



Colorado
Legislative
Council
Staff

ISSUE BRIEF

Number 11-09

A Legislative Council Publication

July 25, 2011

COLORADO'S HEALTH BENEFIT EXCHANGE

by Kelly Stapleton

In March 2010, federal health care legislation, also known as the Patient Protection and Affordable Care Act (PPACA), was adopted by the U.S. Congress and signed by the President. PPACA expands health care coverage by increasing access to private health insurance and expanding eligibility for Medicaid. The law also increases regulations on health insurance providers and makes changes to how the health insurance market operates. PPACA also requires individuals to have health care coverage, and requires employers to offer health insurance to employees.

This issue brief, part of a series on the federal health care legislation, describes Senate Bill 11-200 which establishes the Colorado Health Benefit Exchange. Other topics in this series include:

- Medicaid expansion under PPACA (*Issue Brief #10-17*);
- changes to health insurance laws under PPACA (*Issue Brief #11-04*); and
- a general description of the structure and requirements for state-based health benefit exchanges (*Issue Brief #11-01*).

Introduction

Health insurance exchanges are regulated marketplaces in which individuals and small businesses can shop for health insurance. Under PPACA, state health insurance exchanges must be operational by January 1, 2014, or if a state has not taken action to establish an exchange by January 1, 2013, the federal government will set up the exchange. Although states have discretion in establishing

exchanges, federal law includes requirements that all must meet. Exchanges must:

- be administered by a governmental agency or a nonprofit entity;
- develop a process for certification of plans as qualified health plans; and
- offer health insurance plans to both individuals and small businesses.

Colorado Health Benefit Exchange

Senate Bill 11-200 creates a process for the implementation of a health benefit exchange by establishing the exchange's governance structure. The bill establishes the exchange as a nonprofit public entity with a board of directors responsible for its operation. Senate Bill 11-200 specifies that no General Fund dollars be used for the implementation of the exchange.

Board of directors. The board is comprised of 12 members — 9 voting members and 3 nonvoting members. The Governor appoints five members and the members of legislative leadership appoint four members. Members of the board must demonstrate expertise in at least one of the following areas:

- individual health insurance coverage;
- small employer health insurance;
- health benefits administration;
- health care finance;
- administration of a public or private health care delivery system;
- the provision of health care services;
- the purchase of health insurance coverage;

- health care consumer navigation;
- health care economics or actuarial sciences;
- information technology; or
- starting a small business with 50 or fewer people.

The remaining three, nonvoting, members are the Executive Director of the Colorado Department of Health Care Policy and Financing (HCPF), the Commissioner of Insurance, and the Director of the Office of Economic Development and International Trade. Board members serve without compensation, but may receive a per diem for travel and other necessary expenses. Additionally, board members cannot profit from being on the board and cannot be held liable for an act or omission when, in good faith, administering, managing, or conducting business on behalf of the board.

Board duties. The board does not have authority to promulgate rules, cannot purchase insurance, and should not duplicate the duties of the Colorado Division of Insurance, which has the authority to regulate insurance companies in Colorado. The board is responsible for:

- creating an initial operating and financial plan for the exchange;
- applying for planning and establishment grants;
- creating technical and advisory groups as needed; and
- reviewing the Internet portal template put forth by the U.S. Department of Health and Human Services.

The board must consider the size of the exchange, and whether there should be one exchange for the individual market and another for small businesses, or whether the state should have one exchange to serve both individuals and small businesses. Colorado law defines a "small employer" as a business with 50 or fewer employees. The board will consider the appropriate size of the small employer market under the exchange, taking into consideration the existing statutory definition. The board also must consider the needs of rural Coloradans and the affordability and cost of health care.

Current Activity Regarding Implementation

The HCPF applied for an initial federal planning grant and received \$1 million in October 2010. HCPF selected the Colorado Health Institute (CHI) to initiate the planning phase of the exchange. CHI is a nonprofit health information clearinghouse. CHI, in coordination with the HCPF, put out a request for proposals (RFP) in March 2011 to procure assistance with the research and development of a comprehensive report detailing the current state of health insurance coverage in Colorado. The RFP will aid the board in determining whether Colorado can sustain two separate exchanges for individuals and small businesses. A vendor was selected in May, and the report will be issued in mid-September. In June 2011, Governor John Hickenlooper announced the 12-member board of directors and their inaugural meeting was held July 11, 2011. Information on the board may be found on CHI's website:

www.coloradohealthinstitute.org

Legislative Oversight Committee

Senate Bill 11-200 also established the Legislative Health Benefit Exchange Implementation Review Committee to guide implementation of the exchange, such as reviewing grants applied for by the exchange and the financial and operational plans of the exchange. The committee is comprised of 10 members of the General Assembly. The President of the Senate and the Speaker of the House of Representatives have each appointed three members and the House and Senate Minority Leaders have each appointed two members. The committee's membership includes members who sit on the Health, Business, or Legislative Audit committees.

The committee's first meeting is scheduled for August 1, 2011. The committee may meet at the call of the chair up to five times each calendar year and may report up to five bills or other measures to the Legislative Council. Senator Betty Boyd was appointed the chair of the committee, and Representative Bob Gardner was appointed vice-chair. The committee's website can be found here:

www.colorado.gov/LCS/ExchangeReviewComm