Insurance Exchanges

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The Patient Protection and Affordable Care Act, passed by Congress in 2010, addressed the inability of individuals and small employers to obtain affordable health insurance in the existing markets. With the intended goal that every American has a basic level of protection, the new law mandated that each state create an insurance exchange in which individuals and small employers can purchase coverage. In order to ensure that the system is properly financed, the law also mandated that nearly everyone must purchase health insurance. This law will affect an estimated 27 to 33 million Americans who currently do not have health insurance.

In 2014, most Americans will be required to obtain coverage through their employer, a state insurance exchange, or an individually procured insurance policy. (A limited number of exemptions apply, including illegal immigrants, prisoners, Indian tribe members, and religious objectors.) Failure to obtain the mandated coverage will result in a fine that will be collected through individual's income tax returns.

Concurrently, employers with 50 or more full time employees must provide a basic level of coverage for their employees or be penalized for failure to comply. Fines will range from $166 to $250 per employee, per month and will be used to subsidize the cost of private insurance for lower income purchasers.

PPACA specifies that exchanges are to be available to individuals and small employers by January 1, 2014. States are required to create an exchange for which they will have control and responsibility, or cede the responsibility to the federal government. According to a Kaiser Family Foundation recent report, "Focus on Health Reform," 12 states have established exchanges: California, Colorado, Connecticut, Hawaii, Maryland, Massachusetts, Nevada, Oregon, Utah, Vermont, Washington, and West Virginia. Of the remaining states and District of Columbia, 10 have not proposed legislation for the formation of an exchange and 16 have proposed legislation that failed to pass.

For those states that do create the mandated exchange, there are several oversight options. An exchange may be created within a new or existing state agency, as an independent public entity, or as a non-profit organization. Once the entity is created, a form of governance must be selected. At this point, it appears that most states have chosen to have a governing board with appointed stakeholders who are not elected officials. Stakeholders will be drawn from health economists, actuaries, organized labor, health care providers, small business owners, consumer advocates, and insurance brokers. These individuals, viewed as subject matter experts in their particular field, will be responsible for overseeing the creation of the exchange as well as serving on the governing board.

The structure of the exchange will also need to be determined through state legislation or the governing board. There are two options. With a clearinghouse model, the exchange acts as an aggregator of the open market, asking private insurance companies to offer coverage that the consumer can choose to purchase based on individual needs. In the active purchaser model, the exchange exerts more control by conducting reviews of the benefits and rates offered by providers and actively filtering out plans that do not meet specified standards.

PPACA stipulates that any plan offered by an exchange must cover "Essential Health Benefits." While the list is not completely defined, the benefits will certainly include preventive, physician, prescription, hospital, maternity, and rehabilitative care. The law also requires that exchange plans pay a minimum of 60% of the actuarially-based health costs that fall under these "Essential Health Benefits." Consumers will be able to choose a level of coverage ranging from Bronze at 60% to Platinum at the 90% level.

Assuming that the individual mandate remains intact and Americans are required to purchase insurance, substantial decisions still need to be made for implementation of an effective insurance exchange. What will the infrastructure needs be for customer service, software systems, connectivity with insurance companies, and reporting to small employers? How will individuals be supported in their decision making? How will the subsidies be administered?

While the intent of the law is clear, it is also clear that the formation, design, and implementation of an effective exchange by January 1, 2014 will be a challenge for many states. Politics will continue to shape the evolution of the exchanges, but for now the states have a significant amount of latitude in the formation of their exchange and each state could have a dramatically different outcome.