

# **Key Issues in Implementing a Health Insurance Exchange**

**Presentation to the  
Legislative Health and  
Human Services Committee  
October 5, 2010**

Mark Reynolds, Acting General Counsel  
Human Services Department

# 1. Avoiding Adverse Selection

- Occurs when healthy individuals and groups purchase insurance disproportionately outside the exchange.
  - Exchange becomes a high-risk pool.
- ACA has provisions that discourage adverse selection.
  - Most insurance reforms apply both within and outside the exchange.
  - Transitional and permanent risk-adjustment programs.
  - The individual mandate discourages healthy people from not getting insurance.
  - Subsidies only available through exchanges.
- Despite ACA provisions, adverse selection still seems likely.
  - Some extra requirements on plans in the exchange.
  - Grandfathered plans, especially large group and self-insured.

# Adverse Selection (continued)

- Possible strategies to minimize adverse selection:
  - (1) Require all sales of individual and small group insurance to go through the exchange.
    - Appears to be allowed under the ACA.
    - Legal challenges?
    - Undocumented immigrants.
      - ACA prevents unlawful aliens from purchasing coverage through the exchange so undocumented aliens would lack access to health insurance.
  - (2) Regulate the individual and small group insurance market identically inside and outside the exchange.
    - Place all the same requirements on non-exchange plans.
      - Marketing, credentialing and network requirements.
      - Must offer same products.
      - Prevent “lemon dropping.”

## 2. Number of exchange participants

- The exchange probably needs to enroll as many participants as possible.
- The pool must be large enough to attract insurance plans. If too small, there will not be enough competition, plans will not be a good deal and not enough consumer choice.
  - Insurers need a credible insurance risk pool.
  - Group must be large enough for insurers to obtain provider discounts.
- Must have enough participants to create economies of scale enabling a reduction in administrative costs.

# Number of Participants (cont.)

- ACA's provisions that help increase market participants:
  - Individual mandate.
  - Subsidies.
  - Small-employer tax credits for two years.
- State option: Allow employer groups of up to 100 to participate in Exchange (as opposed to 50).
- Open the exchange to large employer, over 100, ASAP (2017).
  - Possibly compounds adverse selection problem.
- Provide state and local government employee coverage through an exchange parallel to the ACA exchange and merge in 2017?

# 3. Cost of the Exchange

- Start-up costs.
  - Information technology system.
  - \$1 million planning grant.
- On-going administrative costs.
  - Requires staff to determine eligibility, manage plans, etc.
  - Contract with “navigators”
- ACA assumes that most funding will come from assessments on insurers to participate in the exchange.
  - The benefits of participating must outweigh the costs.
- The role of agents and brokers and their fees must be analyzed.

# 4. Exchange Governance

- Governmental entity or private non-profit?
- If governmental entity, connected to an agency or independent?
- Are the functions of the Exchange appropriate for a private entity?
  - Some decisions, such as determinations of eligibility for subsidies and plan participation appear to be a government function.
    - Unconstitutional delegation of public function to private entity?
- If public entity, potentially subject to:
  - State Personnel Act
  - Procurement code
  - State Rules Act, rulemaking requirements
  - Open Meetings Act
  - IPRA

## 5. Making the Exchange Employer Friendly

- Combine the Small Business Health Options Program (“SHOP”) with individual market or keep separate?
  - SHOP is designed to assist qualified employers in enrolling their employees in the exchange.
- Exchange must enroll small employer groups to overcome adverse selection.
- Exchange should reduce administrative burdens of small employers
  - Take on basic benefit management services such as automated billing and collection, on-line enrollment, employee additions and removals, plan selection, etc.
  - One aggregate bill covering premiums of all employees.

# 6. Regulatory Role of the Exchange

- How does the exchange carry-out its regulatory functions?
  - Further standardize plans?
  - Certifying eligibility for subsidies.
  - Certifying eligible plans.
    - ACA sets forth certain standards, but how aggressive should the exchange be in negotiating and competitively selecting qualified plans?
      - The size of the exchange and the ability to attract new insurers to concentrated markets will determine the negotiating power of the exchange.

# 7. Information Clearinghouse

- The ACA greatly increases transparency of insurance plans and provides for increased consumer information.
- Exchanges are to act as the clearinghouse of all information on available insurance plans.
  - Has to collect information and distribute to the public in an understandable form.
  - Make comparative consumer satisfaction info available
    - Develop a rating system.

## 8. The exchange and public benefit determinations.

- The ACA calls for a seamless, coordinated and efficient electronic system to process eligibility for tax credits, subsidies, Medicaid and CHIP.
- Must be seamless transitions between Medicaid/CHIP and enrollment in the exchange.
- Subsidy determination process should not hinder the enrollment of unsubsidized individuals.