



this issue

Two years of Obamacare **P.1**Obamacare regulation length **P.1**Regulations open for comment **P.4**

Two years of Obamacare and "We're still trying to find out what's in it."

Last month was the second anniversary of the passage of Obamacare. And by our count there are now over one hundred Obamacare regulatory implementation documents that span over 10,000 pages and contain nearly 2.5 million words.¹ You'd think that 2.5 million words would be enough to tell us exactly how Obamacare will work and operate.

Not so, says Governor Gary Herbert of Utah.

We Still Don't Know

Utah is proud of the market-based healthcare reforms it has made prior to Obamacare. It is one of two states to have implemented an insurance exchange before Obamacare.

But now Utah is working hard to figure out how their reforms will work within the context of Obamacare.

Last fall, Gov. Herbert's administration sent a 58-page document to the Obama Administration outlining questions that Utah still has about how Obamacare will be implemented at the state level. On March 21, 2012, Herbert said that even the 1,039 pages of regulations that the Obama Administration had released within the prior week, "still don't answer the questions we've been asking."²

For Governor Herbert, these regulations only "add to the confusion and uncertainty in the marketplace which inhibits our ability to [act on] healthcare reform."³

And these regulations are just the beginning.

How long are the Obamacare regulations?

As long as the Obamacare statutes¹ are, its implementing regulations are now five times its length. With the publication of two new regulations in the *Federal Register* on March 27, 2012, we calculate Obamacare regulations to contain 2,492,864 words² compared to 425,116 words in the Obamacare statutes. That's over twice as long as last time we wrote about the length of Obamacare regulations last May.

Past calculations of Obamacare's length focus on the number of pages it contains. But, as any high school or college student can tell you, the number of pages depends on font size, line spacing, and margins. So, some have calculated Obamacare to be over 2,000 pages long. This was true when it was in bill form. But now that it has been signed into law, its statute form is just 961 pages.³

(Continued on page 3)



(Continued on page 2)

Two years of Obamacare (continued)

(Continued from page 1)

What's Next

Twice a year the Office of Management and Budget at the White House publishes a listing of most of the regulations it plans to publish during the following 12-month period. This document is called the “Unified Agenda of Regulatory and Deregulatory Actions.” Of the regulations planned for 2012 that OMB listed in its last Unified Agenda, issued this past December, 51 were related to Obamacare. Ten of those regulations have since become final rules. That means that we can expect at least 41 regulations (at various stages of the process) to be published this year. We say “at least” because this list is not comprehensive.

For instance, it doesn't include an exchange accreditation regulation that was just received for review by the White House's Office of Management and Budget on Wednesday. It also does not include, what has been referred to as the "contraceptive mandate" regulation which was issued in its pre-rule form on March 21, 2012.

Plus, the Unified Agenda indicates that the Obama Administration plans for an additional 14 regulations to be published sometime after 2012.

Gov. Herbert used the often quoted Obamacare prediction of then Speaker of the House Nancy Pelosi when he said, “The idea that we have to pass it to find out what's in it—we're still trying to find out what's in it. And the more we look and the more we learn the more we don't like what we're finding.”⁴

What We're Finding

There's much to dislike in Obamacare—more than can be covered in a single article. But it all boils down to a single bad idea: that the availability of health resources should not be regulated by prices in a free market. The idea that you should be able to consume all the

healthcare you want or need for free or for limited cost.

For example, Obamacare places limitations on the market by removing “cost sharing mechanisms” like copays and coinsurance for certain medical services and drugs. It limits how much insurers can make in profit or spend on overhead. And, despite statutory language to the contrary, it gives the Independent Payment Advisory Board the power to effectively ration Medicare. The IPAB will be instructed to reduce per capita Medicare spending, but it is prohibited from charging more in premiums, copays, or deductibles.

Because Obamacare restricts the free market's ability to allocate scarce healthcare resources based on price, other means must be used to make sure there's enough healthcare to go around. So, while your visit to the doctor might be free, there are indications that limits may be placed on how many times you can see your doctor.⁵

Already in Massachusetts, whose law in many ways was the model for Obamacare, the number of family and internal medicine doctors accepting new patients is declining while those who have found such doctors must endure longer wait times.⁶

And a recent study in the *Annals of Emergency Medicine* confirms what is becoming common knowledge, that Medicaid patients have difficulty finding doctors to treat them.⁷ Obamacare's expansion of Medicaid coverage is likely to compound this problem by flooding the market with more Medicaid beneficiaries. The study concluded that,

Compared with individuals with private insurance, Medicaid beneficiaries were affected by more barriers to timely

(Continued on page 3)

Two years of Obamacare (continued)

(Continued from page 2)

primary care and had higher associated [emergency room] utilization. Expansion of Medicaid eligibility alone may not be sufficient to improve health care access.⁸

Scarcity of all resources, including healthcare, is a fact of life. The question is how will we regulate the allocation of those resources. The socialist reforms of Obamacare will regulate based on lengthy regulations, complex formulas, and, inevitably, longer wait times. Free markets allocate based on price—Obamacare’s alternative is decreasing availability no matter what the price.

¹ This includes an additional 335,442 words of Obamacare regulations that have been released since our last survey of Obamacare’s regulation length.

² Gary Herbert, Governor of Utah, Closing Remarks before the American Action Forum event, “The

Affordable Care Act Turns 2...Will it Turn 3?: Evaluating the Supreme Court Challenge and the Potential Fallout,” (Mar. 21, 2012).

³ *Id.*

⁴ *Id.*

⁵ J. Lester Feder, “Did CMS offer a way around coverage limits ban,” POLITICOPRO (Feb. 22, 2012) available at <https://www.politicopro.com/story/healthcare/?id=9407>.

⁶ Josh D. Archambault, et al., *The Great Experiment: The States, The Feds and Your Healthcare*, (2012) 136.

⁷ Paul T. Cheung, M.P.H., et al., “National Study of Barriers to Timely Primary Care and Emergency Department Utilization Among Medicaid Beneficiaries,” ANNALS OF EMERGENCY MEDICINE (Mar. 14, 2012) available at <http://www.annemergmed.com/article/S0196-0644%2812%2900125-4/abstract>.

⁸ *Id.*

How long are the Obamacare regulations? (continued)

(Continued from page 1)

But because Obamacare has the same number of words no matter how you format it, word count is a more accurate way of calculating its length.

Just how long is 2,163,744 words?

The epic novel *War and Peace* is only 560,000 words long.

Atlas Shrugged weighs in at 645,000 words.

The Obamacare regulations appear to have even eclipsed what Wikipedia considers the longest published novel in either the Latin or Cyrillic alphabets. *Artamène, or Cyrus the Great* (in French: *Artamène ou le Grand Cyrus*) is a ten-volume, 13,095 page novel containing 2,100,000+ words.

By our count, the King James Version of the Bible contains 830,314 words.⁴ That

makes Obamacare regulations three times as long as the Bible!

The average reader reads at a rate of 250 to 300 words per minute, but when reading detailed documents such as regulations the rate drops to 200 words per minute.⁵

At 200 words per minute, the Obamacare Regulations would take 207 hours to read. That’s eight and a half days of non-stop reading; it’s five 40-hour business weeks.

The length of these regulations exemplifies not only the complexities that Obamacare has placed on the medical and insurance communities, but also the need to vigilantly monitor these regulations as they are published. We at Americans for Limited Government encourage you to join us as we do just that.

(Continued on page 4)

How to Comment on a Regulation

1. Go to the Regulations page at: ObamacareWatcher.org
2. Choose a regulation.
3. Click on the "Comment Now" link to be directed to the Regulations.gov website.
4. Click "Submit a Comment" which is located towards the top of the page.
5. Fill out the comment form.

Glossary of Agency Abbreviations

CMS:	Centers for Medicare and Medicaid Services
DOL:	Department of Labor
EBSA:	Employee Benefits Security Administration
HHS:	Department of Health and Human Services
HRSA:	Health Resources and Services Administration
IRS:	Internal Revenue Service
OIRA:	Office of Information and Regulatory Affairs
TREAS:	Department of the Treasury

Obamacare length (continued)

(Continued from page 3)

¹ Obamacare is made up of two statutes: Public Law 111-148 and Public Law 111-152.

² This includes 102 documents such as requests for information, advance notices of proposed rulemakings, proposed rules, interim final rules and final rules, and some notices. However, with some exceptions, we excluded guidance and "bulletin" documents that are not subject to the normal notice and comment requirements of the Administrative Procedures Act. We also excluded many regulation documents which were only in part affected by the Obamacare statutes.

³ P.L.111-148 is 906 pages and P. L. 111-152 is 55 pages.

⁴ We calculated the number of words in the King James Bible by using the "Summary" feature of Notepad++ on the ASCII text version of the KJV available at http://printkiv.ifbweb.com/AV_txt.zip. The preface, table of contents, and other introductory remarks were removed before performing the word count.

⁵ Ziefle, M. (1998), Effects of display resolution on visual performance, Human Factors, 40(4), 555-568.

Status: Notice of proposed rulemaking. Public comments accepted through May 7, 2012.

Certain Preventive Services under the ACA

RIN: 0938-AR42 **Agency:** HHS-CMS, TREAS-IRS, DOL-EBSA

Status: Advance notice of proposed rulemaking (ANPRM). Public comments accepted through June 19, 2012.

Medicaid Program; Eligibility Changes Under the ACA

RIN: 0938-AQ58 **Agency:** HHS-CMS

Status: Final rule; Interim final rule. Public comments accepted through 5pm, May 7, 2012.

Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers

RIN: 0938-AQ67 **Agency:** HHS-CMS

Status: Final rule; Interim final rule. Public comments accepted through 5pm, May 11, 2012.

For the latest status on these and other regulations, visit us at:

<http://ObamacareWatcher.org>

Regulations open for comment

Covered Outpatient Drugs

RIN: 0938-AQ41 **Agency:** HHS-CMS

Status: Proposed Rule. Comments accepted through 5:00pm, April 2, 2012.

Application for Recognition as a 501(c)(29) Organization

RIN: 1545-BK64 **Agency:** TREAS-IRS

Status: Notice of proposed rulemaking. Public comments accepted through April 9, 2012.

Reporting and Returning of Overpayments

RIN: 0938-AQ58 **Agency:** HHS-CMS

Status: Proposed Rule. Comments accepted through 5:00pm, April 16, 2012.

National Practitioner Data Bank

RIN: 0906-AA87 **Agency:** HHS-HRSA

Status: Notice of proposed rulemaking. Public comments accepted through April 16, 2012.

Taxable Medical Devices

RIN: 1545-BJ44 **Agency:** TREAS-IRS

OBAMACARE REG WATCHER

FOR MORE INFORMATION CONTACT:

WILLIAM WILSON, PRESIDENT

AMERICANS FOR LIMITED GOVERNMENT

RESEARCH FOUNDATION

9900 MAIN STREET

SUITE 303

FAIRFAX, VA 22031

703.383.0880

ObamacareWatcher.org

