

Insurance Commissioner's Health Care Reform Realization Committee

Discussion & recommendation tracking document

Last updated: October 12, 2010

SUMMARY OF APPROVED RECOMMENDATIONS

Goals of a Washington Exchange, as approved on October 5, 2010:

There was a shared viewpoint that Washington's exchange should be more than simply a "market organizer."

1. Increase access to quality affordable health care coverage.
2. Encourage carrier competition based on price and quality, not on risk selection.
3. Promote consumer literacy, empowering consumers to compare plans and make informed decisions about their care and coverage.
4. Provide greater transparency and accountability in the health insurance marketplace.
5. Drive quality improvement, cost containment, and innovation in payment systems through out our health care system.
6. Promote and encourage innovative efforts to reduce health care costs and ensure sustainability of the system.
7. Effectively and efficiently administer health care subsidies.
8. Seamlessly direct consumers to information about and enrollment in programs in addition to those related to health care that are available to lower income individuals and families.

Exchange insurance market recommendations as approved on October 5, 2010:

The Realization Committee's discussions assumed the following points:

- That Washington state would choose to develop and run the exchange rather than rely on the federal government.
- That a private insurance market would continue to exist outside of the exchange.

The Committee voted unanimously to forward these recommendations regarding the exchange and the insurance market:

1. Washington should have one exchange that serves the individual and small group markets (the issue of whether to merge markets for pooling purposes was not decided).
2. The regulatory framework should be the same inside and outside of the exchange.
3. The regulation of the insurance market, both inside and outside of the exchange should continue to be done by the Washington State Office of the Insurance Commissioner, independent from the governance of the Exchange.
4. Premium subsidies should be available for all eligible individuals purchasing coverage in the individual and small group markets inside the exchange.

Principles for developing a governance structure

The Committee voted unanimously to forward the following recommendations on October 5, 2010 as guiding principles for developing an exchange governance structure:

1. Publicly accountable and transparent
2. Insulated from political and other special interests
3. Administratively efficient, value added
4. Broadly representative of the interests of the users of the exchange, individuals and employers; and supportive of the goals of the exchange.
5. Regulation of the insurance market is the responsibility of the OIC, and should be separate from the exchange
6. Promotes a culture of regular evaluation, self and independent
7. Builds on existing models that work well

<p>ADVERSE SELECTION DISCUSSION (HIGHLIGHTED POINTS FROM WORK TEAM AND FULL COMMITTEE DISCUSSIONS THAT GUIDED OUR RECOMMENDATION DECISIONS LISTED ABOVE):</p>
--

Washington State should choose to develop and run the exchange rather than rely on the federal government.

This was an easy assumption for the group to operate under. It was felt that a state operated exchange would be in the best interests of Washingtonians. It would allow Washingtonians and our elected officials to create an exchange that meets the needs of our people and take into consideration the insurance market in our state. It would allow local control and accountability, and it would provide a better opportunity to minimize adverse selection between markets.

A private insurance market would continue to exist outside of the exchange.

While there is some debate on the national level about whether or not a state is required to maintain a market outside of the exchange, our group felt it was a good idea to do so and in the interests of all Washingtonians.

It was felt that given the uncertainty of how the market will react to the establishment of an exchange, maintaining a market outside of the exchange was prudent; and allowed for greater choice for consumers, including those prohibited from purchasing through the exchange.

Washington State has demonstrated a commitment to increasing access to health care for all residents. In order to ensure an avenue for all residents of our state to purchase health insurance, an outside market is necessary.

The group recognized that all uninsured individuals have a financial impact on our health care system, most often through uncompensated care in hospital emergency rooms. By providing a variety of avenues to purchase insurance coverage, we can reduce the cost of uncompensated care.

Washington should have one exchange that serves the individual and small group markets.

One of the main functions of an exchange under the ACA is to facilitate the purchase of insurance. Having a single entry point for all purchasers makes the process easier for consumers to navigate—whether individuals or small employers. Individuals may need to move between markets because of job or other life changes. The exchange becomes the one-stop shop—using technology to steer consumers to relevant options.

Combining the administration of the individual and small group market exchanges also made sense to the entire work team as a mechanism for creating a simplified, cost effective and efficient method of running an exchange.

The ACA allows states to provide only one exchange for providing both services to both individuals and small groups, Section 1311.

Note: The group did not decide on whether to combine the individual and small group markets for pooling purposes. It was felt that more information was needed to make that decision.

The ACA allows states to decide whether or not they want to merge their individual and small group markets for the purpose of pooling risk, Section 1312.

The regulatory framework should be the same inside and outside of the exchange.

The group began this discussion with an assumption that Washington state would continue to have a market outside of the exchange. The intent was to ensure meaningful choice for all consumers—including those prohibited from purchasing through the exchange. The group is very cognizant of the potential for adverse selection between the markets and agreed that creating a “level playing field” was one of the fundamental ways to guard against adverse selection.

There was clear agreement on the goal of a level playing field—achieve an adequate cross section of risk inside and outside of the exchange, support competition based on price and quality, and significantly reduce the opportunity for carriers to compete through risk avoidance and market segmentation. Defining the elements or criteria of a level playing field was not yet decided. Defining a level playing field and figuring out the best way to accomplish it will be a significant task.

The group believes the ACA allows for the continued operation of a market outside of the exchange, Section 1312.

The regulation of the insurance market, both inside and outside of the exchange should continue to be done by the Washington State Office of the Insurance Commissioner, independent from the governance of the exchange.

Regulation of the insurance industry through the Office of the Insurance Commissioner works. The exchange needs to ensure there is an independent entity performing oversight on behalf of consumers. These areas of oversight would include market conduct, plan marketing, review and approval of form filings, rate review authority, and the ability to ensure solvency.

The OIC decides what the minimum a carrier needs to do to sell insurance products in the state—both inside and outside the exchange; the exchange decides what additional requirements, if any a carrier will need to meet to sell inside the exchange.

Premium subsidies should be available for all eligible individuals purchasing coverage in the individual or small group markets inside the exchange.

One of the main goals of the health insurance exchange is to increase access to affordable health care coverage. In order to do so with the greatest benefit, it should allow income-qualifying employees of a small employer, whether offering insurance or not to qualify for a subsidy to assist them in their premium obligation.

The discussion included reference to the Health Insurance Partnership and its role in aggregating funds to cover the full costs of coverage (funds from the employer, employee, and employee subsidies). There seemed to be agreement that a Washington exchange should play that function as well; however a formal decision has not yet been made.

EXCHANGE GOVERNANCE DISCUSSION (HIGHLIGHTED POINTS FROM WORK TEAM AND FULL COMMITTEE DISCUSSIONS THAT GUIDED OUR RECOMMENDATION DECISIONS LISTED ABOVE):
--

Publicly accountable and transparent

The exchange will serve a diverse group of people. Included in the exchange offerings will be coverage for small employers and their employees, individuals and their families, Medicaid and other state programs and the ability to apply for federal subsidies to help purchase private insurance. There must be public accountability around the expenditure of taxpayer dollars. Effective public accountability is only possible when full transparency exists around the operations and decision making of the exchange.

Insulated from political and other special interests

Individuals and employers will rely on the exchange and cannot have the rules of the game change because of political ideology or the lack of state funds. Moreover, those that stand to financially gain from the exchange, such as the insurance industry and the producer community should be consulted, but not a core part of the decision making structure.

Administratively efficient and value added

A strong point was repeatedly made by various members of the Committee that the only way the ACA and the exchange would be successful is if it addressed cost issues. The exchange must be an efficient user of resources. The policies and practices of the exchange need to be value added—the benefit of the policy is worth the investment of resources.

Broadly representative of the interests of the users of the exchange, individuals and employers: and supportive of the goals of the exchange.

The exchange decision making process must include at its core those that are directly impacted by the policy decisions that are made. The direct involvement of individuals and employers ensures an exchange will be responsive to the needs of the users of the exchange.

Regulation of the insurance market is the responsibility of the OIC, and should be separate from the exchange

The exchange needs to ensure there is an independent entity performing oversight on behalf of consumers. The insurance regulator should continue to decide what the minimum criteria is for a carrier to sell insurance products in the state—both inside and outside the exchange; the exchange decides what additional requirements, if any a carrier will need to meet to sell inside the exchange.

Promotes a culture of regular evaluation, self and independent

There will be a lot to learn from our experiences here in Washington as well as those from other states as the exchanges get up and running. We will not be able to predict with certainty, and anticipate all of the consequences of our policy decisions. It is critical that the governance structure builds within its culture of operation regular evaluation of its policies and practices, and incorporates changes and improvements accordingly.

Builds on existing models that work

There is a lot to learn from entities that already exist, and in some cases have been in operation for years. We should consider the advantages and disadvantages of the variety of governance structures in place today—in other states and in our own.

OTHER ISSUES HIGHLIGHTED IN WORK TEAM AND FULL COMMITTEE DISCUSSIONS:
--

Bending the cost curve

- The entire group agreed that in order for the ACA to be successful it needs to bend the cost curve.
- The role of the exchange in bending the cost curve is not clear. How much can the exchange realistically accomplish? We are going to run into cost issues that we cannot address through an exchange.
- The exchange should promote and encourage innovative efforts to control cost. However, there are some things an exchange can and should do and some things that have to be done by other areas of the system, provisions in the ACA.
- For example the ACA doesn't allow the exclusion of fee for service plans in the exchange.

Functions of the exchange

- The required ACA functions of the exchange are the base line. We need to decide what makes sense above that. It should not be too descriptive, allowing new and fresh ideas to achieve its goals.
- It needs to be responsive to the consumer, not just the individual, but the employers as well.

- In making the exchange operational, cost reduction matters, health literacy matters and health outcomes matter.
- How will the exchange select plans? The HIP offers some guidance.
- What is the consumer's responsibility?
- Can the exchange play an aggregator role, combining contributions to premium? And, can a small employer's employee get a subsidy if they income qualify?
- The exchange must be financially self sustaining beginning in 2015. As we discuss the functions of the exchange, we need to consider the financial sustainability of the exchange—don't bite off more than we can chew.
- The more responsibilities we add to the exchange the more complex it is to operate. We need to ensure that our choices are value added.

Governance

- Which models of governance are most successful? Who the exchange is accountable to is an important issue.
- There should be a consumer (meaning individuals and employers) orientation. A diverse selection of stakeholders needs to be at the table discussing the best way to develop the governance, including Native Peoples.
- We need to make sure that the exchange does not get caught up in politics and political winds. It shouldn't be bi-partisan; it should be non-partisan.
- Some felt the HIP was a good model to consider.

Market regulation

General market issues

- How should the insurance market operate? What regulation needs to be there? How much freedom should there be for insurance companies?
- Health plans are run by smart people who think about how to minimize their bad risk.
- We need to strike a balance for consumers and carriers.
- Risk management instead of risk avoidance is what we want.
- We want to find ways to keep the market stable and fair to consumers.
- Do the plans outside the exchange need to fit within the ACA metallic tiers?
- Observation made that the ACA moves the market toward individual selection of coverage.

Potential threats

- Multi-state plans not required to pool risk with the rest of a state's market.
- There is a concern that insurers could move into our state and pick off the best risk outside of the exchange.
- Need to get a grasp on what the impacts of the self insured market will have on the exchange.
- Need to understand how grandfathered plans outside the exchange will affect the risk pool.
- How does benefit design affect adverse selection?
- What are the principles we want to stick to in terms of benefit design.
- What impact with AHPs have in the exchange, outside the exchange, in the market overall?

State options that could impact adverse selection

- Merging the individual and small group markets—more info needed. If a state decides to merge the pools, it could be done through a phase in.
- What about the impact on the change of small group up to 100. Seemed that among the carriers there is a desire to phase in the definition of small group, as allowed by ACA.
- When you engage in risk spreading, there will be winners and losers. Premiums may go up for some; and go down for others.

Ways to mitigate adverse selection

- Individual mandate: will it work, how will it be enforced?
- Sharing costs of high risk individuals across all markets, including the self insured market.
- The ACA includes reinsurance, risk corridors and risk adjustment—essentially carriers will be swapping money due to risk selection.
- Stabilizing premiums: you can try to regulate the front door, or do it back door, i.e. if you don't meet the required MLR, the carrier would have to pay some back.

Data

- Important to have good information about the self insured market.
- Important to have good information about the AHP market—OIC survey to be complete October 2011.
- Important to have good information about the grandfathered market.

Other forces

- State budget