
Small Business Health Insurance Exchange Checklist

1) Goal

Author and pass legislation in 2011 so the state has adequate time to successfully create the exchange so that it will be operational by January 1, 2014.

2) Governance

The best model is an independent quasi-governmental authority, which has the independence and nimbleness to operate an exchange function in a competitive and dynamic marketplace unlike government agencies.

An independent agency will also be more trusted by individuals and business owners, and that trust is essential for the exchange to be successful. Other measures to build trust include:

- Conflict of interest provisions for Board and Management. The exchange operates for the benefits of individuals and businesses that pay the premium for health coverage, not insurers, producers, physicians, hospitals and others that receive the funds from premiums. Individuals and businesses without conflicts should serve on the board.
- Transparency and accountability provisions. These include open meetings and records, independent annual audits, public input for regulations and stakeholder input into processes.
- Many stakeholder groups should have input and provide their expertise to the exchange and this should be accomplished by one or more advisory boards for consumers, businesses, insurer, producers, medical providers, etc. This allows input from important stakeholders versus having these direct beneficiaries conducting governance by being members of the board.

3) Active purchaser role of exchange

Exchanges should use their certification authority to limit exchange participation to highest-value plans.

The ultimate goal of making affordable health coverage available to individuals and employers can be best achieved by an exchange acting in a balanced role as an active purchaser, using its authority to only offer plans that enhance value, consumer protection and affordability. Exchanges should promote innovative healthcare delivery system reforms that hold promise for slowing the rate of growth in healthcare costs by requiring or encouraging insurers to incorporate such measures. Exchanges should also promote a strong foundation of well-coordinated, primary care.

Exchanges should also upgrade participating insurers on quality, cost, enrollee satisfaction, etc.

4) Individual and small employer exchanges

The law allows states the option to create an individual and a separate small employer (SHOP) exchange or to combine the two. A thorough study of the existing state insurance market is needed to be considered when weighing the decision whether to have a combined exchange, including such factors as to whether this would create rate shock for some individuals or employers currently

insured. Merging the exchanges would substantially increase the potential enrollment volume and make it more likely (but not guarantee) that the exchange would have a well-balanced risk pool. One option is that any merger of the exchanges take place several years after the Affordable Care Act's major market reforms are instituted in 2014, particularly those related to premium rating rules. This would limit the premium rate disruption that might occur when the markets are combined.

5) Small employer size

States have the flexibility to change the size requirement of businesses eligible to participate in the SHOP exchange from 100 employees to 50 employees (until January 1, 2016). A detailed review of the existing small group insurance market in the state is also necessary to determine the impacts of this decision. A scheduled phase-in should be adopted to expand the exchange to businesses with 100 employees by 2016 or earlier if the state finds valid reasons to limit the initial exchange to businesses with 50 employees for the 2014 startup.

6) Design and operation of exchange to attract small employers

To successfully compete for and attract large numbers of small businesses to the exchange there should be a single point of entry for small employers and provide the following:

- All necessary information for employer and employees to make informed decisions on coverage;
- One application;
- One premium payment (where the exchange allocates the appropriate premium amounts to the right insurers based on the enrollment of the employees);
- A detailed accounting to the employer of each employee's individual ratings, plan choices, family tier and coverage conditions;
- One point of contact for enrollment changes;
- Guidance to employers about qualification and estimated calculation of the small business tax credit;
- Coverage for Medicare-eligible employees, dependents and retirees;
- A clear method of communication to obtain additional information from the exchange; and
- A software tool that allows the employer the option to "consolidate" the premiums for employees or to individually charge employees based on their individual ratings (age, tobacco, geography).

Based on the successful experience of other small business exchanges and pools, the state exchange should examine whether additional "HR" services should be provided by the exchange to meet the needs of small employers and be competitive with "grandfathered" plans in the outside insurance exchange market. Such services may include:

- Wellness programs;
- COBRA administration;
- Section 125; and
- Flexible spending accounts.

7) Adverse selection

There are several features exchanges should have in order to minimize adverse selection:

- Chartering state legislation that gives strong and clear direction to exchange governing boards and managers to create an active and ongoing process to guard against adverse selection;
- Regulating the individual and small group market identically inside and outside of the exchange;
- Requiring insurers to offer the same plans inside and outside the exchange. For those states instituting a more selective or competitive process to determine which plans can be offered in an exchange, states can require insurers outside the exchange to offer products in the same coverage levels (at least the Silver and Gold levels) as is required for health insurers participating in the exchange;
- Design a sophisticated but practical risk adjustment system to adjust risk among insurers inside and outside of the exchange to discourage adverse selection both against and within the exchange. This would work in tandem with the requirement that insurers have to use a single risk pool across all their plans inside and outside the exchange.

8) Incentivizing lower costs and higher quality

Employers will be much more supportive of exchanges if they view their state exchange as a “partner” in controlling long-term healthcare cost inflation.

Within the SHOP exchange, employers should be encouraged to provide incentives to employees who choose more efficient, higher quality health plans. Within a given benefit tier, the premiums of some health plans with comparable actuarial value will be lower than others yet have higher quality measures; employees who choose these plans could receive a financial reward for their choice. This can be accomplished, for example, via an age-adjusted, flat dollar defined contribution approach by employers tied to lower cost, higher quality plans in that tier. In addition, this approach can help to drive healthy competition by price and quality among the health plans, which will eventually slow the growth of premiums and improve quality of care overall.

To permit accurate selection among health plans through the exchange Internet portal, health plans should be contractually bound by information they disclose on their websites.

9) Brokers and distributors

Agents, brokers and distributors are expected to continue to play a role in the newly reformed healthcare system, but the Affordable Care Act did not contemplate specific regulation of these actors. To the extent that agents and brokers play a role in helping small employers and/or individuals consider different insurance plan options, however, their actions could have the unintended yet disruptive effect of undermining many of the important provisions of the Affordable Care Act without the application of clear rules and standards. For example, if agents and brokers steer healthy, young men and/or small employers comprised of workforces comprised of such individuals to certain plans outside of the exchange—and conversely, steer older women with health issues and/or employers comprised of such individuals to plans inside the exchange, this could create adverse selection problems and threaten the long-term viability of the exchanges.

Accordingly, states need to provide oversight and regulation of broker and agent activity to ensure that the actions of agents and brokers do not undermine the exchange and other key provisions and protections of the law. Exchanges should carefully monitor and regulate the conduct of insurance agents, brokers and distributors; they should prohibit door-to-door solicitations and bar activities designed to steer, discourage or encourage enrollment in particular plans inside or outside of the exchange based on age, health status, gender, geography and other factors. Finally, states should prohibit any agreement or arrangement between insurers and agents, brokers or distributors that would provide financial incentives or other rewards to agents/brokers to steer individuals based on age, health, gender, geography and other factors to plans outside the exchange or to particular plans inside an exchange.

When reviewing the use of brokers, agents or distributors, states need to specifically examine the role of brokers/agents and distributors with the role of navigators contemplated by the law. States should also consider whether brokers are able to meet the needs of vulnerable and under-served populations that will be served by the individual exchange. Likewise, states should separately examine the cost, roles and services for brokers for individuals and small employers. Servicing the needs of individuals and small employers differ.

If brokers and distributors are utilized by the exchange, the costs and services need to be rationalized so that the goal of affordable insurance for individuals and employers is met and the exchange plans remain competitive with outside plans.

Marketing costs can be reduced by direct sale of plans from the exchange to small employers. The experience of other exchanges and pools (COSE, Pac Advantage, CBIA in Connecticut, Health Pass in New York, the Massachusetts Connector) has been that there is still an important role for brokers. They have found it is better to have them marketing the exchange plans versus being on the outside competing against exchange plans, especially for small employers. However, this role should be different considering the availability of the exchange to perform some functions that brokers now provide. Brokers will continue to sell other non-health coverage products to employers even if excluded from marketing exchange products.

If brokers/agents and distributors are not utilized, a state exchange should ensure that navigators are available to perform these functions for both individuals and small employers.

10) Web portal

Web portals need to meet the needs of individuals and employers. Available information should include:

- Cost and value of plans for employers and employees;
- Reliable and objective ratings of the quality and efficiency of available plans on their website;
- Individual tax credits and cost-sharing reductions;
- Employer tax credits, both federal and state; and
- Employers will have choices of maintaining a grandfathered plan and buying in the outside market. They will need to objectively understand and weigh these choices before they choose to access the exchange for their company and employees.

To permit accurate selection among health plans through the exchange Internet portal, health plans should be contractually bound by information they disclose on their websites. Once established, a web portal should have a method of gathering feedback from consumers and employers for continued refinement.

11) Evolution of exchanges

There are many possible beneficial evolutions for exchanges. But, these should not be done at the outset of the establishment of the exchange in 2014. The launch of the individual and small group exchanges in 2014 will be complex and demanding. It is critical that the exchanges have a successful launch.

The Utah exchange is an example of the first launch failing. Remedial legislation was required in the following year and now Utah is on their second launch for 2011. The first policies sold by the Massachusetts Connector for small businesses achieved minimal acceptance in the marketplace and the Connector had to go back to the drawing board to revamp its small business plan offerings. A new offering was provided in 2010.

Other evolutions are complex and will vary highly by state. They must be studied, evaluated and detailed plans must be developed. One option is for the chartering legislation to require the exchange to study these issues and report back by a specified time before they are implemented. Examples are:

- Merging the individual and small group pools into one pool;
- Expanding qualifying small businesses beyond 100 employees;
- Forming regional exchanges; and
- Developing a “basic health plan” which the ACA allows as an option for the states (as the state of Washington has done).

Policymakers and the exchange will need detailed information before implementing these policies.