

Ineffective Cost Controls Will Doom the ACA

By Dan Fisher, CGMA
Chief Executive Officer
EmSpring



I am not happy about this. As an independent benefits consultant and health insurance broker, I know firsthand that our health care system is broken and in need of an overhaul. The Patient Protection and Affordable Care Act (ACA) was a valiant and for the most part, a worthy effort. Unfortunately, it is doomed to fail for one reason only: the ACA does precious little to control the cost of care. The ACA

is health *insurance* reform that for political reasons is called health *care* reform. I have clients where the ACA remains very popular. I have clients where Obamacare has and always will be a swear word. No matter your political leanings or what you call it, the ACA is still the law and compliance isn't optional. It is also an ongoing national debate with local implications that lead to unlimited personal outcomes. It encompasses both uncertainty and hope for the future. Unfortunately, market and political pressures have pummeled the ACA's original version into an unrecognizable, unsustainable and largely incoherent mess. The undisputable proof is on its way in 2015.

Obamacare is a massive federal program that simply can't deliver what was promised or expected of it. Given the technical problems with the launch of the public exchanges, many people agree. Oregon's public exchange – CoverOregon – is a train wreck. Yet, the Washington Healthplanfinder – the Evergreen State's own public exchange - is anything but

a disaster. The Healthplanfinder, for the most part, has delivered as promised. Unfortunately, health insurance reform can only take us so far before we run into the elephant in the emergency room: uncontrollable health care costs. Even the best of public exchanges and health insurance companies can't control the cost. Past attempts to do so have failed – HMOs, PPOs and consumer-driven plans – and new methods like narrow networks, Medicare plus pricing, and transparency are going to deliver major problems that Obamacare simply hasn't addressed.

The ACA has fallen drastically short of what was expected even before the new taxes, penalties and technology shortcomings have been fully felt. Coverage purchased through a public exchange is less generous than many people expected, with narrower doctor and hospital networks and higher deductibles. The promised premium savings has failed to materialize. And of course, we now know that if you like your doctor and plan, there is no reason to think you can keep

them. But even if you consider all of that political spin doctoring, the real problems are still to come.

The Real Issue: Health Care Cost Control

ACA supporters have been counting on the coverage expansion to put Obamacare beyond repeal. They claim the inevitable problems can be fixed down the road. But it's becoming clearer that this is not true. The law is unpopular, not only with Republican voters, but also with too many consumers who are supposed to buy insurance. The Obama administration is in emergency mode and delaying, yet again, employer "pay or play" penalties just to ensure the ACA's survival. Although the delays and administrative fixes may solve the short-term political problems, they cast uncertainty upon employers of all sizes and destabilize the insurance markets. We must turn our attention away from coverage expansion and face the real issue: cost control. As in **the cost of medical care is still out of control**. No matter how it's packaged, financed and delivered, it's too expensive.

Obama's health care reform was conceived as a "three-legged stool": guaranteed issue, community rating, minimum mandated benefits. Guaranteed issue means that an insurer can't refuse to sell you a policy. Pre-existing condition limitations are now gone and I think we all agree that's a good thing. Community rating means that insurers can't agree to sell you a policy and then single you out as a poor health risk and charge you whatever they want. The minimum mandates (called "essential" benefits) was meant to

guarantee a decent level of coverage for everyone. Each of these "legs" of the ACA stool have issues: guaranteed issue doesn't guarantee everyone will be in the system; community rating is still subjected to a fragmented, state-regulated third-party payer system that is very broken and will remain so as long as financial incentives remain so terribly misaligned. And in many states, including Washington State, smaller employers who don't have to worry about the shared responsibility payments (penalties) are now faced with age-rated health plan options for the first time. And don't get me started on the minimum essential coverage mandates – the loopholes are so large that there will be many crappy benefit plans readily available for individuals and employers to fall into.

There are actually other legs to the ACA legislation -- the subsidies, in particular, are needed so that you're not ordering people to buy a product they can't afford. But it doesn't really matter how many legs the stool has where, as some experts insist, taking one leg away collapses the whole thing. What matters is that, from inception, the stool sits in an elevator going up. We can measure the heights obtained by % of GNP and call it affordable as long as it costs less than 9.5% of our wage, but the truth is it continues to go up. Why? Well, we don't even need to argue over the exact causes to know that the first thing we need to do is get off the elevator and put the stool on flat ground. That means health *care* reform must come before we even try health *insurance* reform. Here's the big, dirty secret of health insurance: premiums reflect health care costs. It's an undeniable fact. The ACA has it backwards;

it reforms insurance hoping that controlling premiums will in turn control health care costs. It won't. Sorry. Obamacare can't be saved. We need to start over with health *care* reform.

The next big political challenge to the Affordable Care Act is still coming and carefully hidden in the rules governing the "risk corridor" programs. These programs are designed to reimburse insurance companies for unexpected excess losses. This wins favor with insurers and gets them to play in the public exchanges, but this ACA program is going to be impossible to defend when the costs become clear to the public. How do you like your premiums and taxes going to health insurers who experience losses?

Is Obamacare going to be repealed in its entirety? No. Some of the provisions have no chance of being challenged let alone repealed. Others, such as the Medicaid expansion, will almost certainly stand in some form, though I could see Medicaid being block-granted and then slowly pulled back after future elections change the makeup of Congress. The fate of other pieces, such as the only attempt at cost control (PCORI) and the exchanges themselves, is still too hard to predict.

The original vision of the law cannot be fulfilled -- the cost-controlling, delivery- system-improving, health-enhancing, deficit-reducing, highly popular, tightly integrated system for ensuring that everyone who wants coverage can get it.

I expect more "temporary" administrative fixes for most of the law's obvious shortcomings.

And then, if the elections allow, Republicans will make some of the “temporary” fixes permanent. By the time everyone’s done “fixing” the original ACA vision, not much of it will be left. The proverbial stool remains in the elevator going up. I honestly want to keep cheering for the ACA team, but we’ve already lost. Next time, we should play the *health care* reform game and not the *health insurance* reform game.

That way, we at least have a chance to win.

Dan Fisher, CGMA, is CEO of EmSpring, an employee benefits and consulting firm that specializes in creative, compliant employee benefit plans, particularly self-funded medical plans. A past president of the Washington Society of CPAs, Dan is a popular presenter to WSCPA chapters, professional HR

groups and attorneys on health care reform due to his straightforward explanations and real-world insight into how the complex law affects employers and consumers. EmSpring has offices in Bellevue, Yakima and Spokane, Washington.

Opinions expressed in this article are not necessarily the opinions of the Healthcare News.

Reprinted with permission from the Washington Healthcare News. To learn more about the Washington Healthcare News visit wahcnews.com.