

Implementing ACA: California's Health Exchange

Sandra Shewry
Advisor, Health Care Reform Implementation
CA Health & Human Services Agency

November 2010



Exchange Policy: Biggest (initial) Qs for States

1. **Purpose**
2. **Governance/Oversight**
3. **Authorities and Tools**

#1. Purpose: What do we want the Exchange to accomplish?

ACA: The Exchange (section 1311)

- Facilitates the purchase of qualified health plans
- Provides for the establishment of a Small Business Health Options Program

- To participate in the Exchange, issuer must**
 - Be a qualified health plan
 - Offer plans at “silver” and “gold” levels.
- Federal tax credits and cost sharing subsidies only available through Exchange.**
 - Tax credits based on income (133%-400% FPL) linked to price of 2nd lowest cost silver plan.
 - Cost sharing subsidies available based on income 133-250% FPL
- Exchange must be “self-sustaining” by 1/1/2015.**



Exchange: Federal & State Roles

□ Federal responsibility:

- Support to states for start-up
- Monitor implementation
- Establish federal “fall back” option

□ State responsibility:

- Implementation = Yes or No
- **California says YES**

Basic Design Options

- ❑ Exchange as market definer and organizer; exchange is the market
- ❑ Exchange as Purchaser: Exchange Selectively Contracts with plans
- ❑ Exchange as clearing house for all plans offered by all issuers

Purpose of Exchange: California

- **Exchange as Purchaser:**
 - **Exchange selectively contracts with plans to increase value for members**
 - **Value = quality, access, price**

#2. Governance: Who is in charge; to whom are they accountable?

Balance accountability/accessibility with ability to respond to market/environmental changes that impede or advance goals of Exchange.

Provisions in ACA:

- **Governmental or non profit entity**
- **Prohibitions on use of funds**
- **Consult with stakeholders**
- **Extensive reporting, auditing, financial integrity + penalties for misconduct**
- **GAO studies on-going**
- **Federal False Claims Act penalties**



CA: Governance of Exchange

- ❑ Independent, 5 member Exchange governing board within state government; members must have significant demonstrated expertise in various Exchange-related health care areas, such as the individual and small group markets.
- ❑ Appointed by Governor and legislature
- ❑ Significant conflict of interest provisions that generally bar anyone working for insurers, agents or brokers, health care facilities, and health care providers.
- ❑ One year revolving door provisions.
- ❑ Board members are unpaid.

#3. Authorities and Tools: what resources does the Exchange need?

□ Tools/Authorities in ACA

- Certification, recertification & decertification of QHPs
- Toll free hotline
- Internet website providing standardized comparative info on plans
- Rating of plans
- Standard info on benefits
- Screen and enroll into Exchange, Medicaid, CHIP
- Provide electronic calculator
- Exemptions from individual mandate
- Notify employers if employee ceases coverage
- Determine eligibility for tax credits, reduced cost sharing
- Establish navigator program
- Establish SHOP



Adverse Selection Protections in ACA

- Individual requirement to purchase coverage
- Federal subsidies only available through the Exchange
- Uniform market rules in and out of Exchange.
 - Applies insurance market reforms to the markets both inside and outside the Exchange.
 - Guaranteed access to all plans
 - Premium rates must be the same inside and outside the Exchange.
 - Prohibits rating based on health status.
 - Prohibits pre-existing conditions exclusions.
 - Prohibits waiting periods of longer than 90 days.
 - Limitations on out of pocket costs
- **Minimum benefits**
 - Individual and small group plans must cover minimum essential benefits, to be defined by the Secretary of HHS.
 - State benefit requirements apply to markets inside and outside the Exchange.
- **Marketing**
 - Permits the Exchange to market direct to consumers.
- **One risk pool**
- **Risk adjustment**

CA: Additional Adverse Selection Protections

- ❑ **Full range of products required to be offered.** All insurers must offer all four of the “actuarial equivalent” benefit plan levels (bronze through platinum) for each product sold in the Exchange
- ❑ **Catastrophic coverage primarily available through the Exchange.** The sale of catastrophic coverage plans is restricted to plans that participate in the Exchange. Outside the Exchange, participating plans may sell to persons not otherwise eligible to purchase through the Exchange. Requires
- ❑ **Fair and affirmative marketing.** Exchange-participating insurers to “fairly and affirmatively” market and sell any plan offered in the Exchange outside of the Exchange.
- ❑ **Permissive standardization of products.** Allows the Exchange board to standardize benefits for products offered through the Exchange. If the Exchange does so, insurers in the non-Exchange market must offer at least one standardized plan at each of the four benefit levels (bronze through platinum).
- ❑ **Selective Contracting.** Permits Exchange Board to develop additional criteria that may help to prevent adverse selection.

CA: Exchange as Active Purchaser: Selective Contracting

- Governing entity to develop standards and criteria
 - based on “best interests of” individuals and small employers purchasing through the Exchange
 - “optimal combination of choice, value, quality, and service”.
- Does not prohibit Exchange from accepting all plans
- Creates flexibility for Exchange in developing a plan certification process
- Enables Exchange to work with carriers that exhibit desire to work with Exchange to meet policy and business goals



CA: Administrative Flexibilities

- Hire Exec Director and key staff outside state hiring processes
 - ED salary set by Board
- “Emergency” regulation authority until 2016
- State contracting law: must use competitive process
- Public meeting and public record laws: rate negotiation and strategy confidential

CA: Merger of individual and small group markets

- **Exchange to be established with two distinct components in 2014**
- Board to report by Dec 2018 on “**whether to adopt the option of the federal act to merge the individual and small employer market**”.
- Based on at least two years of data from the Exchange, **on the potential impact on rates** paid by individuals and by small employers in a merged individual and small employer market, as compared to the rates paid by individuals and small employers if a separate individual and small employer market is maintained.

CA: Funding related provisions

- Continuous appropriation without regard to fiscal year
- Unexpended or unencumbered may be carried to next fiscal year
- May not be loaned to, borrowed by any other special fund or the General Fund or a county general fund or any other county fund.
- All earned interest to be deposited into the Fund
- Board to maintain a prudent reserve
- Prohibits use of funds for staff retreats, promotional giveaways, excessive executive comp, or promotion of federal or state legislative or regulatory modifications
- Maintain enrollment and expenditures to ensure expends do not exceed revenue – institute “appropriate measures” to assure fiscal solvency

CA: Accountability

- State **government entity**
- Board **appointed** by Exec and Legislative branches of government
- Board meets in **public session**
- **Implementation is contingent** on a determination by the Board of sufficient financial resources to cover two years of operations, and a public report prior to start of operations.
- Federal government will make an **assessment of “readiness”** in 2013.
- Exchange Board to implement appropriate measures to **ensure fiscal solvency** and to publicly report changes required to address any fiscal deficiency.
- Annual report on **impact of Exchange on other state health programs** in terms of potential cost-shifts and cost increases
- **Annual report** on implementation and expenditures
- **Annual audit**

2011-2014 Policy Issues

1. Positioning of Exchange within the market
2. Eligibility & Enrollment Simplification: Portal
3. Essential Benefits
4. Participation standards for employers and individuals
5. Basic Health Plan
6. Selective contracting criteria
7. Risk adjustment mechanisms
8. Self-financing by 2015 – assessment on plans
9. Outreach, marketing, distribution
10. Coordination with public and private purchasers (transitions in coverage status)



2014 is tomorrow!

California Exchange law:

AB 1602 (Perez)

SB 900 (Alquist)

Available at www.leginfo.ca.gov

Contact info:

sshewry@chhs.ca.gov

916 653-2902

