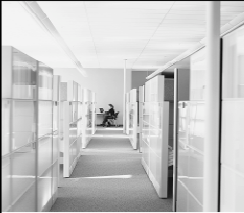


Health Reform and the Role of the Exchanges



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The Role of Exchanges in Health Care Reform

■ Agenda

- Overview: What role do the exchanges play?
- Statutory Requirements
- HHS and State Activity to date
- Implementation and Policy Issues
- Implications of the November elections

Role of Exchanges

- Exchanges in health care reform are central to the expansion of insurance to the currently uninsured.
- Exchanges are designed to function as a purchasing facilitator for the uninsured.
- In so doing, their sponsors envision a far more robust, competitive market for health insurance than currently exists in the States today.

Legal Requirements

- All States must establish a health insurance exchange that will be operational by January 1, 2014.
 - Tax subsidies, the employer mandate, and the individual mandate become effective on 1/1/14; Exchange effective date is designed to correspond to the subsidies and the mandate.
 - Exchanges have three legal requirements:
 - “Facilitate” the purchase of qualified health insurance plans
 - Establish a Small Business Health Options Program (SHOP)
 - Meet operational requirements (below)
- Exchanges are first available for the individual and small group markets.
 - By 2017, a State may open its Exchange to large employers.

Legal Requirements

■ Operational Requirements of Exchanges

- Exchanges must be governmental agencies or non-profit organizations established by the State.
- Make health insurance plans available to individuals purchasing on the Exchange.
 - Only “qualified” health insurance plans can be offered on the Exchange.
 - The non-profit CO-OP plan is deemed to be a qualified plan
- State insurance mandates appear to be pre-empted, but States can require that plans offer additional benefits (but must assume the cost).
- Ministerial functions (e.g., screening for other programs; affordability certificates; assign quality ratings to plans).

Legal Requirements

- State operation of exchanges was the result of the failure of Congress to enact the more liberal House bill (where members wanted a national exchange).
 - However, if HHS determines, by January 1, 2013, that a State will not have its Exchange operational by the 1/1/2014 deadline, the Federal government will operate the exchange in the State.
 - HHS can also authorize Regional or Interstate Exchanges
- The Administration has signaled its flexibility to permit wide latitude among States rather than demand federal control.

HHS and State Activity

■ HHS

- August 3 solicitation of comments
 - 60-day comment period
 - HHS/OCIIO still reviewing
- Grants to States for initial implementation steps
 - 48 grants awarded (Except for Minnesota and Alaska)

■ States

- Some Exchanges already operational
 - Massachusetts
 - Utah
 - Illinois
 - California

HHS and State Activity

■ States (cont'd.)

- The States with Exchanges authorized (California) or operating (Massachusetts, Utah, Illinois) illustrate political battles to come: What is the role of the Exchanges?
 - To provide additional regulation of insurers (California and partially Massachusetts model)?
 - Or to provide a platform where people can purchase insurance with no pre-selecting bias from government (Utah model)?
 - Early indications are that Obama Administration takes a broad view: will not be requiring a “one size fits all” model

Outstanding Issues and Questions

- Significant Issues Remain
 - What authority do States/does the Federal government have to exclude insurers from the Exchange
 - Early previews from HHS: excessive premium increases
 - Could a State that uses a heavy regulatory model create a de-facto single payer system/public option by limiting plans from its Exchange?
 - To what extent can HHS/a State regulate insurers on an Exchange?
 - Statute prohibits discriminatory benefit designs in HHS certification process.

Outstanding Issues and Questions

- Effective governance and transparency
 - Statute envisions high degree of transparency surrounding premiums, plan quality, etc.
 - To what extent do State “good government” requirements (open meeting laws, FOIA) apply to Exchanges?
- Plan freedom of choice
 - How many plans will be available in an Exchange?
 - Part D model: “Let a thousand flowers bloom”
 - Does that lead to beneficiary confusion?
 - Recent attempts to require “meaningful differences” among plans; this will likely play itself out on the Exchanges.

Effect of Election Results

- To what extent will the election results affect the operation of Exchanges?
 - At the national level, very little.
 - Hard to see how Affordable Care Act can be repealed in its entirety in next two years.
 - Possible targeting initial Exchange funding and tax subsidies as budget “pay-fors”
 - More likely, the States – and new Republican governors and State legislators – will have a much more significant role to play in designing the Exchanges.
 - Greater similarities to Utah model.
 - More like Part D
 - Little regulation of plans offered on Exchange