Bait and Switch: The story of "You can keep your plan"

From October 7, 2008 through October 25, 2013, President Obama, http://www.youtube.com/watch?v=qpa-5JdCnmo unequivocally assured Americans, "if you like your health plan you can keep your health plan." The Affordable Care Act was sold as a choice, not a replacement. On November 4, 2013, his statement was dramatically reversed. Here is the timeline and documentation of what happened.

March 23, 2010: President signs his health plan into law.

On March 23, 2010, the Patient Protection and Affordable Care Act was signed into law by President Obama.

March 23, 2010: The law contains a 'grandfather' clause that protects existing plans and prevents cancellations.

According to the CBO, at the time the President signed the law it defined 'grandfathered': "as long as a person was enrolled in a health insurance plan on March 23, 2010, that plan has been grandfathered." This meant everyone with an existing health insurance policy could keep their plan. But, there were some strings attached.

Insurers were mandated to add several costly requirements:

- They were prohibited from placing any lifetime limits on essential health benefits
- Plans could not be terminated for illness
- Coverage had to be extended to dependent children up to age 26
- There could be no annual essential health benefit limits on group health plans
- There could be no coverage exclusion for pre-existing health conditions

Even if no profits were made, the PPACA requirements alone would add to the cost of a policy. PPACA placed a limit on the amount of profits an insurer could make. However, the law was "silent on the question about whether changes to a plan or coverage would make it a new plan." These factors made it possible for insurers to issue policies that would comply with the new law.

June 2010: Obama administration orders agencies to write regulations that will restrict the 'grandfather' clause.

In June 2010, the Obama administration instructed The Department of the Treasury, The Department of Labor and the Department of Health and Human Services, to use "regulatory guidance" to address *when* a plan was no longer "grandfathered."

June 17, 2010: Agencies place new restrictions on 'grandfathering,' and predict up to 11.2 million individuals and 82.4 million group insured will now lose their plans.

On June 17, 2010, in response to the administration's directions, the three agencies entered an "Interim Final Rule" in the Federal Register defining both, the new limitations placed on grandfathered plans and the estimated number of people who would lose their insurance as a result of the changes.

The new limitations included:

- Employees were limited in their ability to move into a different grandfathered plan when changing companies;
- Companies were prevented from engaging in mergers for the purpose of retaining grandfathered plans;
- Insurers were prevented from increasing co-pays by more than $5;
- The Federal Register contains 11 pages of restriction placed on insurers, insureds and employers to retain the grandfather status.

Because of the additional coverage requirements placed on the insurers, the restrictions placed insurers to make the changes necessary to provide the additional benefits, and the exorbitant premiums required to support the benefits, HHS predicted that many policy-holders would lose their plans:

Loss of current insurance:

In the Federal Register, HHS estimates there are 176.3 million people insured under federal and non-federal group plans and 16.7 million individual plan holders under age 65 in the U.S.

In the same entry, HHS projects that 66% of small employer plans and 45% of large employer plans will lose their grandfather status by the end of 2013. (This has advanced to 2014 as Pres. Obama postponed the employer mandate for one year.)

HHS projects that 40% to 67% of individual plans will relinquish their grandfather status by the end of 2014.

HHS projected that in total, up to 93.6 million Americans may lose their coverage by the end of 2014.

May - August 2010: As his federal agencies re-define 'grandfathering,' the president ceases announcements that Americans can keep their health plans.

September 21, 2010: The House introduces a resolution to prevent the loss of policy cancellations.

By the summer of 2010, word had spread throughout Washington political circles that many, if not most Americans would lose their current health plans under the PPACA. On September 21, 2010, in an attempt to prevent cancellations under the new regulations, Sen. Michael Enzi introduced SR Res. 39, A Joint Resolution to Disapprove the Grandfathering Rules established by HHS.

September 29, 2010: The President unequivocally assures Americans they can keep their plans.

September 29, 2010: House Democrats argue against the Republican resolution.

Democrats issue a rebuttal arguing that the new regulations were necessary to "preserve stability in insurance markets…and provide enhanced consumer protections in health insurance markets" and that Republicans were trying to derail the president's plan.

September 29, 2010: Democrats defeat the resolution, assuring individual policies will be cancelled.

On September 29, 2010, in a 40 – 59 party line vote, (Murkowski, R-AK did not vote,) SR Res. 39 is rejected. Every Senate Democrat voted "Nay."

October 25, 2010: The IRS predicts more than 10 million individuals will lose their current insurance plans.

On October 25, 2010, the IRS released a bulletin predicting that in excess of 10 million people will likely lose their individual policies as a result of the administration's new 'grandfather' regulations.

November 11, 2010: CBO releases a new definition of 'grandfathered plans.'

On November 12, 2012, following the administration changes to PPACA, the CBO released a revised definition of the law's grandfathered plan. It is now one that "has not undergone coverage changes that would cause it to lose grandfathered status."

June 28, 2012: The President unequivocally assures Americans they can keep their plans.

September 26, 2013: The President unequivocally assures Americans they can keep their plans.

October 2013: Insurers begin cancelling policies.

In October 2013, in response to the new restrictive regulations, the initial wave of the predicted policy cancellations begins to cascade across the nation.

http://www.forbes.com/sites/theapothecary/2013/10/31/obama-officials-in-2010-93-million-americans-will-be-unable-to-keep-their-health-plans-under-obamacare/

October 25, 2013: The President unequivocally assures Americans they can keep their plans.

October 29, 2013: NBC reports Obama knew about cancellations for 3 years.

http://investigations.nbcnews.com/_news/2013/10/28/21222195-obama-administration-knew-millions-could-not-keep-their-health-insurance

NBC reported that sources "deeply involved" with the Affordable Care Act revealed that up to 80% of individual consumers could lose their policies and, in many cases will be forced to pay higher premiums.

November 4, 2013: The President reverses self and says Americans can only conditionally keep their plans.

On November 4, 2013, as news stories follow policy cancellations affecting over 2 million people, http://dailycaller.com/2013/10/24/health-insurance-cancellation-notices-soar-above-obamacare-enrollment-rates/ President Obama altered his original storyline to now suggest that "you can only keep your plan", if it is not as good as the Affordable Care Act's plan.

November 7, 2013: President denies knowing so many people would lose plans and that it will only affect 5% of people.

On November 7, 2013, after months or assuring Americans they could keep their healthcare, President Obama denies any knowledge that people would not keep their policies and, in contradiction of his own agency reports, assures the nation the cancellations will only affect 5% of the people. http://www.mcclatchydc.com/2013/11/07/207909/analysis-tens-of-millions-could.html

November 14, 2013: Obama offers to postpone cancellations for a year
The President's naive offer for insurers to simply go back to what they before had may not work. Several states argue they cannot back track and insurers argue he has destabilized the market and this move could drive costs even higher. http://www.myfoxtampabay.com/story/23964964/policy-cancellations-obama-will-allow-old-plans

Then, there is the question of legality. Does the president have the authority to re-write laws? http://articles.washingtonpost.com/2013-08-15/opinions/41412547_1_health-care-dream-act-barack-obama

November 15, 2013: Obama seeks assistance from insurers to cover cancellations.

After ordering regulations that assured the cancellation of millions of policies, and blaming insurance companies for the dropped policies, the president sought help from insurers cover the losses. http://townhall.com/tipsheet/katiepavlich/2013/11/15/obama-meeting-with-insurance-representatives-as-the-white-house-friday-n1747167

November 20, 2013: The administration continues to blame insurers for cancellations.

Various members of the administration continue to argue http://www.politico.com/story/2013/11/health-official-blames-cancellations-on-insurers-100144.html that the 'grandfather' clause provided insurers the opportunity to simply 'freeze' their existing plans. The simplistic argument overlooks the high costs associated with the June 2010 HHS mandates. Insurers were caught in a 'double-bind.' If they raised premiums enough to cover the cost of new rules, policy holders would have dropped the plans. Yet, if they did not add the required benefits, their plans were no longer 'grandfathered.' Insurers dropped them, because they had no choice.

The big question. Why, with so much available data, did not one single main stream media outlet warn Americans that nearly 30% of us would lose our healthcare coverage until after the cancellations began?