

NAIC Sends States Outline for Creating Health Exchanges

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States received their first official guidance on setting up health insurance exchanges with the National Association of Insurance Commissioners' adoption of a model law adopted via a conference call meeting.

The model is intended to meet minimum requirements under the Affordable Care Act for individual and small group markets and not to be proscriptive, Illinois Insurance Director Michael McRaith said. More regulatory guidance and white papers will follow in the coming weeks and months, he said.

"Our objective is to provide the baseline for states to start with," said McRaith, who chaired a subgroup that drafted the model.

The American Health Benefit Exchange Model Act will help states develop publicly available, partially subsidized exchanges for those seeking coverage in the individual and small group markets beginning in 2014. While the federal law requires that exchanges be run by a governmental agency or nonprofit entity, the model does not recommend a particular option. Instead, it describes the advantages of direct management by a state agency — a direct link to state administration and coordination with other agencies — and disadvantages — politicization of operations and a lack of flexibility in hiring and contracting.

The NAIC adopted several related measures to update past model acts and reflect new federal law, regulations and guidance on issues including preventive services, dependent coverage and rescissions, said Kansas Insurance Commissioner Sandy Praeger chairwoman of the Health Insurance and Managed Care Committee. Other steps on rate filing and standard definitions are intended to provide additional guidance to the U.S. Department of Health and Human Services.

The NAIC draft does not address regional exchanges or agreements for interstate exchanges, which are permitted under the act if approved by HHS. Consideration of those proposals will be the next priority for McRaith's subgroup, he said.

Under the health reform law, once operational, the exchanges will be open to individuals and employers with up to 100 employees. Insurance shoppers will be able to choose from four tiers of plans, based on coverage levels — platinum, gold, silver and bronze — plus a bare-bones catastrophic coverage plan for those younger than 30 or exempt from the mandate to obtain coverage. The NAIC model urges states to review the details of their own statutes and regulations for compliance with the federal law. States should consider the potential impact of adverse selection if their definitions for what constitutes a "small employer" differ for exchange and nonexchange policies (BestWire, Nov. 16, 2010).

California, the first state to begin work on an exchange framework as mandated by the Affordable Care Act, took the independent agency route in legislation signed by Gov. Arnold Schwarzenegger in September. The act created the California Health Benefit Exchange and a five-member independent commission to manage it and determine eligibility, enrollment and coverage requirements under qualified carriers (BestWire, Oct. 1, 2010). Massachusetts and Utah have existing exchange mechanisms that differ widely and predate the federal act.