Affordable Care Act: Implementation Is Still A Work In Progress  
By David Valent, Esq.

This article is intended to serve as an update regarding the status of the implementation of the Affordable Care Act (“ACA”).

One key component of the ACA set to take effect soon is the availability of Health Insurance Market Places/Exchanges. The Market Places are intended to make insurance options available at much lower costs than what is currently available through private insurance carriers. The Market Places are needed, because, beginning in 2014, individuals who are not insured will have to obtain insurance, or face a tax penalty for failure to comply. The Market Places are the key tool designed to help make “affordable” insurance options available to all individuals, pursuant to the ACA. But, not only are the Market Places important to the ACA’s goal of providing individuals with affordable insurance options, the Market Places are also an important tool to assist employers with finding coverage for their employees, pursuant to coverage mandates under the ACA.

Health Insurance Market Places/Exchanges are scheduled to be online by October 1, 2013, with coverage starting January 1, 2014. The government has also promised educational outreach programs to soon be available with regard to using the online Market Places. Although the educational outreach has not yet begun, the Administration says that the project is still on schedule. However, many experts fear that the system will not be up and running on time and/or that the health insurance options will still have costs that are not “affordable” to the average American.

On June 14, 2013, to provide further assurance that the government does have a plan in place to timely introduce the Health Insurance Market Places, the Department of Health and Human Services released a Notice of Purposed Rulemaking. The Notice proposes a number of rules/policies related to the implementation of the Affordable Care Act, including provisions regarding the Health Insurance Market Places.

Interestingly, the purposed rules intend to give states more flexibility with the implementation of the ACA. The rules permit a state to operate a State-based Small Business Health Options Program (SHOP), while the Department of Health and Human Services would still operate the individual federally-facilitated Market Place in that state. The government says these provisions have been developed based on state feedback, and would allow a state to focus on the effective implementation of the SHOP. Many other rules have also been proposed with regard to ensuring the quality, timeliness and effectiveness of implementing the ACA’s key provisions. Despite these government efforts to assure the public that the ACA will be timely and effectively implemented, not everyone is convinced of same.

United States Senator Pat Roberts [R-KS] recently proposed a bill that would repeal portions of the ACA, if the Market Places are not up and running on time. That said, attempting to repeal the ACA is not a new idea. There have been approximately 37 prior attempts at repealing the ACA, and none have yet been successful. Thus, it is expected that despite some challenges, the ACA will likely continue to remain in place, at least through the next election cycle.

Moving forward, we will continue to keep readers updated as to all the pertinent developments involving the ACA, and particularly, its impact on Ohio and on Ohio health care providers. In the interim, should you have questions, please do not hesitate to contact health care law attorney, David Valent, Esq., with Reminger Co., L.P.A.: dvalent@reminger.com; (216) 430-2196.