



# Health Policy Brief

FEBRUARY 9, 2012

## Small Business Insurance Exchanges. States must form new marketplaces aimed at helping small companies buy coverage more easily and cheaply.

### WHAT'S THE ISSUE?

The Affordable Care Act requires states to create health insurance exchanges, or marketplaces, where small businesses can review, compare, and purchase health insurance. They are one of two types of exchanges that are to be created under the law, the second of which is aimed at individuals.

The small business exchanges, to be created under the law's Small Business Health Options Program (SHOP), will offer group health plans to small companies. The exchanges are supposed to offer a variety of health plans; provide comparative information on benefits, costs, and quality; and facilitate enrollment in a plan of choice.

States have the option of creating these as separate exchanges or combining the individual and small-business markets in one exchange. Although both types of exchanges will have similar functions, they will have unique attributes reflecting the needs of the populations they serve. This Health Policy Brief focuses on issues that states have to confront in designing SHOP exchanges as well as challenges that these exchanges are likely to face.

### WHAT'S THE BACKGROUND?

Policy makers have long been concerned about small businesses' having access to affordable health insurance. The smaller the number

of employees, the less likely a firm is to offer health benefits. Premiums for small-business coverage tend to be more expensive per worker because of the higher costs of marketing and administering a health plan for a small group of people, fixed administrative costs spread over fewer people, and costs associated with what's called adverse selection. Adverse selection occurs when a disproportionate number of higher-risk people purchase coverage because they are more likely to need and draw benefits, driving up future costs.

**SMALL-BUSINESS CHALLENGES:** Small companies often have difficulty "shopping" for health insurance because health plans can vary greatly in the benefits they cover; the cost sharing that they require of people enrolled in the plan; and the providers that are included in a plan's network, if it has one. Because small companies usually lack expertise in managing health insurance benefits, they often rely on agents and brokers to help them select a plan. What's more, small businesses must often pick only one plan for all of their workers because insurance companies typically impose rules that require a minimum number of workers to participate.

The Affordable Care Act's SHOP provisions seek to make it easier for small employers to compare health care plans and offer their employees choices in coverage without making premiums more expensive. The Congressional Budget Office estimates that, by 2019, an estimated 28 million Americans will be covered



# 100

## Employees

SHOP exchanges will initially serve companies having no more than 100 employees.

**“By 2019, about 28 million Americans will be covered through individual and small-business exchanges.”**

States may adopt an “any-willing-plan” model in which all plans that meet minimum certification requirements will be offered through the SHOP exchange. Or they may decide to act as “active purchasers,” offering only those plans determined to be in the interest of the people and employers served by the exchange. If they choose to be active purchasers, states may use such strategies as competitive bidding, selective contracting, and even negotiating with specific plans over price.

In the current insurance market, plans for small businesses are priced according to the health status of employees in the plan. In small firms that have workers with significant health needs, the cost of coverage can be very high. Since small firms typically ask their employees to pay as much as half of the annual premium, workers who perceive themselves as healthy may decline coverage, leaving only those who already have health expenses participating in the plan.

However, under the Affordable Care Act, health insurance plans will not be priced according to the health status of the people employed by each small business seeking coverage. Instead, premiums will be set according to what is known as modified community rating. In effect, every business in the small-group pool will pay the same basic rate for insurance. Premiums will be allowed to vary based only on geography and age and on whether or not an insured person uses tobacco.

- **Consumer information and assistance.** A key function of the exchange is to provide standardized, “user-friendly” information that allows people to compare plans based on benefits, cost sharing, provider networks, premiums, and the degree to which plans meet quality measures, such as consumer satisfaction. This information must be made available through a website as well as a toll-free telephone call center. The exchange must also conduct outreach and education activities to make the community aware of the insurance availability.

SHOP exchanges will also provide grants to public or private organizations, called navigators, which are intended to have established relationships with the small-business communities served by the exchange. Navigators are to provide impartial information, facilitate enrollment, answer questions, deal with complaints and grievances, and make referrals to

consumer assistance or other state and local agencies as appropriate.

- **Eligibility determinations and enrollment.** SHOP exchanges must verify the eligibility of employers applying to participate in the exchange. To be eligible, an employer must meet the definition of *small employer*, make all full-time employees eligible for coverage, and be located in the exchange service area. The exchange must also verify that people applying for coverage have an offer of coverage by a qualified employer, as either an employee or a dependent.

SHOP exchanges must conduct initial, annual, and special open enrollment periods for each employer, during which time the employer and employees may begin or change coverage in a health plan. Enrollment in qualified health plans by SHOP exchanges will be done on a rolling basis based on each employer’s plan year rather than a single open enrollment period for all employers and employees participating in the exchange.

A significant design issue for the SHOP exchanges will be how much choice employees will have in selecting a plan. Plans will be available at four different levels of so-called actuarial value: bronze, silver, gold, and platinum. The law requires exchanges to allow employers to choose one of these levels of coverage, and then have their employees choose from among all the health plans offered by the exchange at that level. The employer contribution would then be applied to the premium of the plan selected.

Proposed regulations issued by the Department of Health and Human Services (HHS) would allow other alternatives as well. For example, an exchange could decide to allow employees to enroll in any qualified health plan at any level offered by the exchange, or it could allow an employer to select a single health plan for its employees.

- **Premium billing and collection.** A unique function of SHOP exchanges is to administer a streamlined premium billing and collection system. The exchange will prepare and issue a single bill to each participating employer that reflects premiums owed for all plans in which its employees are enrolled. The employer will make a single payment to the exchange, and the exchange will be responsible for paying the various plan issuers.

# \$730 million

## Federal exchange grants

So far, 49 states and the District of Columbia have received nearly \$730 million in federal exchange grants.

## About Health Policy Briefs

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• **SHOP exchange financing.** Federal grants are available for states to fund the development and initial operations of SHOP exchanges. The health care law requires, however, that the exchanges be self-sustaining operationally as of January 1, 2015. How this is achieved will be left to the states' discretion. As one potential means of funding, the law authorizes the exchanges to assess fees on health insurers offering plans through the exchange.

**CHALLENGES:** To be successful, SHOP exchanges need to attract sufficient participation among small businesses to establish a broad, stable risk pool and to be self-sustaining. To this end, they will need to demonstrate value by relieving employers of some administrative burdens and, more important, by moderating cost increases. States will also need to ensure that there is a level playing field in terms of regulations and premium rating for plans sold both inside and outside of the exchange.

In addition, some small companies may opt to avoid regulations by maintaining a "grandfathered" health insurance plan (one in effect at the time the Affordable Care Act was passed and allowed to continue) or by choosing to self-insure and thus avoid certain requirements. (See the [Health Policy Brief](#) published October 29, 2010, for more information on grandfathered health plans.)

## WHAT'S NEXT?

State and federal efforts to create health insurance exchanges will intensify during 2012. States must enact enabling legislation or take necessary regulatory action to create their

exchanges. At the federal level, regulations and guidance pertaining to many complex issues are still under development but must be released in time for states to design their exchanges and apply for approval by HHS by January 1, 2013.

As of the publication date of this policy brief, it appears very likely that the federal government will have to step in and establish exchanges in some states. So far, 49 states and the District of Columbia have collectively received nearly \$730 million in federal exchange grants. But as of November 29, 2011, only 28 states and the District of Columbia have been awarded Exchange Establishment Grants to move from planning to implementation. Additional states applied for establishment grants in December 2011, and HHS expects to announce awards in mid-February 2012. Several states have indicated that they do not intend to implement the exchanges, and the governors of Kansas, Louisiana, Oklahoma, and Wisconsin have returned some or all of the exchange grants that their states initially applied for and received.

Implementation of the Affordable Care Act is taking place in a politically charged environment. The US Supreme Court is expected to rule on the constitutionality of various provisions of the law by mid-2012. Depending on the outcome, there could be significant changes affecting the establishment of SHOP exchanges. Election-year politics and the outcome of national elections in November 2012 could also affect implementation efforts at the federal and state levels. ■

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