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## Implementing Exchanges

*A series of briefs from Families USA on implementing health insurance exchanges*

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# Exchange Implementation: To Partner or Not to Partner?

Starting in 2014, the Affordable Care Act requires every state to have a health insurance exchange where individuals and small businesses can obtain affordable coverage.<sup>1</sup> States can choose to run their own exchange (a state-based exchange), to have the federal government run their exchange for them (a federally facilitated exchange, or FFE), or to run some functions within an FFE (a partnership exchange).

States that either have not started or have completed only minimal planning for a state-based exchange may now be deliberating over whether to opt in to a partnership exchange or whether a fully federally operated exchange is the best option for the state, at least for 2014.<sup>2</sup> In these two options, the U.S. Department of Health and Human Services (HHS) will be responsible for performing most exchange functions. However, in a partnership exchange, the state is responsible for operating plan management, in-person consumer assistance, or both. For details on what these functions entail, see Families USA's companion piece, *State Responsibilities in a Partnership Exchange* (available online at [www.familiesusa2.org/assets/pdfs/health-reform/State-Exchange-Partnership-Responsibilities.pdf](http://www.familiesusa2.org/assets/pdfs/health-reform/State-Exchange-Partnership-Responsibilities.pdf)). This brief outlines the components of partnership exchanges based on the *Blueprint for Approval of Affordable State-Based and State Partnership Insurance Exchanges*<sup>3</sup> from HHS.

This brief lists questions to consider in order to determine whether a partnership exchange or a federally facilitated exchange without a partnership would be better for consumers and small businesses in a state that is unlikely to have a state-based exchange in 2014.

## Should your state develop a partnership exchange?

In states where the operation of a state-based exchange seems unlikely or inadvisable in 2014, many people see benefits to a partnership exchange. Partnership exchanges can provide an important opportunity for states to take advantage of specific local information that the federal government may not have. For example, it may be easier for a state to establish effective in-person consumer assistance programs because the state may already know of and have relationships with local entities that could provide this assistance. Similarly, a state may be more knowledgeable than the federal government about which insurance plans have been problematic for residents in the past, and a state could more easily incorporate this knowledge into the certification process for qualified health plans (QHPs, plans that are certified to be sold in the individual and/or small business exchanges). In addition, since a state has to focus only on its own residents, it may be easier for the state to respond to the needs of consumers and health plans regarding the exchange in a timely fashion.

When deciding between a partnership and a federally facilitated exchange, one critical issue to consider is whether your state will willingly perform the required functions of the partnership exchange, and whether it will do so in the best interest of consumers. **States that have indicated that they are unlikely to implement exchange functions even if required to do so by law may not be good candidates for partnership exchanges—unless they make it clear that they will take their partnership obligations seriously and put consumer interests at the forefront of their policy and operational decision making.** States must also demonstrate that they are willing to comply with the requirements to coordinate and share information with the federally operated functions of the exchange.

Although the federal government will reimburse states for the functions they perform within a partnership exchange, an important part of a state taking its partnership obligations seriously is dedicating sufficient staff and resources to perform plan management and/or consumer assistance functions for the exchange. If a state is unlikely to do this even when it does not have to commit its own finances, it may not be in the best interest of residents to have a partnership exchange.

To determine whether your state should operate plan management and/or consumer assistance functions for a partnership exchange, it is also important to consider whether the agencies or other entities in your state that would be involved would consistently work with stakeholders to ensure that consumers' needs are met. It is important that the entities implementing and operating plan management and/or consumer assistance functions for the exchange take into account the input of consumers, their advocates, and other stakeholders to ensure that the exchange delivers on its promise of bringing quality, affordable coverage to state residents and businesses.

## Questions to Consider: Plan Management and In-Person Consumer Assistance Partnerships

Beyond the issues described on the previous page, considering the following questions can provide critical insight regarding whether your state should implement a partnership exchange for plan management for in-person consumer assistance, or both:

- **For Plan Management**

- **Does your state have the capacity to perform robust monitoring of QHPs to make sure that plans are following consumer protection laws? Do you believe that your state would take appropriate and timely action against insurance companies that fall out of compliance with the requirements for QHPs or otherwise fail to meet obligations to exchange enrollees?**

Entities responsible for plan management must have processes in place for initial certification (before October 1, 2013) and for ongoing monitoring of plan compliance with standards that govern QHPs, as well as for decertification of plans that become noncompliant.

- **Do you believe your state or the federal government would be better at investigating and taking action if numerous consumer complaints are raised regarding a particular health plan in the exchange?**

Entities responsible for plan management must collect, analyze, and resolve enrollee complaints regarding QHPs. If your state is not a plan management partner, the federal government will be responsible for these functions. It is therefore important to consider whether your state or the federal government is more likely to respond to consumer problems in a timely and proactive way. You may want to investigate, for example, whether consumers in your state have ever experienced delayed resolutions to problems related to Medicare Advantage or large employer plans that are headquartered out of state. Examining these situations may provide insight into potential unintended consequences for consumers if the state does not have full jurisdiction to resolve QHP enrollee grievances.

- **Has your state enacted consumer protections to ensure that enrollees do not experience unreasonably high costs, inadequate coverage for necessary services, or violations of their rights in insurance plans in your state? Is your state likely to implement consumer protections in the exchange via strong standards for QHPs?**

As a plan management partner, your state will decide what rules, if any, apply to QHPs beyond the minimum QHP requirements in the Affordable Care Act.<sup>4</sup> For example, it will be up to your state to decide whether the exchange should require any additional cost-sharing standardization for QHPs (such as ensuring that some plans in the exchange have low deductibles) beyond the broad standardization imposed by the Affordable Care Act's actuarial value requirements.<sup>5</sup>

- **Are there state-specific health problems that your state could address by enacting its own additional standards for QHPs?**

By opting to be a plan management partner, your state would have the opportunity to enact state-specific quality and other standards for QHPs (beyond those required by the Affordable Care Act) that are designed to address prevalent chronic diseases, prevention of illnesses for which residents are particularly at risk, health disparities, or other health issues in your state.

- **For In-Person Consumer Assistance**

- **Does your state have a history of operating or partnering with in-person assistance programs that help consumers understand and enroll in coverage? Is your state likely to develop in-person consumer assistance with sufficient capacity to help consumers who are seeking coverage through the exchange?**

You may want to consider your state's experience with programs such as consumer assistance within the insurance department or the attorney general's health division, its Medicare counseling program (often called the State Health Insurance Assistance Program or SHIP), and any Medicaid counseling programs (such as hotlines or facilitated enrollers).

- **Does your state have a sense of the in-person consumer assistance needs and resources in different communities, including geographically and ethnically diverse areas, and the consumer assistance needs of and resources available to people with disabilities?**

Do you think your state or the federal government is most likely to implement a well-rounded, in-person consumer assistance program that adequately meets the needs of diverse communities and consumers?

- **Is your state likely to provide rigorous oversight and support for in-person assistance programs?**

Will your state adequately monitor the activities of navigators and other in-person assisters to ensure adherence to conflict of interest and training standards?  
Will your state develop resources to enhance the work of in-person consumer assistance programs, such as ongoing training opportunities and outreach materials?
- **Will your state be proactive in facilitating coordination between in-person consumer assistance programs and federally operated functions of the exchange?**

Will your state create mechanisms to facilitate communication and to share data among in-person assisters, assistance provided by phone and online, and state and exchange entities determining eligibility? Will your state ensure that the public education and outreach strategies used by in-person consumer assistance programs are consistent with and complementary to those used by the FFE in your state?

If considering the questions above leads you to conclude that your state has the capacity to operate plan management and/or in-person consumer assistance exchange functions in a manner that supports the needs of consumers and small businesses, you may want to encourage your state to pursue the implementation of a partnership exchange. And if you think a partnership exchange is the best initial approach for your state, you may want to consider whether your state's capacity to operate additional exchange functions could grow and whether it should transition out of a partnership exchange and into a fully state-based exchange in future years.<sup>6</sup>

## Conclusion

A state that is unlikely to implement a state-based exchange in 2014 but that has a strong capacity for health plan oversight and/or consumer assistance may serve its residents well through a partnership exchange. Furthermore, such states may eventually seek to operate a state-based exchange, and performing partnership functions in 2014 will establish a strong foundation for this effort. On the other hand, some states have either not responded or expressed opposition to the implementation requirements of the Affordable Care Act, and consumers in those states may be better served by a federally facilitated exchange without a partnership. Since more information about how federally facilitated and partnership exchanges will work is still forthcoming, choosing the best exchange model for a given state can be challenging. Considering the issues outlined in this brief can help determine which exchange option will ultimately be best for consumers and small businesses in your state.

## Endnotes

<sup>1</sup> *Patient Protection and Affordable Care Act*, Public Law 111-148 (March 23, 2010), as modified by the *Health Care and Education Reconciliation Act of 2010*, Public Law 111-152 (March 30, 2010), Title 1, Subtitle D, Section 1311.

<sup>2</sup> States are permitted to transition to a different exchange model in any future year. For a discussion of the transition process, see Center for Consumer Information and Insurance Oversight, *Blueprint for Approval of Affordable State-Based and State Partnership Insurance Exchanges* (Washington: Department of Health and Human Services, August 14, 2012), available online at <http://cciio.cms.gov/resources/files/hie-blueprint-081312.pdf>.

<sup>3</sup> Center for Consumer Information and Insurance Oversight, *Blueprint for Approval of Affordable State-Based and State Partnership Insurance Exchanges* (Washington: Department of Health and Human Services, August 14, 2012), available online at <http://cciio.cms.gov/resources/files/hie-blueprint-081312.pdf>.

<sup>4</sup> *Patient Protection and Affordable Care Act*, Public Law 111-148 (March 23, 2010), as modified by the *Health Care and Education Reconciliation Act of 2010*, Public Law 111-152 (March 30, 2010), Title 1, Subtitle D, Section 1311(c).

<sup>5</sup> *Patient Protection and Affordable Care Act*, Public Law 111-148 (March 23, 2010), as modified by the *Health Care and Education Reconciliation Act of 2010*, Public Law 111-152 (March 30, 2010), Title 1, Subtitle D, Section 1302.

<sup>6</sup> For details on this process, see “Overview of Exchange Approval Requirements” on page 3 of Center for Consumer Information and Insurance Oversight, *op. cit.*

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