

No Time to Waste

Virginia Needs to Get Moving to Create an Effective Health Exchange



THE
COMMONWEALTH
INSTITUTE

By John McInerney, Sookyung Oh, and Michael J. Cassidy

Virginia policymakers face a fast-approaching deadline for deciding whether to establish a private health insurance marketplace, called an exchange, for up to 450,000¹ Virginians under the Affordable Care Act (ACA). Unless the state develops a detailed plan for Virginia's exchange in the next two months, the federal government likely will step in and design one to ensure that Virginians get access to comprehensive, affordable and secure health insurance choices.

While a fully federally facilitated exchange, or even a federal/state partnership exchange allowed under the law, could be more consumer-friendly, Virginia policymakers prefer a state-run model. With deadlines fast approaching, there is no time to waste if state lawmakers still intend to create a state-run marketplace.

The Supreme Court's recent ruling on the constitutionality of the ACA made it optional for states to expand Medicaid, as called for under the law. But the new exchanges are mandatory and must be ready to begin enrolling customers on January 1, 2014. The ACA ensures that individuals and small businesses will be able to use these new marketplaces to shop for the best, most affordable insurance options among competing plans.

Virginia policymakers have already discussed many of the critical issues regarding how to best operate this kind of a new marketplace. Lawmakers enacted legislation in 2011 stating their intention to set up a state-run, or state-based, exchange and they also established the Virginia Health Reform Initiative (VHRI) to make recommendations on how it should be set up and operated. But the Governor and General Assembly have made little attempt to approve or begin implementing it. Unfortunately, time is running out.

Timeline is Getting Shorter

In order to establish its exchange, Virginia must get approval from the U.S. Department of Health and Human Services (HHS). On August 14, HHS released a final blueprint for states to use as part of their application and outlined the timeline and key deadlines a state must meet to comply with the ACA and subsequent regulations. Important dates include:

November 16, 2012 – *Application Deadline:*

States seeking a state-based or partnership exchange must file a letter of intent signed by the Governor and other documents that detail the state's completion of or progress on all the exchange requirements.

These requirements include: naming the entity that would govern the exchange; setting eligibility and enrollment procedures; defining stakeholder engagement roles within the exchange to ensure that consumer and other interests are represented; establishing plans for risk adjustment and reinsurance programs; and demonstrating progress toward creation of an additional exchange for small businesses with 50 or fewer employees, the Small Business Health Options Program (SHOP) Exchange. To date, none of these issues has been resolved by the Governor or General Assembly.

January 1, 2013 – *HHS Determination:*

After receiving the application, HHS will determine whether a state qualifies to run its exchange. Even if a state has not met all the requirements, HHS has indicated it will grant conditional approval to states that want to operate their own exchanges and have made significant progress.

There is little chance that exchange-authorizing legislation for Virginia will be approved before the start of the 2013 General Assembly in early January, since there is no indication that the Governor will

Decision Time

To meet the goal of creating a state-based health insurance exchange, policymakers must make certain decisions to gain approval by the U.S. Department of Health and Human Services. If Virginia does not show significant progress or have an operational exchange by Oct. 1, 2013, the state may default to a federally facilitated exchange.

- | | |
|------------|--|
| 11/16/2012 | Deadline to submit "Exchange Blueprint" to HHS |
| 1/1/2013 | HHS will certify which states receive approval or conditional approval to set up a state-run health insurance exchange |
| 2/22/2013 | The General Assembly must approve exchange establishment legislation during this 45-day legislative window |
| 10/1/2013 | Application process, seamless coordination and technology infrastructure must be in place in order to launch open enrollment into exchange |
| 1/1/2014 | State-run Individual and SHOP exchanges must be fully operational |

Be it enacted by the General Assembly of Virginia (Approved April 6, 2011):

1. § 1. That it is the intent of the General Assembly that the Commonwealth create and operate its own health benefits exchange or exchanges, hereafter referred to collectively as the “Virginia Exchange,” to preserve and enhance competition in the health insurance market. The purpose of the Virginia Exchange shall be to facilitate the purchase and sale of qualified health plans in the individual market and to assist qualified small employers in facilitating the enrollment of their employees in qualified health plans offered in the small group market. To accomplish this purpose, the Virginia Exchange shall, at a minimum: (i) meet the relevant requirements of the Patient Protection and Affordable Care Act (P.L. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152) (collectively referred to as the Affordable Care Act), regarding the establishment of an American Health Benefit Exchange or Small Business Health Options Program by the prescribed deadline imposed by the Affordable Care Act in order to avoid development and implementation of a federal exchange in the Commonwealth; ...

call a special session to deal with this issue. Conditional approval by HHS provides a way forward for Virginia. However, without General Assembly approval at some point, Virginia cannot meet even the conditional state-based exchange requirements.

Currently, the state remains a long way from consensus on the key issues that would need to be addressed in a comprehensive blueprint.

October 1, 2013 – Exchange Operational:

Virginia will need to have an operational exchange by October 1, 2013 in order to begin enrolling consumers by the January 1, 2014 deadline set by the ACA. Besides the authorizing legislation, starting enrollment requires a governing body for the new exchange and an information technology system to allow enrollment and seamless coordination with Virginia’s existing public health programs: Medicaid and FAMIS.

Many Decisions Left

With the clock ticking, legislators have yet to decide on most of the key issues they must resolve in order to pass authorizing legislation. VHRI’s progress and work completed by the Virginia Senate during the 2012 session (Senate Bill 383 and 496), however, do offer potential legislative frameworks for a state-based exchange. Some key unresolved decisions are summarized below.

An Independent Exchange

The VHRI overwhelmingly supports setting up an exchange as an independent entity with a governing board similar

to the Virginia Housing Development Authority, a position shared by many in the General Assembly, some insurers and business groups. This would provide more independence and consumer responsiveness than housing the exchange within the State Corporation Commission, as others have suggested.

Effective Consumer Assistance

Creation of a consumer-friendly exchange with robust customer assistance must be a key focus. Providing Virginians, many of whom have never had health insurance, with a clear understanding of their options will be an important barometer of success. Legislators should allow community organizations, such as the Virginia Health Care Foundation, to serve as “Navigators” to help customers understand and use the exchange, and not set up barriers to their involvement. They should also make sure that the required consumer assistance programs, including the Navigator program, are well-funded (through assessments on health plans). Navigators should be well versed in Medicaid and other public health options, tax credits to help customers afford premiums, the differing health care needs of various communities, and other skills essential to reaching communities with high numbers of people without health insurance.

Seamless Coordination with Medicaid

Virginia’s exchange must work seamlessly with Medicaid, as required under the ACA. This means that if consumers apply for coverage through the exchange but are determined to be eligible for Medicaid or our state’s children’s health insurance program, FAMIS, they have to be enrolled without delay or a reapplication. The same “no wrong door” policy should hold true for a Medicaid or FAMIS applicant determined to be eligible for a tax credit in the exchange. To meet this requirement, Virginia must aggressively move to develop the necessary information systems, which currently are not in place. The state has accepted bids for contractors, but they have yet to select one to complete the project. The contract is expected to begin this fall.

Essential Health Benefit Package

Legislators also need to determine what benefits are considered the basic starting point for plans that are offered to individuals, families and small businesses in the exchange. VHRI and most stakeholders agreed that the benefit package offered by the Anthem Preferred Provider Organization was the best benchmark, given its significant market share in Virginia and that it includes most of the state’s benefit mandates (with autism coverage being the notable exception). The General Assembly can endorse the VHRI recommendation or choose a different benchmark plan.

Endnote

¹ This figure refers to an Urban Institute estimate of enrollment in the individual health benefit exchange for the VHRI. An additional 400,000 Virginians employed in firms with fewer than 50 workers could enroll in coverage through the Small Business Health Options Program (SHOP) Exchange.

The Commonwealth Institute

The Commonwealth Institute for Fiscal Analysis provides credible, independent and accessible information and analyses of state public policies with particular attention to the impacts on low- and moderate-income persons. Our products inform state economic, fiscal, and budget policy debates and contribute to sound decisions that improve the well-being of individuals, communities and Virginia as a whole. For more information, contact 804-396-2051 or go to www.thecommonwealthinstitute.org.