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Health Insurance Exchanges

The Affordable Care Act (ACA) requires each state to have a competitive marketplace, known as an **Affordable Health Insurance Exchange** (Exchange), for individuals and small businesses to purchase private health insurance. According to the Department of Health and Human Services (HHS), the Exchanges will allow for direct comparisons of private health insurance options on the basis of price, quality and other factors and will coordinate eligibility for premium tax credits and other affordability programs.

All Exchanges launched open enrollment in October 2013 with coverage becoming effective as early as Jan. 1, 2014.

In addition to the ACA's Exchanges, private health insurance exchanges are emerging to provide another way for employers to provide health insurance coverage for employees. Private health insurance exchanges may offer employers more flexibility than the ACA's Exchanges.

EXCHANGE OPTIONS FOR STATES

States have three main options available to them with respect to the establishment of their Exchanges.

- Create and operate its own Exchange (state-based Exchange)
- Have HHS operate the federally-facilitated Exchange (FFE) for its residents
- Partner with HHS so that the state is involved with the operation of the FFE

As a default, HHS will operate the FFE in any state that does not establish a state-based Exchange or elect a partnership Exchange.

Also, each Exchange will have an individual market component and a component for small employers, which is called the Small Business Health Options Program (SHOP). A state may elect to operate its own SHOP for small employers and let HHS run the individual market Exchange in the state.

To operate a state-based Exchange for 2014, a state was required to submit a blueprint application and declaration letter to HHS by Dec. 14, 2012 for approval. States establishing a partnership Exchange had until Feb. 15, 2013 to submit a blueprint application and declaration letter for 2014.

A state may transition between Exchange models each year. In the 2015 Notice of Benefit and Payment Parameters Final Rule, HHS moved the deadline for approval of an Exchange blueprint for states electing to establish and operate an Exchange after 2014. The new deadline for providing the blueprint is June 15 of the previous plan year (rather than Jan. 1 of the previous plan year). For example, a state that decides to operate its own Exchange starting in 2015 would need to submit a blueprint to HHS by June 15, 2014. According to HHS, this adjusted timeframe will enable it to better gauge a state's actual technical, business and operational progress with respect to its Exchange planning.

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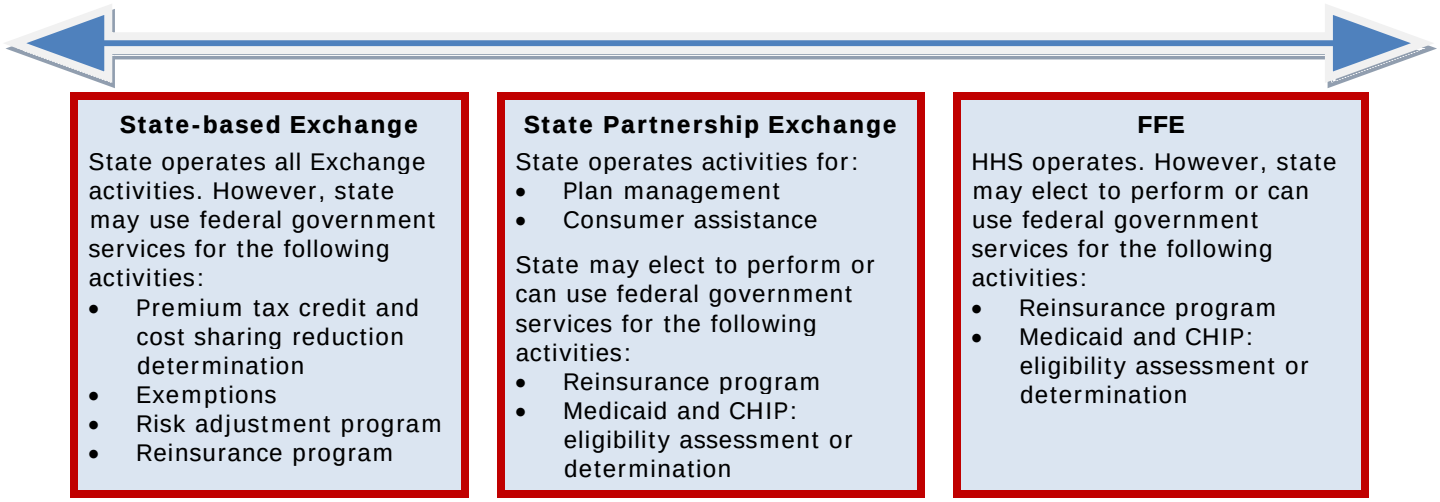
The following figure summarizes the different Exchange models available to states under the ACA:



For 2014, the following 18 states and the District of Columbia are operating state-based Exchanges:

- California
- Colorado
- Connecticut
- District of Columbia
- Hawaii
- Idaho
- Kentucky
- Maryland
- Massachusetts
- Minnesota
- Nevada
- New Mexico
- New York
- Oregon
- Rhode Island
- Utah
- Vermont
- Washington
- Mississippi

Utah and Mississippi have received HHS' conditional approval to operate their own SHOP Exchanges to serve small employers, while allowing HHS to operate the FFE in the individual market.

For 2014, the following seven states are operating partnership Exchanges:

- Arkansas
- Delaware
- Illinois
- Iowa
- Michigan
- New Hampshire
- West Virginia

HHS is running the FFE for the remaining 25 states, including Arizona, Texas, Louisiana, Wisconsin, Florida, Georgia, Ohio and Pennsylvania.

EXCHANGE FUNCTIONS AND ROLES

The Exchanges perform a variety of functions, including:

- Certifying health plans as qualified health plans (QHPs) to be offered in the Exchange;
- Operating a website to facilitate comparisons among QHPs for consumers;
- Operating a toll-free hotline for consumer support, providing grant funding to entities called "Navigators" for consumer assistance and conducting consumer outreach and education;

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- Determining exemptions from the ACA's individual mandate and granting approvals related to hardship or other exemptions;
- Determining eligibility of consumers for enrollment in QHPs and for insurance affordability programs (such as premium tax credits, Medicaid and CHIP state-established basic health plans); and
- Facilitating the enrollment of consumers in QHPs.

States have flexibility in determining the design of their Exchanges. For example, states may decide whether their Exchanges will be operated by a non-profit organization or a public agency. States may also select the number and type of health plans available in their Exchanges and may determine some of the standards for QHPs, including the definition of required essential health benefits. In addition, states have flexibility to determine a role for agents and brokers in connection with the Exchanges.

Navigator Program

The Navigator program is an essential component of an Exchange. Navigators help consumers learn about and choose health coverage through the Exchanges. For example, a Navigator will provide information regarding various health programs and will provide information in a manner that is culturally and linguistically appropriate to the needs of the populations being served by the Exchange.

States have flexibility to design their Navigator programs, including selecting the entities that will serve as Navigators. However, the following guidelines apply to the Navigator program:

- Exchanges must have at least two entities serve as Navigators, and one of the entities must be a community and consumer-focused nonprofit group.
- Exchanges must have conflict of interest standards for Navigators. These standards must prohibit a Navigator from receiving any kind of compensation from a health insurance or stop loss insurance issuer for enrolling individuals in health insurance plans. This prohibition applies to both plans offered through an Exchange, and plans offered outside of an Exchange. However, Navigators who sell lines of insurance that are not health or stop loss insurance would not be prohibited from receiving consideration from the sale of those other lines of insurance while serving as Navigators, so long as they disclose this to consumers.
- Exchanges must have a set of training standards for Navigators to ensure expertise in the needs of underserved and vulnerable populations, eligibility and enrollment procedures, the range of QHPs and public programs and the Exchange's privacy and security standards.

Agents and Brokers

States have flexibility to determine what role brokers and agents will serve in their Exchanges. Also, states will continue to set standards for the broker and agent industry and play their traditional role in licensing and overseeing insurance producers.

Licensed brokers and agents are eligible to serve as Navigators. However, the responsibilities of a Navigator differ from the traditional activities of a broker or agent. Also, the conflict of interest standards would preclude brokers and agents who are serving as Navigators from receiving compensation from an issuer for selling health or stop loss insurance.

Where permitted by the state, brokers and agents (including web-brokers) may assist individuals and small employers with the Exchange's eligibility application and enrollment processes, including plan selection. They may also help eligible individuals apply for the ACA's insurance affordability programs (that is, the advanced premium tax credit and cost-sharing reductions).

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If permitted by state law, brokers and agents may:

- **Enroll qualified individuals or small employers in QHPs**
- **Help eligible individuals apply for premium tax credits or cost-sharing reductions**

Agents and brokers working with consumers in the individual market FFE and state partnership Exchanges can assist consumers in two ways:

(1) An issuer-based pathway, where an agent or broker uses an issuer's website to assist the consumer; or

(2) An Exchange pathway, where an agent or broker assists the consumer using the Exchange website.

Web-brokers (that is, brokers or agents that use their own websites to help consumers select QHPs) provide another option for assisting consumers in the individual market.

For the federally-facilitated SHOP (FF-SHOP), brokers will work with consumers using the Exchange website to complete the employer and employee applications. However, on Nov. 27, 2013, HHS announced that online enrollment in the FF-SHOP Exchanges will not be available until November 2014. Employers that wish to enroll their employees in SHOP coverage for 2014 will do so through "direct enrollment" with an agent, broker or insurer offering a certified SHOP plan. The direct enrollment process applies in states with FF-SHOPs only. States that operate their own SHOP Exchanges will still be permitted to offer online enrollment. HHS also released a set of Frequently Asked Questions (FAQs) on how the FF-SHOP enrollment will function until November 2014.

If permissible under state law, the 2015 Notice of Benefit and Payment Parameters Final Rule allows small employers to enroll in a state-run SHOP or the FF-SHOP through an agent's or broker's own website. This change is effective for plan years beginning on or after Jan. 1, 2015, if the SHOP has the technical capability to make this possible. HHS does not anticipate that the FF-SHOPs will make this functionality available in 2015.

There is no overall prohibition on agents or brokers receiving commissions through an Exchange. How brokers and agents will be compensated for coverage sold through an Exchange will depend on the type of Exchange.

- In state-based Exchanges, states have the flexibility to determine what role brokers and agents will serve, including how compensation will be structured.
- In the FFE and FF-SHOPs, the Exchange will not establish a commission schedule or pay commissions directly to agents or brokers. Instead, agents and brokers will be compensated by insurers or consumers, consistent with state law. However, HHS has established a standard for broker compensation. In order for a plan to be certified as a QHP, issuers must pay the same broker compensation for QHPs in the FFE or FF-SHOP that the issuer pays for similar plans in the outside market.

To participate in the FFE or FF-SHOP, agents and brokers must adhere to all state requirements for licensure, appointment and market conduct and complete applicable Exchange agreements. Additionally, agents and brokers serving in the individual market FFE must complete online training and security authorization for FFE registration. Training is strongly encouraged, but not required, for agents and brokers working exclusively in FF-SHOPs. State-based Exchanges can either adopt the federal standards or develop their own training and certification requirements.

SMALL BUSINESS HEALTH OPTIONS PROGRAM (SHOP)

According to HHS, SHOPs allow small employers to provide their employees with a choice of health plan options and give small businesses the same purchasing power as large businesses. Each Exchange will decide how its SHOP is structured.

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Eligible Small Employers

States have flexibility with regard to the size of small businesses that can participate in SHOP. Until 2016, states can set the size of the small group market at either 1 to 50 or 1 to 100 employees. In 2016, employers with between 1 and 100 employees will be allowed to participate in a SHOP. Starting in 2017, states have the option to let businesses with more than 100 employees buy large group coverage through the SHOP.

Employer Choice Model and Transition Policy

A SHOP must allow employers the option to offer employees all QHPs at a level of coverage chosen by the employer—bronze, silver, gold or platinum. This is called the "employee choice model." Under the employee choice model, the employer chooses a level of coverage and a contribution amount and employees then select any QHP at that level.

In addition, SHOPs may allow a qualified employer to choose one QHP for its employees. The FF-SHOP will give employers the option of offering only a single QHP in addition to the employee choice model.

On June 4, 2013, HHS issued a final rule that **delayed implementation of the employee choice model as a requirement for all SHOPs for one year, until 2015.** According to HHS, this approach provides all SHOPs (both state SHOPs and the FF-SHOP) with additional time to prepare for the employee choice model. Under the transition approach:

- *State-run Exchanges:* A state-run Exchange's SHOP may provide the employee choice model for small employers in 2014, but is not required to provide this model until 2015. Many states that have decided to run their own Exchanges are planning to offer the employee choice model to small employers in 2014, including California, Colorado, Massachusetts, Minnesota, New York and Oregon, among others.
- *FFE:* The FF-SHOP will not provide the employee choice model for small employers until 2015. For 2014 plan years, the FF-SHOP will assist employers in choosing a single QHP to offer their qualified employees.

In addition, on March 17, 2014, HHS issued a proposed rule that would allow state regulators to recommend delaying the employee choice model for their state's SHOP for an additional year, until 2016, if certain market conditions exist in the state.

Tax Credit

Starting in 2014, small employers purchasing coverage through the SHOP may be eligible for a tax credit of up to 50 percent of their premium payments if they have 25 or fewer employees, pay employees an average annual wage of $50,800 or less, offer all full-time employees coverage and pay at least 50 percent of the premium.

PRIVATE EXCHANGES

While the ACA's state-based Exchanges are scheduled to be effective in 2014, some private health insurance exchanges targeted at employers are already operational. As a growing trend, these private exchanges create a marketplace for employees to compare options and shop for coverage. At the same time, they allow private health care companies to market their products at a single location to clients throughout the country.

Some employers may use the private exchanges to offer a defined contribution model of purchasing health coverage. Under this model, employers provide employees with a defined amount of money and direct them to an exchange where they can select a health plan from an array of options.

Private exchanges have the potential to provide more flexibility than the ACA's Exchanges.

- Private exchanges can offer a broader range of insurance products, such as life insurance, and their products can be tailored for different employer segments.

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- Although the ACA prohibits large employers from using the Exchanges until at least 2017, there is no similar restriction for private exchanges. Thus, small and large employers can use private exchanges to provide group health insurance benefits to their employees.
- Private exchanges are currently operating to provide employees with a choice of health insurance products, while the SHOP's employee choice model is delayed until 2015.

Private health insurance exchanges are a relatively new model for providing group health insurance benefits. The availability and success of private exchanges most likely depends on employers' willingness to move from a traditional health plan to a defined contribution health plan.

ADDITIONAL RESOURCES

More information on the Exchanges is available through www.healthcare.gov and http://cciio.cms.gov.

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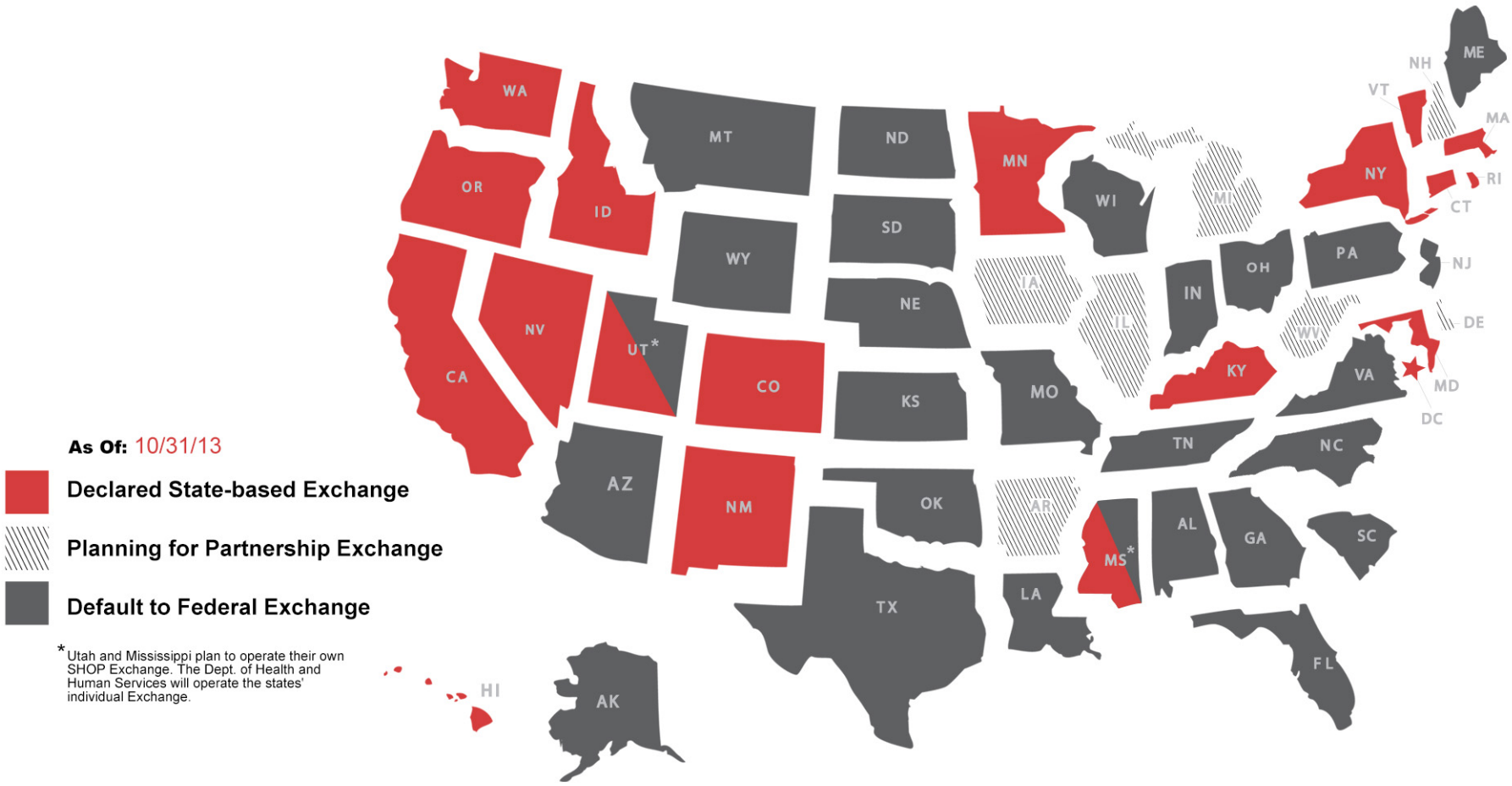

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