Preliminary Report (DRAFT)
Joint Select Committee
Individual and Small Group Issues Subgroup
October 21, 2010

The Individual and small group issues subgroup of the JSC Health Insurance Exchange Workgroup includes *Sean Corry, Lonnie Johns-Brown, Joshua Welter, Randy Cline, Jack McRae (Sheela Tallman), Donna Steward and Karen Merrikin.* We met on October 19, 2010, although due to late scheduling, Donna Steward and Lonnie Johns Brown were not able to join the meeting.

The group was asked to develop recommendations on whether Washington should (1) have one Exchange infrastructure serving both the individual and small group markets, and (2) merge individual and small group markets into a single market.

What follows is the preliminary thinking of the 10/19 discussion group around these questions.

1. a. Should Washington State have one Exchange infrastructure for both individual and small group with shared governance, or two infrastructures?

<u>PPACA considerations:</u>

- Federal law gives states the option of operating separate exchanges for the individual or small group markets, or using the same organization/infrastructure to support both markets.
- The decision on whether to merge small group and individual markets (risk pools) is distinct from the choice of operating either separate or combined exchanges for individuals and small businesses.

<u>Considerations articulated in previous JSC discussions:</u>

- *Administratively efficient, value added*
- *Overhead costs kept to minimum necessary*
- *Responsive to the needs of users of the Exchange, both individuals and employers.*

1. b. What model best addresses these principles and what are the pros and cons of each?

a. ***<u>Single Exchange, shared governance and infrastructure</u>*** –

- ***Pros:*** A single exchange likely would mean lower overhead because it likely would reduce costs in areas like information technology, outreach and marketing. It might also produce more consistency in the presentation of information, etc. resulting in less confusion to consumers. Small employers and their workers would have more of a "one stop shopping" environment.

- ***Cons:*** Limited cons: perhaps the unique needs of low income or small businesses would not be in clear focus unless care were taken to create appropriate "sections" of the exchange interface.

b. ***Two Exchanges, one for individual and one for small group.***

- ***Pros****: Unique needs of small business/individuals would be the focus of a separately governed and operated small group exchange, although this can be accomplished within one exchange as well.*

- ***Cons:*** Increased governance and administrative costs per member served; potentially, less consistency in approach & one stop shopping advantage resulting in more confusion to the consumer.

PRELIMINARY RECOMMENDATION: There was consensus that a single exchange infrastructure is in the greatest alignment with the considerations articulated by the subgroup, in previous JSC discussions, and is consistent with the OIC Realization Committee recommendations.

2. a What are the important considerations regarding whether Washington State should combine the individual and small group markets/risk pools?

Considerations*:*

PPACA/state law considerations:

- Health carriers must treat all individual enrollees in their plans (inside and outside the exchange) as one single risk pool, and all small group enrollees as another single risk pool. If the state elects, it can treat members of both pools as a single risk pool. Grandfathered plans are excluded. Either way, new business, whether a plan is purchased inside or outside the Exchange, is pooled for rating purposes. (Section 1312 c)
- Issuers of qualified health plans must charge the same premium rate for a plan inside and outside the exchange. (Sec.1301a)
- PPACA's premium assistance credits and cost sharing reductions will be accessible only to individuals enrolled in qualified health plans in the exchanges. It does not appear at this time that credits/reductions will be available to small group enrollees even if they would otherwise qualify based on income.
- Tax credits continue to be available for 1-25 small employers who have low wage workers after 2014 with a higher credit available inside the exchange (35% out, 50% in).
- Insurers can remain outside the exchange.
- Small employers currently are defined in Washington State as 1-50, and the state may elect to continue this definition until 2016. In 2016, the definition moves to 1-100. This would change the minimum medical loss ratio requirements (MLR) for mid size groups 50-100 from 85% to 80%.
- Important risk adjustment, risk corridor and transitional reinsurance mechanisms are planned, but have not yet been developed. These risk adjustors will apply to individual, but not group coverage.
- Washington state defines association plans as large group even if the plans serve small employers.
- Under state law, association plans currently are not subject to small group community rating rules, and may rate individual employer participants based on health status/claims experience similar to large group. It is not yet clear how associations that include small groups will be treated under PPACA as interpreted as the state and federal level.
- Self funded plans would not be subject to small group rules, including community rating. Increasingly mid-sized employer groups are moving to self funding.

- The state has an option for a basic health plan. That plan would serve all subsidy eligible individuals between 133% and 200% FPL, altering the numbers and the mix of individuals that would be served in the individual (and potentially) the small group markets.

Practical Considerations:

- Washington state needs to be clear about the goals of merging the markets, and needs to do a careful assessment of whether those goals can be met through blending the markets.
- The same basic exchange organization and much of the infrastructure to support both individual and small group purchasing can be used while retaining separate risk pools.
- When considering whether to merge the markets, Washington State should carefully consider the impact of merging of the markets on the initial complexity of setting up and operating the exchanges; whether any economies of scale are achieved, including the possible reduction of risk charges or other secondary charges; the cost of coverage to individuals and employers; and the interrelationship with questions of adverse selection, particularly given the current strong role of associations in the small and mid-size market, and the potential for more mid-size employers to move to self funding.
- Washington state will need to understand the impact individual choice of plans for participating small employers in the Exchange will have on small group rates and premium sharing for older workers, and the impact of this approach on risk selection in and out of the exchange, and in and out of association and self funded offerings.
- Whether and how to merge of the markets requires careful analysis of data on both the uninsured and currently insured populations. It may also require additional strategies to mitigate the risk of adverse selection, and consideration of the acceptability of these approaches to affected purchasers and stakeholders.
- Several states have examined this issue including Vermont, Oregon and Massachusetts. The studies tend to affirm that the impact of merging markets varies from state to state, taking into consideration the existing market and regulatory structures in those states.[1]
- Washington state retained Mathematica to do a similar study as part of the 2007 Health Insurance Partnership legislation HB 1569. It noted that at present, Washington's small group market covers a much higher-cost population than the individual market. It recommended that "different regulations and risk within markets should be assessed before designing a proposal to merge them".[2] PPACA further changes the rules for

[1] Massachusetts merged the individual and small group pools as part of their reforms. A study conducted on behalf of the Vermont Health Care Commission, however, found that a merged market would most likely not lower average premiums appreciably and would not have a material impact on the number of uninsured residents in the state. Additionally, the report concluded that a merger could be very disruptive causing a large increase for some individuals buying insurance with significant adverse selection possible between the group and individual markets.

[2] http://www.hca.wa.gov/documents/legreports/E2SHB1569_HIP_Prelim_Report.pdf. The report went on to note that "coordinating the markets could achieve similar or better results". Some of the disruption caused by merging the markets and implementing choice of health plan in PHIP could potentially be eased with the system of reinsurance or risk adjustments contemplated

individual and small group, while leaving some of the reasons for the difference in the underlying experience in the individual and small group pools intact. The impact of this new combination reinforces the need for careful modeling.

- States should also consider carefully the implications of expanding the group size limit beyond 50 on the decision to merge the individual and small group markets, particularly given the impact that association and self funding arrangements can have on a resulting fully insured blended individual and small group risk pool.
- The state should also analyze the questions of whether to elect the Basic Health option and merger of the individual and small group pool together, as each decision has implications for the other.
- The state should also evaluate whether these changes would make the resulting market(s) more or less attractive to carriers, including those who operate regionally in areas like the Portland/Vancouver metro area.
- Evaluation is also needed of the impact of broader pooling given the use of adjusted community rating.

2. b Preliminary Recommendation Regarding Merging the Individual and Small Group Pools

Washington State should approach the question of whether and when to merge the individual and small group markets, and/or a phase in of merged pooling as part of a planned approach. We recommend this issue be thoroughly vetted as part of the work that will be undertaken pursuant to the state's exchange planning grant. It is our understanding that HCA has engaged Milliman to help frame the issues and conduct preliminary analysis.

Some workgroup participants observed that this issue should not be resolved in the 2011 legislative session, so that needed modeling may be undertaken and additional regulatory guidance from HHS may be taken into consideration . Successful implementation of the exchange depends on taking a sequential approach to the many changes called for under the law. The subgroup did not make a recommendation on association plan issues or the definition of group size, but we did note that analysis of merging the markets would be affected by policies in these areas.

Some participants also observed that it may make sense to leave current *market* structures (as amended by PPACA) in place at least in the near-term as market stabilizers, as some of the foundational exchange infrastructure is put into place, we better understand the workings of various actuarial underpinnings of the new markets and the impacts of reform, and as we fully analyze needed changes to state laws. The goals should be to improve the stability, functionality and affordability of the markets for individual and small employers while keeping overhead down and limiting market upheaval as much as possible.

The subgroup is open to further exploring and developing responses to these issues as needed.

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under federal law, but much has yet to be determined about the design and function of these tools.