

Research



Analysis Finds Obamacare Already Missed Nearly Half of Its Regulatory Deadlines

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In a disturbing new discovery, American Action Forum research found that Affordable Care Act (ACA) regulations have missed nearly half of their deadlines. Of the ACA regulations with legal deadlines, 47 percent, 20 of 42, have broken the implementation schedule.

“The Secretary shall...” language in legislation often allows legislators to cede broad policymaking authority to administrative agencies. In significant regulatory overhauls, such as Dodd-Frank or the ACA, the phrase literally appears hundreds of times. However, with both pieces of legislation, agencies are often required to issue regulations by a specific date.

Two notable regulations that missed their deadlines are also two of the more controversial. The new requirements for the calorie labeling of food in vending machines and menu items will cost restaurants and other small businesses more than \$757 million to implement, and generate more than 1.4 million annual paperwork burden hours. However, businesses are still waiting for a final rule, and the proposed version arrived late as well.

Perhaps the most expensive “tardy” regulation involved forcing health plans and third party administrators to publish a “uniform” summary of benefits for health plans. The Administration was supposed to issue a final rule by March 23, 2011, but a rule was not published until almost a year later. The total cost for the regulation when it did arrive: \$146 million and more than 3 million paperwork burden hours.

To date, the ACA’s implementation schedule has received little attention. Unlike other bills with broad regulatory authority like Dodd-Frank, the Administration alone can implement the ACA, not independent agencies. The President has the power to either make its legal deadlines or leave regulated businesses in limbo. Based on this evidence, the Administration has chosen “regulatory uncertainty.”

Note: The Forum cross-checked the deadline listed for each unique Regulation Identifier Number (RIN) with the date the agency published, if applicable, a corresponding regulation in the Federal Register. The Forum also included withdrawn actions that missed the ACA’s statutory deadlines.

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