



EXPERT UPDATE



Compliance Headlines from Henderson Brothers:

- American Health Benefit Exchanges



American Health Benefit Exchanges

All states are expected to establish a Health Benefit Exchange by January 1, 2014, that will include a health insurance marketplace for individuals and a separate marketplace for small employers called the Small Business Health Option Program (SHOP). In some cases, states can combine their two Exchanges into one Exchange for both individuals and small employers, but certain specific requirements must be met.

If a state does not establish an Exchange by the required deadline, or decides to opt-out of the Exchange entirely, then the federal government will establish a federally-facilitated Exchange instead. States can also seek approval of a partnership arrangement to administer and operate certain plan management and/or consumer assistance activities of a federally-facilitated Exchange operating in the state.

Exchange Developments by State

As reported by the Council of Independent Agents and Brokers and their counsel Steptoe & Johnson LLP on August 15, 2012, only two states have operational Exchanges. Both Utah and Massachusetts got a jump start because they had their

own insurance marketplace established prior to the Affordable Care Act's Exchange requirement. Fourteen states and the District of Columbia have passed legislation to establish Exchanges, eight have legislative action to study the Exchange and 16 have legislation that failed. Four states, including Pennsylvania, have active legislation. Three states are under Executive Order to study the Exchange, one has opted for the federally-facilitated Exchange and two have taken no action to date. Although most states have received some form of establishment grants, few have filed declaration letters, indicating their intent to have an Exchange up and running for 2014. Unless there is a flurry of state activity over the next few months, it is highly likely that a federally-facilitated Exchange will be operating in many states for 2014.

Pennsylvania Progress as of August 2012

Two bills were introduced into the Pennsylvania legislature back in 2011, but both houses were adjourned before it was passed. Pennsylvania was awarded a federal Exchange Planning Grant and it also accepted an establishment grant. It appears that Pennsylvania is continuing to evaluate the impact of the Supreme Court's decision on the Commonwealth. No formal decision has been made as to whether there will be a state-based Exchange or a federally-facilitated Exchange in place for 2014.

Exchange Functions

States must establish Exchanges in accordance with federal regulations. These regulations identify the functions required of Exchanges and the approval process states must follow. HHS requires that Exchanges –

- Certify, recertify and decertify Qualified Health Plans (QHPs);
- Assign relative quality and price ratings to each QHP offered;
- Provide standardization consumer information on the QHPs;
- Create an electronic calculator that allows consumers to assess the cost of coverage;
- Operate a website and toll-free number that provides comparative information for the plans offered;
- Determine eligibility, tax credits and cost-sharing reductions;
- Determine exemptions for the individual mandate;
- Grant approvals for hardship cases or other exemptions; and
- Establish a Navigator program.

Complexity

Regulators are requiring greater transparency to simplify the process for the individual or small business owner studying Exchange options. This new transparency requirement, along with extensive disclosure and reporting obligations, adds complexity to the health insurance distribution process that had not existed before. In addition, states that operate Exchanges will now have considerable oversight and control over a process that has typically been owned by health insurance plans.

Health insurance plans that expect to operate outside the Exchanges, particularly those that insure individuals and small businesses, are working hard to redefine their business models so that they can compete. Insurers will need to learn to sell in a retail environment. This is a big shift from selling to the traditional group buyer, which has been the employer or other group health plan sponsor.

Qualified Health Plans Offered

Qualified Health Plans (QHPs) offered in an Exchange must provide an "essential health benefits package". The SHOPs and the individual Exchanges will be required to offer a bronze, silver, gold, and platinum plan that are actuarially equivalent to 60%, 70%, 80% or 90% respectively. It appears that catastrophic coverage, also referred to as "young invincibles" coverage, will also be made available. Exchanges will also offer limited-scope dental benefits if an insurer is willing to provide the pediatric dental benefits that are required by the Act.

Enrollment Periods Required for Exchanges

Exchanges must offer an initial open enrollment period, an annual open enrollment period, and special enrollment periods that address certain mid-year status changes. HHS has communicated that the initial enrollment period for 2014 will begin on October 1, 2013 and will continue up through March 31, 2014. Elections will need to be received before December 23rd, if coverage is desired for January 1, 2014. Additional details regarding the enrollment process will be provided in a future Expert Update.

HHS Web Portal

On July 1, 2010, HHS launched a website, <http://www.healthcare.gov>, referred to as a "web portal" or "Option Finder". The site includes a locator feature that identifies available options based on an individual's demographics such as age, family status and

state location. The website's functionality will be improved so that consumers will have robust tools to compare premiums, benefits, provider information and insurance statistics. When Exchange plans become available, these options will be illustrated as well.

Consumer Tools & Navigator Program

Each Exchange must provide numerous consumer-assistance tools including a toll free call center, Exchange calculator, and education activities. Each state Exchange must also establish a Navigator program that will award grants to public and private entities to carry out certain Navigator functions. Navigators must meet specific eligibility, licensing, certification and other standards imposed by the state or Exchange. Exchanges are required to include entities from at least two of the following categories –

- Community and Consumer-focused nonprofit groups;
- Unions;
- Trade groups;
- Industry groups;
- Professional Associations; and
- Licensed Agents and Brokers.

Navigators shall conduct public education activities, distribute impartial information concerning enrollment in QHPs, communicate availability of premium tax credits and cost sharing reductions and facilitate enrollment in the QHPs. Navigators can not be a health insurer or an entity that receives direct or indirect consideration from a health insurer.

If you have questions, please feel free to contact your HBI consultant. Additional information will be provided when it becomes available.

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