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FOR YOUR INFORMATION
The Idaho Statesman
Boise, Idaho
Saturday Nov. 11, 2017
by Kimberlee Kruesi (AP)
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Legal doubts raised about Medicaid expansion initiative

The Idaho Attorney General's Office flagged a handful of concerns while vetting a proposal seeking to expand Medicaid coverage through a ballot initiative rather than through the state's Republican-dominated Legislature.

According to analysis completed Tuesday, Deputy Attorney General Scott Keim says the initiative contains language requiring the state to implement Medicaid expansion immediately if the proposal is approved – otherwise known as an emergency clause.

Keim said emergency clauses apply only to legislation approved by the Idaho Legislature, not through a ballot initiative.

“(Given) the different statutory framework surrounding the initiative process, this clause is inappropriate,” Keim wrote, adding that Idaho law already dictates when an initiative should be implemented if passed by voters.

Keim also raised concerns about the ballot's promise to end Medicaid expansion coverage in Idaho if the federal government ever stops paying for the majority of the extra costs of the expanded program.

Under the Affordable Care Act, the U.S. government pays at least 90 percent of the cost of expanding Medicaid.

“Although the program is not aware of CMS ever refusing to allow a state to discontinue an optional service, there is a possibility that the amendment to remove this service could be delayed or even denied,” Keim wrote.

Reclaim Idaho, a group leading the ballot initiative effort, based its proposal on former Democratic Sen. Dan Schmidt's 2016 Medicaid expansion bill that failed in the Legislature last year. Schmidt has since been ousted from his legislative seat by a Republican who, in line with many in his party, is against Medicaid expansion.

Ballot initiatives in Idaho must be reviewed by the AG before supporters can collect signatures to get it on the 2018 November ballot, but organizers are not required to adopt the attorney general's recommendations.

Reclaim Idaho submitted the proposal to the Secretary of State's Office last month. The group now needs at least 48,000 signatures from registered voters to make the ballot.

The battle over whether to expand Medicaid has traditionally taken place inside state legislatures since former President Barack Obama's health care reform law was enacted in 2010. But after years of opposition from Republican state lawmakers, activists are seeking a new approach. In total, 31 states have expanded their program.

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Maine voters recently defied conservative opponents by becoming the first state to approve Medicaid expansion through a ballot initiative, sparking hope to supporters in Idaho and other states seeking to pass similar measures. However, Maine's GOP governor said his administration still would refuse to expand the program.

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