

Health Care Reform Update: Insurance Exchanges and Insurer Risk Standards

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The Patient Protection and Affordable Care Act (PPACA) requires that by January 1, 2014, states operate health insurance exchanges to provide a competitive marketplace where individuals and small businesses may purchase affordable private health insurance coverage. It's a colossal undertaking that also assumes the political willpower continues after the next presidential election. Even so, there is a lot to learn and much at stake right now for healthcare providers and employers of all sizes here in Washington

State. In my opinion, the foundation of PPACA is not the constitutionally challenged individual mandate to purchase coverage, but the success or failure of Accountable Care Organizations and the State Insurance Exchanges. With recent rules published, the Exchanges are currently getting most of the attention.

According to the Department of Health and Human Services (HHS), the Exchanges will make it easier to compare health plan options, receive answers to health coverage questions, determine eligibility for tax credits for private insurance or public health programs and enroll in suitable health coverage. Individuals and small employers with up to 100 employees will be eligible to participate in the Exchanges, though until 2016, states can limit employers' participation to businesses with up to 50 employees. Beginning in 2017, states may allow businesses with more than 100 employees to participate in the Exchanges. Causing additional confusion are the commercial "exchanges" already in play in some states – Washington included – that do not fall under these rules.

On July 11, 2011, HHS offered two notices of proposed rulemaking: (1)

Establishment of Exchanges and Qualified Health Plans, and (2) Standards Related to Reinsurance, Risk Corridors and Risk Adjustment. The first notice sets standards for establishing the Exchanges, setting up a Small Business Health Options Program (SHOP), performing the basic functions of an Exchange and certifying health plans for participation. The second notice attempts to ensure premium stability for plans and enrollees in the Exchanges. Since I have yet to see anything affordable about health reform, it is the premium risk adjustments that I find most troubling.

HHS is accepting public comments on the proposed Exchange guidance for 75 days to learn from states and other stakeholders how the rules can be improved. More information from HHS on the Exchanges is available at: www.healthcare.gov/law/provisions/exchanges/index.html.

The Exchanges' greatest challenges will be the same as those for health insurers and self-funded employers: cost control, assigning risk and premium stability. Healthcare coverage in the Evergreen State, like most states, is provided through a divergent collection of public, com-

mercial, and employer self-insured plans. In 2014, with an Exchange and perhaps a Federal Basic Health program, the complexity increases.

Where someone will end up depends on many factors:

- Whether the person is employed
- The size of the person's employer
- Whether their employer self-insures, joins an association healthcare plan, or foregoes coverage altogether
- The amount of the person's household income
- The cost of plans offered in and out of the Exchanges
- An individual's decision on if and when to seek coverage

Such variables make cost and enrollment predictions for the Exchanges nearly impossible. The goal, of course, is to provide universal access to coverage and care at an affordable cost for every resident, something the current health insurance market does remarkably well for some while leaving others out in the cold.

Despite the complexity and wildly differing incentives of the many stakeholders, the Washington State Health Benefit Exchange must be ready by mid-2013. Many other public and private exchanges may come into play in the months and years following. Planning is underway in Olympia with a \$23 million federal grant, and coordination with a Joint Legislative Select Commit-

tee that started meeting in July.

The countdown is on. The State Health Benefit Exchange must start signing up health insurance plans by 2013 or the federal government will take over the project.

The Washington Health Care Authority placed responsibility for the organizational design of this complicated enterprise in the hands of Molly Voris. Her first challenge? To manage a new federal grant of \$23 million to fund the start up, of which about \$19 million will go to designing the information system. So what does this all mean?

Establishment of Exchanges & Qualified Health Plans

According to HHS, the proposed guidance gives states significant flexibility to build Exchanges.

Exchange Functions

The Exchanges are to provide a competitive marketplace for affordable health insurance, including:

- Certifying, recertifying and decertifying health plans to be offered in the Exchange, i.e. QHPs
- Assigning ratings to each QHP based on quality of coverage and price
- Providing information to consumers on QHPs in a standardized format
- Operating a website and toll-free hotline to offer QHP comparison information and to allow eligible consumers to apply for and purchase coverage

- Determining eligibility for the Exchange, tax credits, cost-sharing reductions for private insurance and public health coverage programs and helping individuals enroll in those programs

- Determining when individuals are exempt from the requirement to maintain health insurance and granting approvals to individuals for hardship or other exemptions
- Establishing a "Navigator" program to help consumers assess and make choices about their health coverage options and coverage
- Implementing outreach and education programs
- Complying with oversight and program integrity requirements

Qualified Health Plans (QHPs)

Health plans offered through the Exchange must be certified as QHPs. Certification has two components. First, the Exchange must determine whether the health plan meets the minimum standards outlined in the proposed guidance, which include marketing, network adequacy and health plan service area. In some cases, states can choose to implement these standards beyond the minimum outlined in HHS's proposed guidance.

Second, the Exchange must determine whether offering a given health plan through the Exchange is in the interest of individuals and small business. Exchanges may choose among one of several strategies for making this determination:

- utilize an “any qualified plan” strategy for certifying QHPs in its Exchange, whereby an Exchange would certify all health plans as QHPs solely on the basis that such plans meet and agree to comply with the minimum certification requirements;
- undertake a competitive bidding or selective contracting process, and limit QHP participation to only those plans that ranked highest in terms of certain Exchange criteria; or
- negotiate with health insurance issuers on a case-by-case basis. Here, the Exchange would request a health insurance issuer, upon meeting the minimum certification standards, to amend one or more specific health plan offerings to further the interest of the Exchange participants.

Enrollment Process and Navigators

All Exchanges will use the same enrollment periods and application forms to reduce administrative burden for consumers and health insurance issuers. Questions will be answered via websites, toll-free call centers and in-person offices. Navigators, not brokers or agents, will reach out to employers and employees, consumers and self-employed

individuals to conduct public education activities, to raise awareness about QHPs, distribute impartial information about QHP enrollment, premium tax credits and cost-sharing reductions, assist consumers in selecting QHPs, and (I’m not making this up) provide information in a manner that is culturally and linguistically appropriate.

Small Business Health Options Program (SHOP)

Beginning in 2014, a Small Business Health Options Program (SHOP) will provide a way for small employers to offer their employees a choice of health plans like those offered by Chambers of Commerce association plans and larger employers. According to HHS, SHOP reduces a small employer’s burden by finding QHPs, providing information on pricing and benefits, enrolling employees and consolidating billing.

Standards related to Risk Adjustment, Reinsurance & Risk Corridors

To help protect health insurance issuers offering coverage through an Exchange against risk selection and market uncertainty, PPACA established three programs to begin in 2014. The risk adjustment program will transfer excess payments from plans with lower risk enrollees to

plans with higher risk enrollees, thereby ending the incentive for issuers to avoid the sick and market only to the healthy. It will be very interesting to follow how insurers respond to these transfer payments. The reinsurance program requires all health insurance issuers, and third-party administrators on behalf of self-insured group health plans, to make contributions to a nonprofit reinsurance entity to support high risk individuals. Washington State has had such a program for years. The risk corridor program creates a mechanism for sharing risk between the federal government and QHP issuers.

How efficient and affordable the Exchanges will be is yet to be seen.

Source: Department of Health and Human Services

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