



Implementing Exchanges

*Part of a Families USA series on
implementing state health insurance
exchanges*

OBTAINING EXCHANGE FUNDING AND ACHIEVING CONSUMER-FRIENDLY OUTCOMES: A STATE “TO DO” LIST

This brief outlines tasks for states to address in order to obtain federal exchange establishment grants and to move forward with the implementation of consumer-friendly state exchanges by 2014.

**Obtaining Exchange Funding and Achieving
Consumer-Friendly Outcomes:
A State “To Do” List**

© May 2011 Families USA

Families USA

1201 New York Avenue NW, Suite 1100

Washington, DC 20005

202-628-3030

www.familiesusa.org

This publication is available online at www.familiesusa.org.

*A complete list of Families USA publications is available online at
www.familiesusa.org/resources/publications.*



Table of Contents

| | |
|---|-----------|
| Introduction. | 1 |
| Background: Exchange Establishment Grants from HHS | 3 |
| Grant Requirements | 3 |
| Grant Application Process | 4 |
| To Do: State Exchange Implementation Tasks | 5 |
| Core Area 1: Background Research | 5 |
| Core Area 2: Stakeholder Consultation | 6 |
| Core Area 3: Legislative and Regulatory Action | 6 |
| Core Area 4: Governance | 7 |
| Core Area 5: Program Integration | 8 |
| Core Area 6: Exchange IT Systems | 8 |
| Core Area 7: Financial Management | 10 |
| Core Area 8: Oversight and Program Integrity | 10 |
| Core Area 9: Health Insurance Market Reforms | 10 |
| Core Area 10: Providing Assistance to Individuals and Small Businesses, Coverage Appeals, and Complaints | 10 |
| Core Area 11: Business Operations of the Exchange | 11 |
| Exchange Website and Call Center | 11 |
| Navigator Program | 12 |
| Certification of Qualified Health Plans | 12 |
| Outreach and Education | 13 |
| Additional Considerations for Covering Low-Income Adults | 14 |
| Conclusion | 15 |
| Appendix A: Business Operations of the Exchange | 17 |
| Appendix B: Additional Resources | 18 |



INTRODUCTION

One of the central features of the Patient Protection and Affordable Care Act (Affordable Care Act) is the development of new health insurance marketplaces, called “exchanges,” in time to enroll people and certain businesses in health coverage for the 2014 plan year. The Affordable Care Act envisions that, with the help of federal grants, states will develop and run their own exchanges. (However, if a state fails to do so, the federal government will establish an exchange for the state’s residents.)

This brief outlines tasks for states to address in order to obtain federal exchange establishment grants and to move forward with the implementation of consumer-friendly state exchanges by 2014. The tasks on this list are based on the requirements of the “Cooperative Agreement to Support Establishment of State-Operated Health Insurance Exchanges” (or the “Exchange Establishment Grants”), released by the Department of Health and Human Services (HHS) in January 2011. These grants will be awarded to states based on their scores in the completion of tasks in 11 “core areas,” which are listed in the Table of Contents. For more information about the exchange establishment grants, see pages 3 and 4.

States can apply for separate exchange establishment grants for different core areas, based on their readiness to implement specific exchange functions. However, all core areas must be addressed by 2014 in order for an exchange to comply with the Affordable Care Act. (It is important to note that, as required by the Affordable Care Act, HHS will assess each state by January 1, 2013, to determine if the state will be ready for exchange implementation by 2014. If the Secretary of HHS cannot certify a state’s readiness by January 2013, the federal government will establish and operate an exchange in that state.)

The exchange establishment grant requirements include a table of milestones that states should strive to achieve during each year leading up to 2014 (see Additional Resources on page 19). Certain milestones must be met on a specific timeline in order to receive grant funding, whereas the deadlines for other milestones are more flexible. **If a milestone is among those that are mandatory for completion in 2011 or 2012 under the grant requirements, it is indicated as such in this piece.** To receive grant funding, states must provide work plans that indicate when they anticipate achieving each milestone. Some states may choose to create separate work plans for separate aspects of exchange establishment, such as an information technology (IT)-specific work plan. This is especially true if a state plans to apply for establishment grants for discrete core areas at different times.

Each state's process for exchange implementation will likely differ based on its current insurance markets and public coverage programs, state resources and agency structures, state politics, and other factors. States will likely address the tasks on this list in the order that works best for them, given their unique situations. However, in order to qualify for exchange establishment grant funding and to implement an effective, consumer-friendly exchange by 2014, states must start addressing the tasks on this list now. This list can serve as a tool to help monitor the progress of exchange implementation in the states and develop advocacy priorities to ensure that states engage in timely, consumer-friendly exchange planning and implementation.



EXCHANGE ESTABLISHMENT GRANTS FROM HHS

This section includes the following:

- Grant Requirements
 - Grant Application Process
-

Grant Requirements

On January 20, 2011, the Center for Consumer Information and Insurance Oversight (CCIIO) at HHS announced the “Cooperative Agreement to Support Establishment of State-Operated Health Insurance Exchanges” (“Exchange Establishment Grants”). This cooperative grant opportunity, available only to states (or consortia of states) that have already received and made progress under “State Planning and Establishment Grants” (received from HHS by 49 states¹ and the District of Columbia in September 2010), allows them to obtain further funding for the establishment of their exchanges.

States may apply for either level one or level two exchange establishment grants. Level two grants provide multi-year funding for exchange establishment activities, through December 31, 2014. (State exchanges must be financially self-sustaining by January 1, 2015.) States may be eligible for level two funding if they:

- have legal authority to establish and operate an exchange that complies with the Affordable Care Act;
- have established an exchange governance structure;
- can submit a work plan for all exchange tasks through December 31, 2014, that includes processes specific to the state that must be completed to meet the grant requirements’ milestones;
- can submit a plan for how they will provide assistance to individuals and small businesses, including through a call center;
- can submit a complete exchange budget through 2014; an initial plan for financial sustainability starting in 2015; and a plan outlining steps for preventing waste, fraud, and abuse;
- can submit a staffing plan and organizational chart for people who will be using establishment grant money; and
- can submit a letter from the Governor committing the state to establish a state-run exchange.

States that are not ready to meet the level two grant requirements can, with a letter of endorsement from the Governor, apply for a level one exchange establishment grant. Level one grants provide one-year funding to states that have made some progress in exchange planning and can submit a one-year work plan of exchange establishment activities. States can apply for multiple level one grants as they make progress on various exchange tasks. If a state that receives one or more level one grants makes sufficient progress in exchange establishment activities to meet the level two grant requirements, the state can apply for a level two grant at that point.

For both level one and level two exchange establishment grants, funding is needs-based, depending on each state's proposed work plan. In fact, states may request additional funding over the course of their grant project period to support an increased scope of work. However, work funded by the establishment grants must be *integral* to exchange operations and requirements. When states use grant funds for activities that will also benefit other state or federal programs, such as Medicaid or CHIP, expenses must be allocated between those programs and exchange funding. Grants may not be used for excessive executive compensation or to contract with organizations or individuals that have conflicts of interest, such as individuals or companies that sell insurance or insurance-like products, including discount plans.

States that receive exchange establishment grants must comply with all current and future requirements of exchange establishment under the Affordable Care Act, including those issued through rulemaking and guidance. State grantees must also submit quarterly progress reports to HHS and may be subject to on-site performance reviews to assess their progress.

Grant Application Process

The exchange establishment grant announcement recommended that states submit a (non-binding) letter of intent by February 22, 2011, indicating when they intended to apply for funding. States can apply for grants during different quarters of the year, based on when they are ready. The due dates for each quarter for the two available types of grants are as follows:

- Level one: March 30, 2011; June 30, 2011; September 30, 2011; and December 30, 2011.
- Level two: All level one due dates plus: March 30, 2012, and June 29, 2012.

HHS is holding conference calls for states to ask questions about the grant opportunities on:

- June 2, 2011
- September 1, 2011
- December 1, 2011
- March 1, 2012
- May 31, 2012

All calls take place at 2 PM EST and anyone may listen. The call-in number for all 2011 calls is 1-877-989-4936 and the passcode for participating is 3654293.

(See Additional Resources on page 19 for a link to the exchange establishment grant requirements from HHS.)



To Do: STATE EXCHANGE IMPLEMENTATION TASKS

This section includes exchange implementation tasks for states based on the “Core Areas” of the HHS “Exchange Establishment Grant” requirements.

Core Area 1: Background Research

Designing and implementing an exchange that meets the needs of your state will require obtaining data and information about your state’s population and existing insurance market. Many states are using the initial exchange planning grants, released by HHS in September 2010, to contract with academic or professional researchers to obtain answers to critical questions, such as:²

- How many uninsured people are in the state?
- How many people will likely obtain private coverage through the exchange?
- How many people are eligible for, and how many people are enrolled in, the Medicaid program currently, and how many people will be eligible for Medicaid once the program is expanded?
- How many people obtain coverage in the state’s existing individual market? In the small group market?
- How many insurers sell coverage in the state’s existing individual market? In the small group market? What is the market share of those insurers (the percent of insured people they cover) in each market?
- How will individual, small group, and large group insurance market dynamics change when the Affordable Care Act is fully implemented?
- How will the state’s health care delivery system handle an influx of newly insured patients, many of whom will have unmet health care needs? What is the capacity of the state’s provider network, including safety net providers, and what capacity will be necessary when the Affordable Care Act is fully implemented?

These and other similar questions (although not specifically listed in the exchange establishment grant requirements) should inform the state’s policy decisions to ensure an effective and efficient exchange.

Core Area 2: Stakeholder Consultation

The exchange establishment grants and the Affordable Care Act itself require stakeholder consultation in the development of exchanges. Specifically, the establishment grant requirements state, “consumers and other stakeholders must have meaningful input into the planning, implementation, and evaluation” of grant-funded exchange activities, and “stakeholder input should be considered in the development of legislative options and drafts of enabling legislation, exchange design and approach, and exchange operational issues, among other topics.” (See Additional Resources on page 19 for the grant requirements and further information on the type of stakeholder input that is required, including the mandatory consultation with federally recognized Indian tribal governments that must take place during each year through 2014.³)

Therefore, states that have not already done so should create a stakeholder advisory committee to provide recommendations for exchange implementation and operations, with adequate consumer representation on the committee. States may also choose to create subgroups within, or advisory councils to, the committee to focus on specific exchange issues in greater depth.

Additionally, both during implementation and once the exchanges are up and running, states should hold and publicize regular open meetings of exchange decision-making bodies. Public notice of the meetings should be posted online and through other mediums. States should allow public comment at the meetings, webcast and archive the meetings online, and make meeting minutes available online. (Under the exchange establishment grant requirements, HHS asks states to make stakeholder meeting minutes available to them, as well.) States should also hold some meetings during non-work hours and hold meetings in all regions of the state so that more members of the public can attend. Although the specific tasks described in this paragraph are not all required under the establishment grants, they are critical for establishing and maintaining a consumer-friendly exchange, and they can help states meet the general stakeholder consultation requirements of the grant funding. (See Additional Resources on page 19 for a link to the grant requirements.)

Core Area 3: Legislative and Regulatory Action

As described in the exchange establishment grant requirements, states will likely need to pass legislation (or in some cases, enact regulations or use executive authority) to authorize the creation of an exchange. Legal authority to establish and operate an exchange that complies with the Affordable Care Act must be in place in order for a state to receive a level two (multi-year) exchange establishment grant (see Exchange Establishment Grants from HHS on page 3).

The National Academy of Social Insurance (NASI) created a useful tool that builds upon the model exchange law drafted by the National Association of Insurance Commissioners (NAIC) to recommend legislative language for creating a consumer-friendly exchange in their publication, *Designing an Exchange: A Toolkit for State Policymakers*.⁴ (See Additional Resources on page 19 for both

this publication and the NAIC model law.) Additionally, Maryland and California enacted exchange-creating laws that states may want to examine to inform their drafting process.⁵

In initial legislation, states will likely want to address the fundamental issue of exchange governance (see Core Area 4, below). States may want to include other issues in initial legislation or address them in later legislation, administrative rulemaking, or executive orders. Consumer advocates should consider, given their states’ politics and administrative procedures, which of these strategies would be the most likely to produce consumer-friendly outcomes for key exchange issues, including:

- whether to implement a bidding or contracting process to select exchange health plans based on their value to consumers (see Certification of Qualified Health Plans on page 12);
- how to address the potential for adverse selection (a phenomenon in which an insurer or a segment of the insurance market has a disproportionate share of sicker enrollees) inside versus outside the exchange and between health plans in the exchange;
- how to seamlessly integrate Medicaid eligibility and enrollment processes with the exchange; and
- whether consumers and small businesses will shop in one combined exchange and whether the risk pools of individual and small business enrollees will be combined.

Core Area 4: Governance

A mandatory 2011 exchange establishment grant milestone says that states must work with stakeholders to determine whether the exchange will be a quasi-governmental agency, a state agency, or a nonprofit entity (the three governance options afforded to states under the Affordable Care Act). Working with stakeholders, states must also determine how the governing body (typically a board) will be structured. The actual establishment of the governance structure is a mandatory milestone for 2012 and is required for a state to receive multi-year (level two) exchange establishment grant funding (see Exchange Establishment Grants from HHS on page 3).

Some of the most important questions that must be answered to ensure a consumer-friendly exchange governing board are as follows: How will the state make sure there is adequate consumer representation on the governing board? What protections will be in place to prevent individuals with conflicts of interest from serving on the board? How often will the board meet and what will its authority be? Which state laws, such as those for ensuring transparency and public input, must the exchange-operating entity comply with? Should any state laws, such as procurement laws, be applied to the

exchange in a modified manner to ensure timely implementation? The exchange establishment grant requirements state that exchange governance should have standards to ensure public accountability, transparency, and the prevention of conflicts of interest.⁶

For a complete discussion of exchange governance issues, see the Families USA brief, *Implementing Health Insurance Exchanges: Options for Governance and Oversight*, available online at <http://familiesusa2.org/assets/pdfs/health-reform/Exchanges-Governance-and-Oversight.pdf>.

Core Area 5: Program Integration

States should assess their current agency capabilities and resources to inform the steps they must take in order to meet the Affordable Care Act's exchange requirements, particularly the "no wrong door" requirement for enrolling people in coverage. For example, states should examine current eligibility and enrollment systems and staffing of state agencies and consider how these will need to change in order to develop and maintain an exchange that is seamlessly integrated with the Medicaid program.

Under the exchange establishment grant requirements for program integration, states are expected to establish integration between the exchange and the insurance department, Medicaid and the Children's Health Insurance Program (CHIP), other health subsidy programs, and other health and human services programs, as needed for exchange operations. The grant requirements specify that it is mandatory that these agencies meet regularly to collaborate on exchange issues throughout 2011. In addition, the grant requirements include the mandatory 2011 milestone of developing agreements between the department of insurance and the exchange and between the state Medicaid agency/other state subsidy and human service programs and the exchange. In these agreements, states should determine the roles and responsibilities of the existing agencies and those of the exchange itself in various elements of exchange functioning and oversight. (See Additional Resources on page 19 for a link to the grant requirements, which include a complete description of mandatory program integration milestones.) To receive either a level one or a level two exchange establishment grant, states must also submit letters from their Medicaid and insurance department directors stating that they agree to collaborate with the exchange.

Core Area 6: Exchange IT Systems

The Affordable Care Act requires states to implement exchange IT systems that are interoperable and/or integrated or interfaced with the state Medicaid and CHIP programs and with HHS's exchange technologies. Under the exchange establishment grant requirements, one of the mandatory milestones for 2011 is that states conduct an "Exchange IT Gap Analysis." The Gap Analysis must assess the state's existing IT systems and describe the state's goals for its exchange IT system, including how it will ensure that privacy and security standards are met. Consumer advocates may have information to share with states regarding how current state IT systems, such as those for processing Medicaid eligibility, are working and what changes they believe are needed for consumer-friendly exchange implementation.

There are many other mandatory 2011 and 2012 milestones pertaining to IT systems in the exchange establishment grant requirements. Many of them are included in the Business Operations of the Exchange section (described on page 17), such as those for eligibility and enrollment systems, administering premium tax credits and cost-sharing assistance, and handling individual and employer responsibility functions that relate to the exchange. (See Additional Resources on page 19 for a link to the grant requirements, which include a complete description of the mandatory program integration milestones.)

We recommend that states work with HHS to determine what technology they will need to acquire to operate an exchange, and what technology or assistance HHS will provide to the states. States should consider what requests for proposals they will need to release to acquire technological systems and on what timeline technology development and acquisition must occur in order for people to enroll in coverage and receive premium tax credits and cost-sharing assistance in time for the 2014 plan year.

In addition to IT information in the exchange establishment grant requirements, HHS has released IT guidance and IT-specific exchange grants, as follows:

- In November 2010, HHS released initial guidance for Exchange and Medicaid IT Systems, which is available online at http://www.hhs.gov/ociio/regulations/joint_cms_ociio_guidance.pdf.
- In February 2011, six individual states⁷ and one consortium of (New England) states received funding through the “Cooperative Agreement to Support Innovative Exchange Information Technology Systems,” or what are commonly called the “Early Innovator” grants. These grants are intended to fund the development of exchange IT that can serve as a model for other states so that each state does not have to reinvent the wheel when implementing exchange IT. Under the exchange establishment grants, states that did not receive early innovator funding are expected to determine if the early innovator IT models can apply to their exchange. HHS will establish mechanisms to share information from early innovator states with all states.
- In April 2011, the Centers for Medicare and Medicaid Services (CMS) finalized regulations on the availability of increased federal Medicaid funding (in the form of higher matching rates) for the development and maintenance of Medicaid IT systems. States that meet a set of federal standards (outlined in the regulations) for streamlining, simplifying, and modernizing the enrollment process can qualify for a 90 percent federal matching rate for developing new IT systems until December 31, 2015, and a 75 percent federal matching rate for maintaining the systems. For more information, see <http://www.gpo.gov/fdsys/pkg/FR-2011-04-19/pdf/2011-9340.pdf>.

Core Area 7: Financial Management

A mandatory 2011 milestone in the exchange establishment grant requirements is that states establish financial management structures for their exchanges and commit to hiring experienced accountants. These steps will be necessary to comply with audits and with HHS and other federal monitoring and inquiries. Financial management planning should take into account the requirement that exchanges be financially self-sustaining starting in 2015.

Core Area 8: Oversight and Program Integrity

States should be hiring staff and planning procedures, such as those for external audits, to ensure the financial and program integrity of the exchange. The exchange establishment grant requirements include a mandatory milestone for 2011 that states implement plans to prevent waste, fraud, and abuse in the expenditure of federal exchange grants.

Core Area 9: Health Insurance Market Reforms

Progress toward enacting the required market reforms included in the Affordable Care Act is a condition of receiving exchange grant funding. Additionally, having the reforms in place and demonstrating that they are being enforced are requirements for a state to be certified as “exchange-ready” in 2013. In 2011, states should be making progress toward these reforms through actions such as passing legislation (particularly if they will not have a legislative session in 2012), implementing regulations, consulting with stakeholders on the reforms, and/or developing an implementation plan for the reforms. HHS will release more guidance in the future regarding how states can make progress on market reforms.

Core Area 10: Providing Assistance to Individuals and Small Businesses, Coverage Appeals, and Complaints

Exchange establishment grant funding may be used for consumer assistance and ombudsmen programs that help people determine eligibility for, and enroll in, coverage; help people file appeals; provide information about consumer protections; and collect data on consumer problems and how they are resolved. Under the exchange establishment grant requirements, states are to develop sufficient capacity to respond to the consumer assistance needs of state residents (either through the exchange directly or through contracts or referrals with entities such as existing consumer assistance programs). States should be coordinating with existing consumer assistance organizations on how they will meet these requirements.

The exchange establishment grant requirements include the following mandatory milestone for both 2011 and 2012: States must analyze data about consumer problems with coverage collected by consumer assistance programs to help them determine how they will ensure that health plans are held accountable and that the exchange functions properly. For 2012, the grant requirements also include mandatory milestones for ensuring that states have the capacity to perform and develop protocols for consumer appeals of coverage determinations. Exchange establishment grant funding should be able to sustain state consumer assistance and ombudsmen programs for the next few years.

Core Area 11: Business Operations of the Exchange

Business operations of the exchange are a core area under the establishment grant requirements. Development of exchange business operations includes (but is not limited to) the tasks described below. (See Appendix A on page 17 for the complete list of functions included in Core Area 11, and see Additional Resources on page 19 for a link to the exchange establishment grant requirements, which include a detailed description of business operation requirements and mandatory milestones.)

- **Exchange Website and Call Center:** The Affordable Care Act requires states to develop a web portal for displaying coverage options in the exchange and a toll-free hotline for providing consumer assistance. States may want to discuss with HHS what technology the agency will provide states to help with the development of web portals. For the consumer hotline, the exchange establishment grant requirements explain that states may want to partner with consumer assistance or ombudsmen programs to operate a call center.

The exchange establishment grant requirements include the mandatory milestone for 2011 that states must begin developing requirements for systems and program operations pertaining to the online plan comparison, required online application for coverage, online premium tax credit and cost-sharing calculator, and other web functions. In 2012, it is mandatory that states develop web portal systems and submit website content to HHS for comment. In conjunction with HHS, states should consider whether they need to release any requests for proposals in order to implement a web portal and call center, and on what timeline they must do so in order for these functions to be operational before 2014 to assist people enrolling in coverage for the 2014 plan year. (Although, as described in the exchange establishment grant requirements, states may want to establish these functions even earlier to help with outreach and to answer questions from residents about health coverage.) The timeline for implementing these functions must take into account the need to test the web portal and hotline with consumer focus groups and for general functionality and to make modifications according to the testing results.⁸

- **Navigator Program:** As required by the Affordable Care Act, states must establish “navigators” to provide assistance with understanding and enrolling in coverage options to exchange-eligible individuals and businesses. States may want to assess existing entities, such as community organizations, that have—or could easily establish—relationships with consumers and employers to determine whether they could serve this purpose. (However, health insurers and individuals, such as active brokers, who receive payment from insurers for enrolling individuals or employers in qualified health plans may not be navigators. For more on this issue see the Families USA brief, *Navigators Need Not Be Licensed as Insurance Agents or Brokers*, available online at <http://www.familiesusa.org/assets/docs/health-reform/Navigators-need-not-be-brokers.docx>.)

The exchange establishment grant requirements advise states to conduct preliminary planning activities and to develop some state milestones for the implementation of the navigator program in 2011. We recommend that, in 2011 and 2012, states begin developing their process for choosing navigators, such as a grant application or request for proposals process, in consultation with advocates who are familiar with the challenges that consumers face in securing coverage. States should be aware of the timeline on which they must complete these tasks in order for navigators to be ready to serve residents as they seek coverage for the 2014 plan year.

- **Certification of Qualified Health Plans:** Under the Affordable Care Act, the sale of each insurance plan in an exchange must be certified as being “in the interests of qualified individuals and qualified employers.” All state exchanges must have a process to certify, recertify, and decertify the health insurance plans that sell coverage in the exchange. The exchange establishment grants recommend that states develop a clear exchange health plan “certification policy, including a timeline for application submission, evaluation, and selection,” in 2011. The grant requirements also recommend that states, in 2011, begin developing the standards that they will employ for selecting which health plans may sell coverage in the exchange.

The type and extent of standards that a state exchange employs for certifying health plans will depend on whether it wants to actively select the best health plans for consumers or be a more passive organizer of health insurance options—an issue that consumer advocates will likely want to provide input on. Consumer advocates may also want to provide input on what specific plan certification standards they would like to see in their state, as described on pages 19 and 20 of the Families USA brief, *Implementing Health*

Insurance Exchanges: A Guide to State Activities and Choices, available online at <http://www.familiesusa.org/assets/pdfs/health-reform/Guide-to-Exchanges.pdf>. Standards should include criteria based on a plan’s history of increasing premiums, which the Affordable Care Act instructs exchanges to consider when certifying plans. For more on this topic, see the Families USA brief, *Selecting Plans to Participate in an Exchange: A State Guide*, available online at <http://www.familiesusa2.org/assets/pdfs/health-reform/Selecting-Plans-for-Exchanges.pdf>.

- **Outreach and Education:** In order to ensure that residents are prepared to enroll in coverage for the 2014 plan year, states should develop plans for conducting outreach to notify residents of their potential eligibility for Medicaid or premium tax credits and of their potential need to secure coverage under the Affordable Care Act’s individual responsibility requirements. The exchange establishment grant requirements advise states to determine geographic- and demographic-based targets and identify vulnerable populations for targeted outreach. Outreach plans should account for any requests for proposals that states will need to release for conducting outreach activities and the need to test outreach materials and strategies with consumer focus groups and make modifications according to testing results.⁹ Consumer advocates may want to provide their states with expertise on what has been successful or unsuccessful in the past in terms of informing state residents of coverage options. The establishment grant requirements include a recommendation that states work with stakeholders to develop and refine outreach plans during 2011.

Additional Considerations for Covering Low-Income Adults

In 2014, adults with incomes up to 133 percent of the federal poverty level (currently \$14,484 for a single adult) will qualify for Medicaid in every state.¹⁰ States will also continue to cover children in either Medicaid or CHIP at their state's current eligibility levels (generally 200 percent of poverty). But states have several options for covering low-income people with incomes slightly above these levels, and they should consider which one would allow them to provide the most comprehensive and affordable coverage to this population. The options available to states include the following:

- If states do not choose otherwise, adults with incomes above 133 percent of poverty will go to the exchange and receive premium credits to purchase coverage for the essential benefits package required by the Affordable Care Act.
- States can cover people with incomes above 133 percent of poverty in their Medicaid programs. They will receive their regular federal Medicaid matching rate for any Medicaid expansion above 133 percent of poverty. States also have some choices about the benefits they will provide to newly eligible adults in Medicaid. States may wish to compare whether they would receive more federal funding toward coverage of lower-income people who earn over 133 percent of poverty by covering them through the Medicaid program or under the Basic Health option (described below) and through which option they can provide the best benefits.
- The Affordable Care Act allows states to provide coverage to people who are ineligible for Medicaid and earn incomes up to 200 percent of the federal poverty level through a Basic Health program. To fund a Basic Health program, states will receive federal funding equal to 95 percent of the value of the premium credits and cost-sharing subsidies that the federal government would otherwise provide for exchange coverage for that population. In addition, coverage through Basic Health must provide *at least* the federally required essential benefits package, which is yet to be defined beyond the broad benefit categories outlined in the Affordable Care Act. The program must also have approximately the same cost-sharing limits as exchange plans have for people at the same income level. States—particularly those that already provide public coverage to adults with incomes above 133 percent of the federal poverty level—should consider whether a Basic Health program would be in the best interests of low-income consumers and how such a model would fit into the state's health coverage system. For more on Basic Health, see the forthcoming Families USA brief, *The Basic Health Option: Will It Work for Low-Income Consumers in Your State?*, available online soon at www.familiesusa.org.



CONCLUSION

Implementing an effective, consumer-friendly exchange will require coordination and commitment from many state agencies and officials. As described in this piece and in the exchange establishment grant requirements, states must **plan backwards from the time when each exchange component must be in place** in order to determine when they must complete various steps in the process for exchange implementation. Consumer advocates may want to discuss an exchange implementation timeline (based on the milestones included in the exchange establishment grant requirements) with their state's decisionmakers in order to ensure that the state is aware of necessary implementation tasks and is planning an appropriate implementation schedule so consumers will have an effective, easy-to-use exchange in 2014.



ENDNOTES

¹ Alaska declined to apply for a state exchange planning grant. Additionally, Florida, Louisiana, and Oklahoma returned the planning grants they received to the federal government.

² U.S. Department of Health and Human Services, *Exchange Planning and Establishment Grants: Grant Awards List* (Washington: U.S. Department of Health and Human Services, September 30, 2010), available online at <http://www.healthcare.gov/news/factsheets/grantawardslist.html>.

³ U.S. Department of Health and Human Services, *Cooperative Agreement to Support Establishment of State-Operated Health Insurance Exchanges: Funding Opportunity Number IE-HBE-11-004; CFDA: 93.525* (Washington: U.S. Department of Health and Human Services, January 2011), available online at http://cciio.cms.gov/resources/fundingopportunities/foa_exchange_establishment.pdf.

⁴ National Academy of Social Insurance, *Designing an Exchange: A Toolkit for State Policymakers* (Washington: National Academy of Social Insurance, January 2011), available online at http://www.nasi.org/sites/default/files/research/Designing%20an%20Exchange_A%20Toolkit%20for%20State%20Policymakers.pdf.

⁵ California Statutes, Chapter 655 (Introduced as AB 1602) creates California's health insurance exchange pursuant to the Affordable Care Act and outlines its powers and duties, available online at http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_1601-1650/ab_1602_bill_20100930_chaptered.html; California Statutes, Chapter 659 (Introduced as SB 900) creates California's exchange governing board, available online at http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0851-0900/sb_900_bill_20100930_chaptered.html; 2011 Laws of Maryland, Chapter 1 (Introduced as Senate Bill 182) creates Maryland's state health insurance exchange, available online at http://mlis.state.md.us/2011rs/chapters_nolin/Ch_1_sb0182T.pdf.

⁶ U.S. Department of Health and Human Services, *Cooperative Agreement to Support Establishment of State-Operated Health Insurance Exchanges: Funding Opportunity Number IE-HBE-11-004; CFDA: 93.525* (Washington: U.S. Department of Health and Human Services, January 2011), available online at http://cciio.cms.gov/resources/fundingopportunities/foa_exchange_establishment.pdf.

⁷ These six states include Oklahoma, which returned its grant to the federal government in April 2011, leaving five states and one state consortium with grant funding.

⁸ Patrick Holland and Jon Kingsdale, *Health Benefit Exchanges: An Implementation Timeline for State Policymakers* (Washington: State Coverage Initiatives, July 2010), available online at <http://www.rwjf.org/files/research/66489.pdf>.

⁹ Ibid.

¹⁰ Note: The income guidelines are different for adults who are also eligible for Medicare.



APPENDIX A: BUSINESS OPERATIONS OF THE EXCHANGE

Under the exchange establishment grant requirements, many of the concrete functions that an exchange must perform are included in Core Area 11, Business Operations of the Exchange. The functions included in this core area are as follows:⁶

- Certification, recertification, and decertification of qualified health plans;
- Consumer call center;
- Exchange website;
- Premium tax credit and cost-sharing reduction online calculator;
- Quality rating system;
- Navigator program;
- Eligibility determinations for exchange participation, advance payment of premium tax credits, cost-sharing reductions, and Medicaid;
- Seamless eligibility and enrollment processes with Medicaid and other state health subsidy programs;
- Enrollment process;
- Applications and notices;
- Individual responsibility determinations;
- Administration of premium tax credits and cost-sharing reductions;
- Adjudication of appeals of eligibility determinations;
- Notification and appeals of employer liability;
- Information reporting to the IRS and enrollees;
- Outreach and education;
- Risk adjustment and transitional reinsurance; and
- Small Business Health Options Program (SHOP) exchange-specific functions.

For a complete description of the functions and mandatory milestones included in Core Area 11, see Additional Resources on page 19 for the link to the exchange establishment grant requirements.

⁶ The exchange establishment grant requirements also include “Free Choice Vouchers” on this list. However, this provision of the Affordable Care Act was repealed in the Full-Year Continuing Budget Resolution for the 2011 fiscal year, signed into law on April 15, 2011.



APPENDIX B: ADDITIONAL RESOURCES

From Families USA

Claire McAndrew, Rachel Klein, and Jenny Sullivan, *Implementing Health Insurance Exchanges: A Guide to State Activities and Choices* (Washington: Families USA, October 2010), available online at <http://www.familiesusa.org/assets/pdfs/health-reform/Guide-to-Exchanges.pdf>.

Families USA, *Building an Effective State Exchange* (Washington: Families USA, December 2010), available online at <http://www.familiesusa.org/assets/docs/health-reform/State-Exchange-Benchmarks.doc>. This document offers 15 benchmarks for an effective state exchange that advocates or states may adapt according to their needs.

Elisabeth Rodman and Claire McAndrew, *Implementing Health Insurance Exchanges: Options for Governance and Oversight* (Washington: Families USA, April 2011), available online at <http://familiesusa2.org/assets/pdfs/health-reform/Exchanges-Governance-and-Oversight.pdf>.

Cheryl Fish-Parcham, *Selecting Plans to Participate in an Exchange* (Washington: Families USA, February 2011), available online at <http://www.familiesusa2.org/assets/pdfs/health-reform/Selecting-Plans-for-Exchanges.pdf>.

Cheryl-Fish Parcham, *Navigators Need Not Be Licensed as Insurance Brokers or Agents* (Washington: Families USA, March 2011), available online at <http://www.familiesusa.org/assets/docs/health-reform/Navigators-need-not-be-brokers.docx>.

Elisabeth Rodman, *Applying for Health Coverage Online: The Affordable Care Act Helps Americans Enroll* (Washington: Families USA, March 2011), available online at <http://familiesusa2.org/assets/pdfs/ApplyingforHealthCoverageOnline.pdf>.

Christine Sebastian, *The Basic Health Option: Will It Work for Low-Income Consumers in Your State?* (Washington: Families USA, May 2011), forthcoming on <http://www.familiesusa.org>.

From Other Organizations

The U.S. Department of Health and Human Services, *Cooperative Agreement to Support Establishment of State-Operated Health Insurance Exchanges: Funding Opportunity Number IE-HBE-11-004; CFDA: 93.525* (Washington: U.S. Department of Health and Human Services, January 2011) available online at http://cciio.cms.gov/resources/fundingopportunities/foa_exchange_establishment.pdf. These are the requirements for the state exchange establishment grants.

National Academy of Social Insurance, *Designing an Exchange: A Toolkit for State Policymakers* (Washington: National Academy of Social Insurance, January 2011), available online at http://www.nasi.org/sites/default/files/research/Designing%20an%20Exchange_A%20Toolkit%20for%20State%20Policymakers.pdf.

National Association of Insurance Commissioners, *American Health Benefit Exchange Model Act* (Kansas City: National Association of Insurance Commissioners, November 2010), available online at http://www.naic.org/documents/committees_b_exchanges_adopted_health_benefit_exchanges.pdf.

National Conference of State Legislatures, *State Actions to Implement the American Health Benefit Exchange* (Washington: National Conference of State Legislatures, 2011), available online at <http://www.ncsl.org/?tabid=21388>.

Acknowledgments

This guide was written by:

Claire McAndrew
Senior Health Policy Analyst

The following Families USA staff assisted in the preparation of this guide:

*Kathleen Stoll, Deputy Executive Director,
Director of Health Policy*

Cheryl Fish-Parcham, Deputy Director, Health Policy

Christine Sebastian, Health Policy Analyst

Peggy Denker, Director of Publications

Colleen Haller, Publications Associate

Nancy Magill, Senior Graphic Designer



1201 New York Avenue NW, Suite 1100 • Washington, DC 20005
Phone: 202-628-3030 • Fax: 202-347-2417 • Email: info@familiesusa.org
www.familiesusa.org