



## **Section 1.0**

### **Legal Authority and Governance**

#### **1.1**

Expected completion date: Completed

New Mexico currently has a health insurance exchange (HIX) created by New Mexico statute. In 1994 the New Mexico Legislature created the New Mexico Health Insurance Alliance (HIA) that exists as a quasi-governmental agency with the express purpose of providing increased access to health insurance in the state. NMSA 59A-56-1, *et. seq.* (New Mexico Health Insurance Alliance Act.) Since its inception, HIA has provided for “guaranteed issue” regardless of pre-existing conditions. All companies authorized to transact health insurance, HMOs, and non-profit health plans in the state are currently members of the Alliance. HIA offers both small employer and individual plans. While the establishment of the HIA as an exchange is clear on the face of the enabling statute of the HIA, nevertheless a confirmatory letter from the General Counsel to New Mexico Human Services Department is attached.

#### **1.2**

Expected completion date: Completed

HIA is a nonprofit public corporation governed by a fourteen (14) member board of directors. The New Mexico Superintendent of Insurance serves as the Chair of the Board and does not vote except in the event of a tie. NMSA 59A-56-4.

#### **1.2a**

Expected completion date: Completed

HIA’s board consists of:

- Five directors appointed by the governor who are officers, general partners, or proprietors of small employers, including one nonprofit;
- Four directors appointed by the governor who are employees of small employers;
- Five directors, elected by members, who shall be officers or employees of HIA members, including two representatives of health maintenance organizations and three representatives of other types of members, and
- The superintendent of the division of insurance (or the superintendent’s designee) who sits as Chair of the Board and only votes in case of a tie. See NMSA 59A-56-4.

Of the 14 members of the Board, the four employees of small employers should be considered consumer representatives for purposes of advocating on behalf of individuals and employees.

The five members who are representative of small employers should be considered consumer representatives, particularly for the interests of small employers in the SHOP environment. The Superintendent of Insurance should also be a consumer representative for consumer interests in general.

HIA's Board Committees and their purposes are:

- Finance – Quarterly review of financial statements against budget projects; premium rate reviews; approval of operational budgets; external audits
- Operations and Benefits – Review of benefit plan design; revision of benefit categories; compliance with federal and state laws; review of operations and workflow
- Marketing – Marketing and public relations campaigns; marketing budgets; outreach efforts
- Executive Committee – Oversight of Executive Director; oversight committee for standing committees when necessary
- Human Resources Committee – Review of Board policies regarding employees
- Appeals and Grievances – Address member appeals and complaints.

NMSA 1978 59A-56-4(D)

### **1.2b**

Expected completion date: First quarter, 2013

As a quasi-state agency, the HIA has statutory duties and powers primarily concerning the issuance and regulation of private health insurance products. NMSA 59A-56-6. Though PPACA refers to “charter” or “bylaws,” the New Mexico legislature has referred to the governance structure of the Alliance as a “plan of operation.” NMSA 59A-56-5. Generally, HIA must comply with the NM Open Meetings Act. NMSA 59A-56-6(B)(8). In formulating its “plan of operation” (*i.e.* for handling the assets of the alliance, the financial and fiscal reporting requirements, penalties, marketing, etc..) HIA has the additional requirement to promulgate its “plan of operation” after “notice and hearing.” NMSA 59-56-5(B).

HIA anticipates amending its plan of operations to insure compliance with conflict of interest and financial disclosures (in addition to the existing transparency and financial disclosures required by New Mexico law) in the next few months.

### **1.2c**

Expected completion date: First quarter, 2013

HIA is currently developing conflict of interest and financial disclosure policies consistent with 45 CFR 155.110(d). After development of these policies, HIA must conduct a public hearing prior to adopting them into its plan of operation.

### **1.2d**

Expected completion date: Completed

The statutory requirement for composition of the HIA board eliminates the possibility of a majority of its board directors having a conflict of interest. Of the 14 voting directors, only five are representatives of certain types of health plans, the rest represent small employer consumers or employees of small employers.

### **1.2e**

Expected completion date: Completed

Although there are some vacancies, currently all the directors of the HIA have direct relevant experience in health care in New Mexico in both the small employer and individual market.

### **1.2f**

Expected completion date: Completed

This activity is ongoing. HIA is required by law to hold regular, public governing board meetings that comply with NMSA 1978 10-15-1 et seq., the New Mexico Open Meetings Act. NMSA 59A-56-6(B)(8). Any changes to the HIA “plan of operations” can be made after notice and a public hearing conducted by the Superintendent of Insurance. NMSA 59A-56-5(B).

### **Supporting documentation:**

NMSA 1978 59A-56-1 *et seq.*, Health Insurance Alliance Act

General Counsel Opinion Letter dated December 12, 2012

13.10.11.1 NMAC (06.01.01), Health Insurance Alliance Plan of Operation and Eligibility Criteria

DOI Order to Amend HIA Plan of Operation and Eligibility Criteria, 01.13.12