minutes later a gust of wind blew it out. In a related story, the wind is now “missing.”

Leno: A CBS News Poll says 72% of Americans blame Republicans for the government shutdown while 61% blame the Democrats. See, this is why we have a debt crisis. That adds up to 133%.

Letterman: Have you seen the new $100 bill? A lot of people are upset. First of all, it’s only worth $10. And Ben Franklin's face has been replaced by Ben Affleck.

Fallon: A new study says American workers lack the problem-solving skills of workers in other countries. Asked about that, American workers said, “But what should we do about it?”

Leno: Syrian President Assad says he may run for reelection next year. Says he's looked over the election results for 2014 and they look good for him.

Letterman: The Washington Redskins are under a lot of pressure to change their name because so many people are offended by the word 'Washington.'

Letterman: Starbuck’s has a new invention called the duffen. It’s a combination muffin and donut. And if you eat enough of them, you end up in a cuffen.

Letterman: Nobel Prize Week. A Briton and a Belgian got the Physics prize for work on subatomic particles. While in America we were inventing the duffen.

Letterman: Vladimir Putin turned 61 last week. His friends chipped in and got him a stolen Super Bowl ring.

Letterman: With every success comes new conspiracy theories. Now some people are saying the Sandra Bullock movie 'Gravity' was actually filmed on a sound stage.

Fallon: How did Harry Reid keep Joe Biden out of the government shutdown negotiations? 'I just pretended to throw a tennis ball.'

Fallon: Obama says Congress must hike the debt limit because we have no more “rabbits in our hat.” And anyway, they’re all still tired from their last trick, making thousands of jobs disappear.

Leno: New Homeland Security Department slogan: 'If you see something, remember what it is and call us when we're back in the office.'

Letterman: Well, it’s autumn, ladies and gentlemen. But because of the government shutdown, this year the leaves will not be changing.

Fallon: A new study found that dogs can actually feel genuine love for their owners. While cats just keep a journal of all the things they hate about you.

Fallon: A new James Bond novel is out with a more mature Bond. You know he’s older by the book’s title: “The Spy Who Was Home By 7 To Watch 'Jeopardy.'"

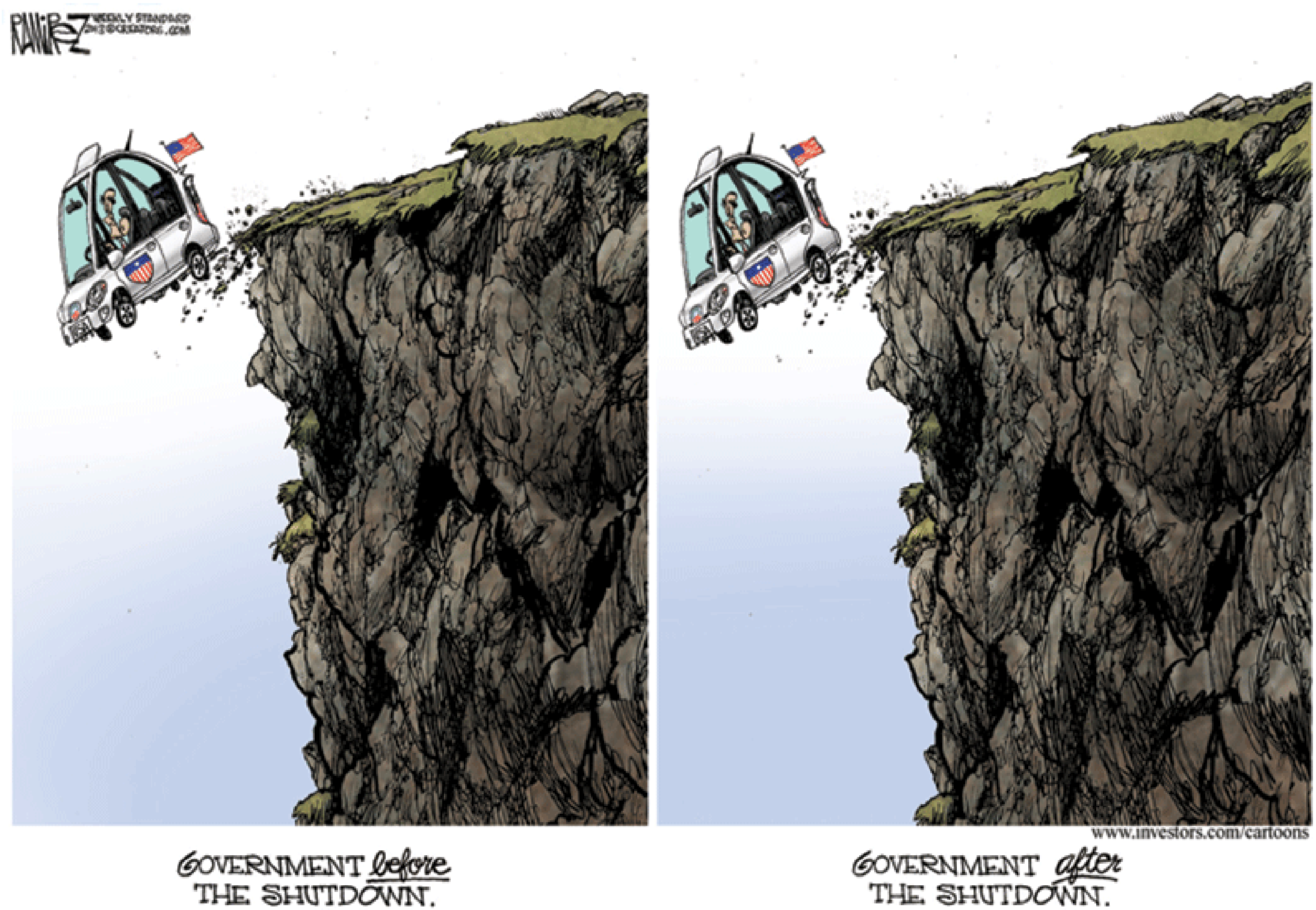
Leno: Very sad. Kris and Bruce Jenner are divorcing. In a statement, Kris said, 'In these difficult family times, please do not respect our privacy. Take all photos you want.'

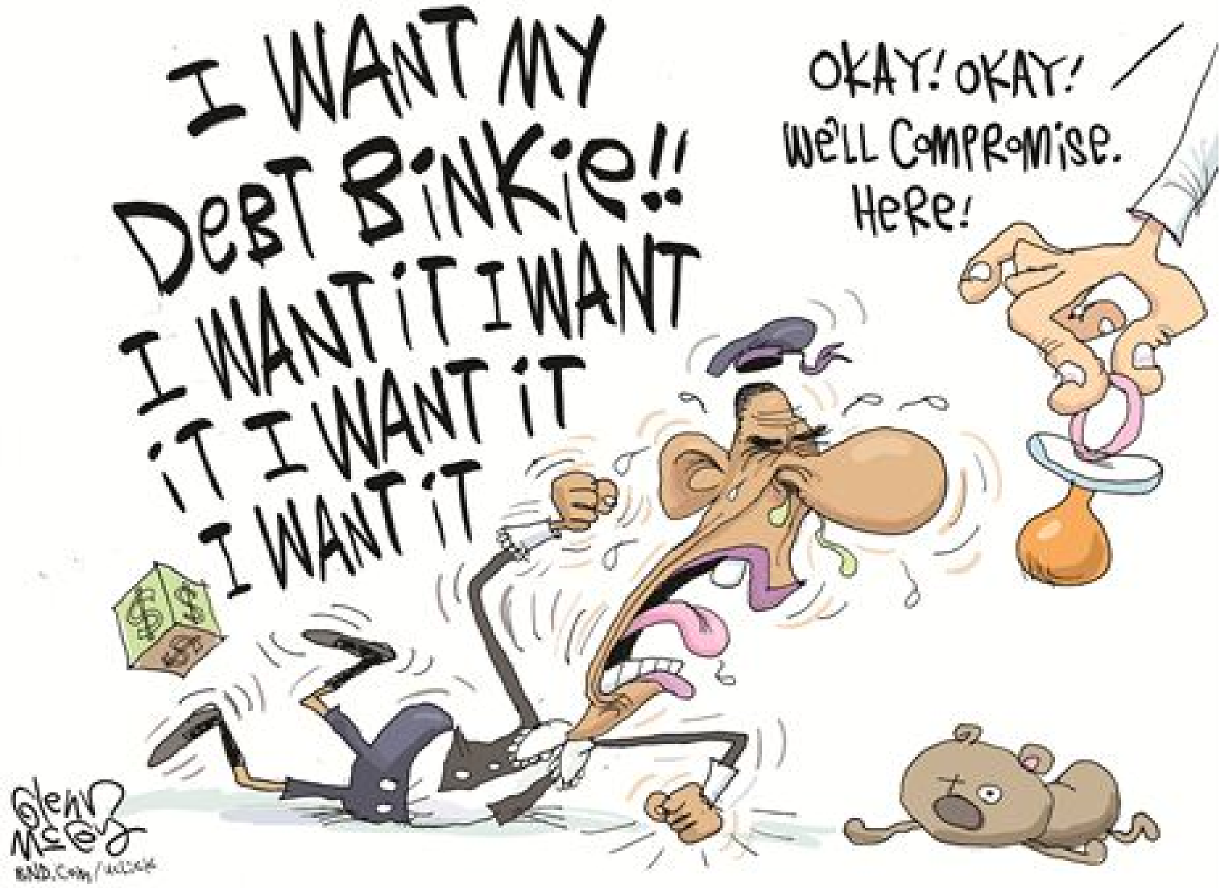
Leno: The Jonas Brothers are meeting this weekend to decide if they’ll break up. Their fans are stunned. They thought the singers split five years ago.

Leno: Kanye West is reportedly pressuring Kim Kardashian to marry. But she’s reluctant to rush into something she could regret for the next 72 days of her life.

Fallon: A new report predicts that an asteroid is on track to hit the Earth in the year 2880. When asked if they're doing anything to stop it, NASA said, “What's the point, now that the Jonas Brothers are breaking up?”

Fallon: The Vatican was embarrassed the other day by releasing 6,000 commemorative medals with “Jesus” misspelled. When they saw what happened, the Vatican was like, “Oh my Dog!”

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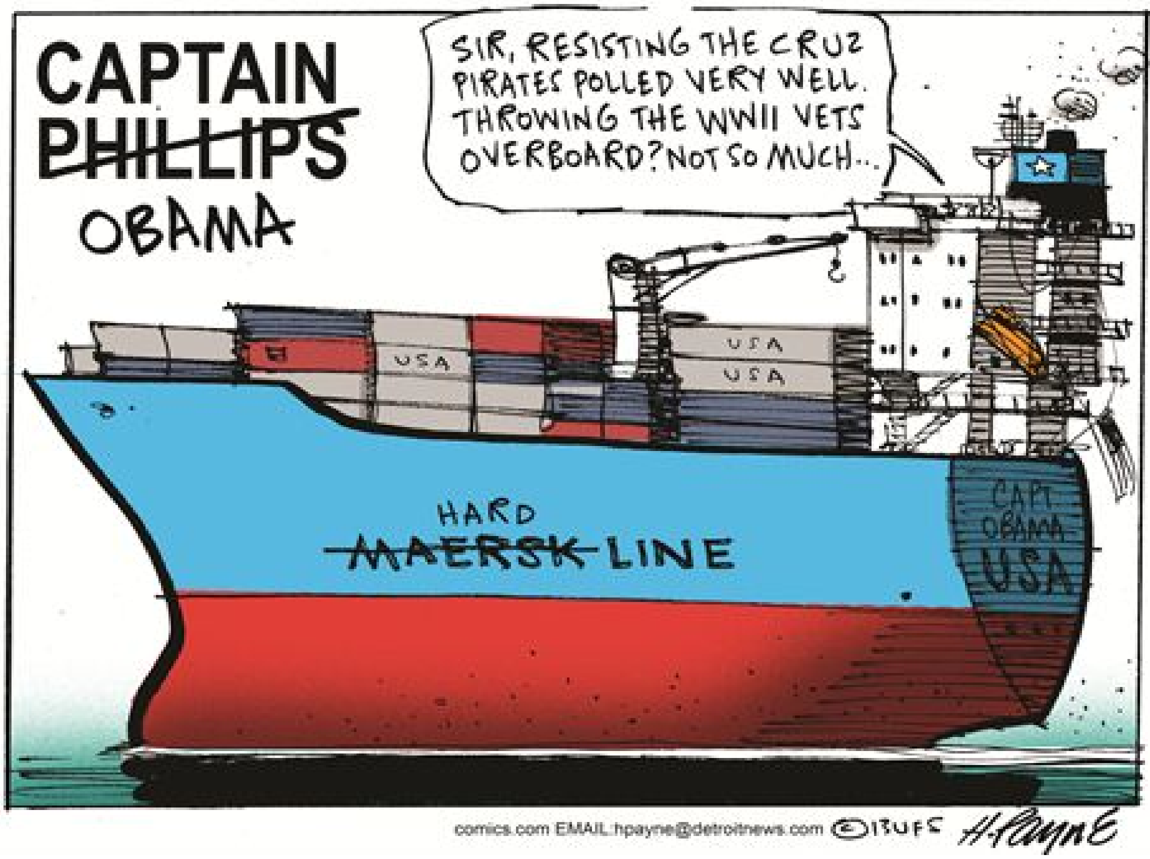
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