

Should your state establish a health insurance exchange?

What you need to be thinking about now.



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One of the most anticipated elements of the Patient Protection and Affordable Care Act (PPACA) is the creation of healthcare exchanges by individual states. The purpose of these exchanges is simple enough: to bring buyers and sellers together in a marketplace for qualified healthcare insurance. But that simplicity is belied by tremendous underlying complexity. Some of the underlying considerations include:

- **Cost:** Depending upon the authority granted by the state, the exchange may be responsible for establishing, reviewing, or certifying premiums for the various plans in concert with selected insurers. The exchange may be held accountable over time for premium levels and may need to (or be directed to) find ways to bend the premium trend line.
- **Affordability:** Plans offered must be priced within the reach of the intended marketplace.
- **Access:** Exchanges must assure that potential members have access to coverage and understand their options.
- **Group size:** States must set group sizes for their exchanges, effectively deciding who is eligible to participate. In addition, the plans must be of sufficient size to attract a market and operate successfully.
- **Age:** The plans must be structured to attract a range of participants of all ages while operating within the parameters of the 3-to-1 age bands mandated by the new law.
- **Marketing and education:** As a newly created entity, exchanges face challenges in public education and marketing within a global marketplace. Traditional marketing techniques may not reach intended audiences.
- **Eligibility:** Exchanges must determine which individuals do and do not qualify for the various premium subsidies.
- **Plan qualification:** Exchanges must qualify plans that fit the various plan design criteria identified in the PPACA, and then successfully market them.
- **Risk adjustment:** Newly designed plans and processes may attract higher-risk participants to exchanges. In addition, because insurers will have limited ability to reflect risk characteristics in

the premiums, exchanges will need to determine risk-adjusted subsidies between insurers that work to level the playing field among insurers.

And, not least, in this era of electronic communication and commerce the task of creating exchanges and all that they must entail is assumed to be an online one. That is, education about healthcare choices and the choices themselves must be structured to occur on websites.

All of these complexities are also accompanied by a management and administrative infrastructure charged with carrying out and coordinating them, which means that a physical as well as electronic presence will be required. At a minimum, general management, finance, and personnel functions will need to be incorporated into the exchange operating business plan.

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An exchange must be available in each state by January 1, 2014. Given the amount of effort required to establish them, states must begin work on their exchanges immediately. However, some states have opted to take legal action, questioning whether the federal authority exercised in the PPACA impinges on state sovereignties. Even as the results from these actions may further impact the requirements, each state must determine how to respond to the complex array of them. The first step involves consideration of issues surrounding the creation of an exchange.

DISCUSSION OF THE DECISION-MAKING PROCESS ON EXCHANGES

States are required by the PPACA to create exchanges for state residents. But there is no penalty to the individual states for failure to act. The PPACA authorizes the federal government to step in and manage the exchange functions should any individual state fail to act. States may wish to consider the following issues even if they have already made a decision.

Self-determination. States must decide whether the creation and control of an exchange by the individual state rather than the federal government is a critical local issue. As noted earlier, if the individual states do not act, the federal government will provide a default exchange to be designed by the U.S. Department of Health and Human Services (HHS). The federal government will choose a nonprofit organization to administer the exchange. It is not clear whether a state can alter its decision in the future. However, it clearly would need to work with the established organization if it chose to become involved at a future date.

Initial and ongoing cost. The PPACA includes grant funding for the creation of state exchanges. Initial grant funding is available for a year from adoption of the PPACA. Grants may be renewed if satisfactory progress is being made. However, there will be ongoing costs to maintain an exchange. The exchange can assess insurers who participate but there may be pressure from insurers to keep these assessments as low as possible.

Recognition of individual state issues. If a state creates its own exchange, it can structure that exchange to meet the needs of its population. The federal default exchange structure may use the “one size fits all” philosophy with respect to structure. An individual state may also choose to create more than one exchange for its own purposes. States with great socioeconomic diversity may choose to provide exchanges to meet that diversity.

Coordination of exchange and coverage for Medicaid, CHIP, and other uninsured populations that require coverage. States will be required to expand coverage for portions of their uninsured populations and have the option of placing at least some of those newly eligible in a state exchange. Because each state will be responsible for at least a portion of the costs for these expanded populations, it may want the exchange to be under state control. This coordination can help ensure that coverage for these groups will be coordinated with adopted state budgets.

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Increased accountability to federal government. States that establish an exchange will be required to provide annual reporting to the federal government and may be subject to investigations and/or audits. This increased accountability will require strong finance and data-gathering functions within the exchange.

Regulation of insurers. States will continue to regulate insurers at the state level. Because some insurers may have products both in and out of the exchange, the state may find it easier to maintain regulatory control if it also controls the exchange.

States must consider the issues carefully and make a determination on the best course of action given each state's specific circumstances. The timeframe within which to make these decisions is short but states should not skip over the step to objectively consider the options.

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