

## Health Exchanges

### Summary:

The Patient Protection and Affordable Care Act (ACA) requires all states to have a health insurance exchange in place by 2014 to facilitate the expansion of coverage to low- and moderate-income individuals and small business employees. States can choose to create their own state-based exchange, partner with the federal government to create an exchange or default to a federally facilitated exchange.

An exchange, as defined by HHS, is “a mechanism for organizing the health insurance marketplace to help consumers and small businesses shop for coverage in a way that permits easy comparison of available plan options based on price, benefits and services, and quality. By pooling people together, reducing transaction costs, and increasing transparency, exchanges create more efficient and competitive markets for individuals and small employers.”

Only eligible U.S. citizens and legal immigrants who are not incarcerated and do not have access to affordable employer coverage are eligible to purchase in the exchange.

Each state is required to establish at least one American Benefit Exchange for the individual market and a Small Business Health Options Program (SHOP) Exchange for small business employers (with up to 100 employees) by January 1, 2014. HHS will evaluate states’ plans for implementation of their exchanges to determine if states are on track to meet ACA requirements to be operational by 2014. If HHS determines that a state has not made sufficient progress in establishing an exchange, HHS may elect to operate the state’s exchange, effectively establishing a federally facilitated exchange.

*In establishing the exchanges, states have the choice of:*

- Whether to form the exchange as a governmental agency or a non-profit entity
- Whether to form regional exchanges or establish interstate coordination for certain functions
- Whether to elect the option under the Affordable Care Act to use 50 employees as the cutoff for small group market plans until 2016, which would limit access to exchange coverage to employer groups of 50 or less
- Whether to require additional benefits in the exchange beyond the essential health benefits
- Whether to establish a competitive bidding process for plans
- Whether to extend some or all exchange-specific regulations to the outside insurance market (beyond what is required in the ACA).

On March 12, 2012, the U.S. Department of Health and Human Services (HHS) issued its final rule on the implementation of the health insurance exchanges that offers a framework to assist states in setting up Affordable Insurance Exchanges by 2014. According to HHS, the final rule incorporates feedback received during the proposed rule process. ACP was one of many that submitted comments/recommendations to HHS during the proposed rule process. A side-by-side comparing ACP public comments/recommendations with the Exchange Final Rule is available below under Resources.

On March 1, 2013, the Center for Consumer Information and Insurance Oversight released a letter <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/draft-issuer-letter-3-1-2013.pdf> to health insurers regarding certification, approval guidelines and other aspects related to the federally-facilitated health insurance exchange and the state Partnership exchanges. A side-by-side comparison of ACP policy and the letter to issuers is available below under Resources.

### **State Actions to Implement Exchanges:**

Seventeen states and the District of Columbia have declared their intent and have received conditional approval from HHS to establish state exchanges: California, Colorado, Connecticut, Hawaii, Idaho, Kentucky, Maryland, Massachusetts, Minnesota, Nevada, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, and Washington. Seven states (Arkansas, Delaware, Illinois, Iowa, Michigan, New Hampshire, and West Virginia) have agreed to a state – federal partnership of their exchanges. The remaining states decided not to create state exchanges, leaving it to the federal government to set up an exchange in the state.

A “frequently-asked-questions” (FAQs):

<http://www.cms.gov/CCIIO/Resources/Files/Downloads/exchanges-faqs-12-10-2012.pdf> document on Exchanges, Market Reform and Medicaid is available on the HHS website. The document is intended to provide guidance on HHS’s approach to health insurance exchanges and Medicaid expansion.

**ACTION:** Open enrollment for the health insurance marketplaces (exchanges) begins on October 1. To help educate ACP members and their patients about the marketplaces, ACP has launched the [Help Your Patients Enroll in Health Insurance Marketplaces](#) campaign. ACP chapters are asked to participate in the campaign by distributing information to ACP members and patients.

### **Resources:**

- Side-by-side comparison of ACP policy and a letter to issuers regarding the federally-facilitated and state partnership health insurance exchanges/marketplaces  
[http://www.acponline.org/acp\\_policy/policies/side\\_by\\_side\\_comparison\\_of\\_acp\\_policy\\_and\\_letter\\_regarding\\_federally\\_facilitated\\_and\\_state\\_partnership\\_health\\_insurance\\_exchanges\\_2013.pdf](http://www.acponline.org/acp_policy/policies/side_by_side_comparison_of_acp_policy_and_letter_regarding_federally_facilitated_and_state_partnership_health_insurance_exchanges_2013.pdf)
- Side-By-Side Comparison of the Health Insurance Exchange Regulation Final Rule with ACP's Public Comments/Recommendations  
[http://www.acponline.org/advocacy/state\\_policy/hottopics/exchanges\\_comparison.pdf](http://www.acponline.org/advocacy/state_policy/hottopics/exchanges_comparison.pdf)
- ACP Comments to CMS regarding the Proposed Rule on Establishment of Exchanges and Qualified Health Plans: Letter to CMS, Department of Health and Human Services  
[http://www.acponline.org/advocacy/where\\_we\\_stand/access/exchange\\_letter\\_cms.pdf](http://www.acponline.org/advocacy/where_we_stand/access/exchange_letter_cms.pdf)
- Comparison of ACP Policy to HHS Exchange Regulation  
[http://www.acponline.org/advocacy/state\\_policy/hottopics/exchange\\_regulation.pdf](http://www.acponline.org/advocacy/state_policy/hottopics/exchange_regulation.pdf)
- Essential Health Benefits: Comparison of ACP Policy to Institute of Medicine (IOM) Recommendations  
[http://www.acponline.org/advocacy/state\\_policy/iom\\_essential\\_health\\_benefits.pdf](http://www.acponline.org/advocacy/state_policy/iom_essential_health_benefits.pdf)

- HHS Proposed Rule on the Creation of Exchanges Fact Sheet  
<http://www.healthcare.gov/law/provisions/exchanges/index.html>
- Commonwealth Fund – State Action to Establish Health Insurance Exchanges  
<http://www.commonwealthfund.org/Maps-and-Data/State-Exchange-Map.aspx?omnicid=18>
- National Conference of State Legislature: State Actions to Address Health Insurance Exchanges  
<http://www.ncsl.org/issues-research/health/state-actions-to-implement-the-health-benefit-exch.aspx>
- The States – Kaiser Health Reform <http://healthreform.kff.org/the-states.aspx>
- State Legislation and Actions Challenging Certain Health Reforms  
<http://www.ncsl.org/?tabid=18906>