HealthCare.gov (A)

The first few weeks of October 2013 had been maddening for President Barack Obama. More than two weeks had passed since the disastrous launch of HealthCare.gov, and the administration still did not know what had happened. Daily meetings with the members of the U.S. Department of Health and Human Services (HHS) had produced minimal understanding of why or how the website had failed. Obama's chief of staff, Denis McDonough, traveled constantly to the headquarters of the Centers for Medicare and Medicaid Services (CMS), the lead agency charged with constructing the website, searching for answers. On an October 17 visit, CMS told McDonough that only 30% of visitors to HealthCare.gov could access the site at all. That same day, the White House press secretary publicly announced that improvements were being made every day. Privately, however, McDonough was tasked with a different mission: determining whether HealthCare.gov could be salvaged and improved upon, or if the administration needed to scrap the whole website and start over.[1]

The Affordable Care Act

On March 23, 2010, President Obama signed into law the Patient Protection and Affordable Care Act (PPACA), commonly referred to as the Affordable Care Act (ACA) or simply Obamacare.[2] (See **Exhibit 1** for a timeline of ACA milestones.) The most comprehensive piece of legislation passed in the United States in nearly half a century, the ACA established a wide-ranging set of laws, including ending insurance discrimination for patients with preexisting conditions, providing further coverage for young adults and women, and strengthening the Medicare program for senior citizens. In establishing a "Patient's Bill of Rights," Obamacare sought to protect consumers from the health insurance industry and make health insurance more affordable and accessible for all Americans.

A major tenet of the bill, the individual mandate, required that by March 31, 2014, most individuals—those without specific exemptions laid out by HHS—obtain a minimum level of health insurance coverage or pay a penalty fee for noncompliance with the law. Nonexempt individuals could meet minimum essential coverage standards through either government-sponsored coverage (such as Medicaid) or a private insurance plan. Ensuring that most individuals could comply with the law, the ACA included subsidies and tax credits to make coverage more affordable for all Americans. Penalties for noncompliance with the law were based on the greater of a certain percentage of household income or a flat dollar rate. To encourage individuals to meet coverage requirements, fines escalated with each subsequent year after 2014.[3]

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[1] Steven Brill, "Code Red: Inside the Nightmare Launch of HealthCare.gov and the Team that Figured Out How to Fix It," *Time*, March 10, 2014.
[2] HHS, "Key Features of the Affordable Care Act," HHS.gov, http://www.hhs.gov/healthcare/facts/timeline (accessed Mar. 27, 2015). See **Exhibit 2** for a full list of key ACA terms and abbreviations.
[3] Annie Mach, "Individual Mandate Under ACA," Congressional Research Service, August 12, 2014.

Despite being passed into law, the bill's far-reaching impact was intensely challenged. Issues ranging from the bill's burden on taxpayers to the constitutionality of the individual mandate were heavily debated and put under much scrutiny. In a landmark case, *National Federation of Independent Business v. Sebelius*, the plaintiffs challenged Congress's power to impose a penalty on individuals who did not comply with the individual mandate, arguing that under the U.S. Constitution's Commerce Clause, it was unconstitutional to force individuals to purchase a particular product. Ultimately, on June 28, 2012, the Supreme Court upheld the individual mandate, ruling that the penalty for noncompliance with the law was considered a tax rather than a fine and therefore fell within the power of Congress.[4]

Although the ACA's constitutionality was no longer in question, the bill's survival remained uncertain. Former governor Mitt Romney was in the midst of his campaign for the 2012 presidential election as the Republican nominee. The Republican Party still had large concerns about the ACA's effect on the government deficit and spending. In an ad outlining his platform, Romney stated, "The Supreme Court may have made their decision, but the American people haven't. Day one. Job one. Repeal Obamacare."[5] On November 6, 2012, Obama defeated Romney and was elected president of the United States for a second term.

HealthCare.gov

To facilitate individuals' ability to gain coverage, the ACA included the establishment of affordable insurance exchanges, or "marketplaces," to allow consumers to compare and select from different qualified health plans. Serving as a single access point for consumers, the online exchanges allowed for easy comparisons across different plans, increased competition among insurance issuers, and improved affordability of health insurance coverage. Under the ACA, states were allowed to choose between constructing their own state-based exchanges, partnering with the federal government and participating in the federally facilitated exchange (FFE), or operating completely under the FFE.[6] As shown in **Exhibit 3**, state involvement varied widely: 25 states participated fully in the FFE, 14 states opted to run their own exchanges, and the remaining states partnered at some level with the FFE.[7]

For all states that chose to partner with the FFE or elected not to construct their own state-based exchange, HHS would create a federal marketplace known as HealthCare.gov, a fully functional website that allowed consumers to compare plans and purchase health insurance online. To guarantee compliance with the individual mandate under the ACA, individuals would need to find and enroll in coverage plans during specified open-enrollment periods. In March 2012, the HHS issued a final ruling that the initial enrollment period for health plans on HealthCare.gov would begin on October 1, 2013.[8] Consequently, the site and supporting systems needed to be completed and fully operational by this date. This six-month period provided a window for individuals to enroll in a health care plan prior to the March 31, 2014, deadline for gaining coverage without penalty.

The development of HealthCare.gov went far beyond the construction of an online user interface. In addition to the website, HealthCare.gov was supported by multiple systems that processed data collected from

[4] "National Federation of Independent Business v. Sebelius," CaseBriefSummary.com, October 25, 2012, http://www.casebriefsummary.com/national-federation-of-independent-business-v-sebelius (accessed May 7, 2015).

[5] Adele Hampton, "Romney Campaign: 'Day One, Job One, Repeal ObamaCare,'" *Hill*, June 28, 2012, http://thehill.com/video/campaign/235499-romney-campaign-day-one-job-one-repeal-obamacare (accessed May 7, 2015).

[6] Center for Consumer Information and Insurance Oversight/Centers for Medicare and Medicaid Services, "General Guidance on Federally-facilitated Exchanges," May 16, 2012, https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/ffe-guidance-05-16-2012.pdf (accessed Apr. 1, 2015).

[7] Richard Cauchi, "State Actions to Address Health Insurance Exchanges," National Conference of State Legislatures, May 1, 2015, http://www.ncsl.org/research/health/state-actions-to-implement-the-health-benefit.aspx (accessed May 7, 2015).

[8] Government Accountability Office (GAO), "Ineffective Planning and Oversight Practices Underscore the Need for Improved Contract Management," July 2014.

consumers as they inputted information. The Enterprise Identity Management System confirmed users' identity when they initially entered the marketplace. As consumer information was inputted into the system, the federally facilitated marketplace (FFM) system accepted and processed data that were entered. The FFM provided three major functions: it determined an individual's eligibility for coverage during enrollment, interacted with state agencies and health insurance companies about qualified health plans, and facilitated payments between individuals and issuers. In addition, the federal data services hub verified and connected information between the FFM and external parties. The data hub connected with other government agencies to confirm and assess the veracity of an individual's provided information. **Exhibit 4** provides an overview of HealthCare.gov and select supporting systems.[9]

Project Execution

Government entities

After the ACA was passed into law, HHS was designated as the lead agency for the oversight and execution of many of the bill's reforms, including the construction of HealthCare.gov. As a result, HHS created the Office of Consumer Information and Insurance Oversight (OCIIO) as its primary office for dealing with implementation of the ACA's private health insurance provisions. In January 2011, OCIIO—and therefore responsibility for HealthCare.gov—was moved under CMS and renamed the Center for Consumer Information and Insurance Oversight (CCIIO). CCIIO focused on defining policies and regulations for the federal marketplace. The technical development of the project was tasked to CMS's Office of Information Services (OIS), which worked alongside hired IT contractors to construct the information systems and technology.[10] **Exhibit 5** shows an HHS organizational chart.

Outside contractors

Given the complexity and scale of the project, CMS would hire numerous outside contractors for the various supporting systems of HealthCare.gov. All contracts were subject to the HHS Acquisition Regulation, which defined specific policies and procedures for hiring outside contractors. CMS's Office of Acquisition and Grants Management (OAGM) oversaw the contracting process and had the ultimate authority to award contracts that required government funds. To hire contractors for HealthCare.gov, program offices, such as CCIIO or OIS, identified acquisition needs, developed requirements for the task, and submitted requests for contracts to OAGM. Each contract had a dedicated contracting officer at the OAGM that administered and issued the request for proposal to prospective companies. Working alongside representatives of the program office, the contracting officer then evaluated and awarded contracts based on which proposal best met the project's requirements and minimized project risk.

CCIIO began constructing the task orders for both the FFM system and data hub in late 2010. In February 2011, having been moved under CMS, CCIIO started its acquisition planning activities and began engaging with OAGM on its contractor strategy related to the construction of HealthCare.gov. OAGM received its first request for contracts from CCIIO in June. On September 31, 2011, CMS awarded its first contracts for the construction of both the FFM system and data hub to CGI Federal and Quality Software Services, Inc. (QSSI), respectively. Initial contract estimates obligated approximately $55.7 million in funds for the FFM system and nearly $30 million for the data services hub.[11] Over the course of the project, 60 contracts were awarded to 33 different companies for the construction of HealthCare.gov.

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[9] GAO.

[10] HHS Office of Inspector General, "Federal Marketplace: Inadequacies in Contract Planning and Procurement," January 2015.

[11] GAO.