

Does the Shutdown “Shut Down” Health Care?

Article By:

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The ongoing partial federal government shutdown that began on October 1, 2013, was initiated in an effort to defund the Affordable Care Act (“ACA”). Now, it seems that the shutdown is affecting everything *but* the ACA.

Despite glitches and technical setbacks, the Health Insurance Exchanges opened on schedule on October 1st. The ACA is largely funded through taxes and other funding sources that will continue despite the shutdown. The Center for Medicare and Medicaid Services (“CMS”) has mandatory funding (funding exempt from annual appropriations) which allows it to continue to operate its Federally-Facilitated Marketplaces.

CMS will continue almost all of its ACA-related activities, but that does not mean that everything will be ‘business as usual’. CMS has directed state survey agencies to restrict complaint investigations to only those involving immediate harm to individuals. Medicare recertification surveys, revisits that are not required to prevent termination of Medicare participation, MDS and OASIS activities, informal dispute resolutions, and improvement projects funded by the civil monetary penalty fund have all been suspended.

The Health and Human Services’ Office of the Inspector General is continuing Medicare and Medicaid activities, but a large portion of other OIG activities have temporarily ceased. Numerous HHS activities are no longer running, including most new National Institutes of Health admissions, Food and Drug Administration inspections, and the Centers for Disease Control and Prevention annual influenza program. Federal rulemaking is at a standstill, which means that finalized rules and implementation will be delayed for various regulations.

The ACA has arrived, and despite the efforts of many Republicans in Congress, it is not going anywhere any time soon. The other programs and activities that have been caught in the crosshairs of the shutdown are the real losers in this no-win situation.

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