

# Health Insurance Exchange Advisory Committee Meeting

## Department of Community Health

October 27, 2011

10:00 – 2:00 PM

### MEETING MINUTES

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#### *Welcome and Update -- Blake Fulenwider*

Blake provided a recap and national update from the RGA Health Summit. Most other states are still in limbo, which gives comfort as to where we are in the process and advocates taking a step back on really looking at how to design for GA.

#### **Subcommittee Reports:**

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#### *Governance -- Gerry Purcell*

Overarching Goals: **focus on the facilitation; establish in a free market kind of way**

- Reduce number of uninsured
- Facilitate the purchase and sale of health insurance
- Create transparent marketplace
- Provide educational information and tools
- Provide guidance and connectivity assistance to those eligible for tax credits, cost sharing assistance, and/or public programs as appropriate
- Assist employers with enrollment activities and in accessing business tax credits

*Clarification* –determination of eligibility: would actual determination remain with DCH? There is a difference between the portal and who is making the actual decision.

\*Under federal law, eligibility determination would have to remain with DCH - would have to apply federal and state eligibility criteria in determining eligibility. Want the portal to look seamless to the consumer, but on the back end, DCH would be making the decision (this would necessitate 2 different exchanges for small business and individuals)

**\*\*The Exchange would serve as a connector in determining eligibility for individuals and/or groups\*\***

\*The Exchange would provide guidance and connectivity assistance\* (Consider giving authority for data sharing with DCH)

Learning from marketplace, existing state operated entities (Lottery, Transportation Authority, Ports Authority) and other state's related initiatives

### 3 Main Areas in Governance:

1. Legislative Initiative (main focus of this subcommittee)
2. Creation of Regulation (code)
3. By-laws of Entity

### Recommended Model

- Quasi governmental non-profit, public corporation
- GA CODE: Amends Title 33
- NAMING: Georgia Health Insurance Marketplace Authority
- Creates “Insurance Marketplace”
- Exempt from Chapter 13 of Title 50 – GA Administrative Procedure Act
  - Chapter 13 – Allows certain vendors to keep certain info confidential and consider provisions in bylaws (protect vendor info but also allow for public information)
- Leave decision about risk pooling to the by-laws

### **\*General Consensus among the members\***

#### Authority of Entity

- Establish by-laws (*Board would establish these*)
- Make and execute agreements (*State procurement law? Need to clarify*)
- Purchase, lease property
- Apply for and accept private, state, or federal grants, or gifts, or loan guarantees or loans of funds or property or finance
- Determine eligibility of individuals and/or groups participating (*Coordination with DCH; Website linked to state engine*)
- Establish advisory groups (*Additional advisory groups such as agents, brokers, etc. may need to be created; didn't want to place limitations*)
- Deposit and invest funds – fiduciary responsibility
- Ensure compliance with all federal and state laws

#### Composition of Board of Directors

- Seven members
- Governor appoints Chair of Board + two Directors
- GA House of Representatives appoints one Director
  - *Can Speaker appoint? YES. Need to make specific*
- GA Senate appoints one Director
  - *Can Lt. Governor appoint? YES. Need to make specific.*
- Commissioners of DOI and DCH – Ex-officio Voting Directors
  - *Why Ex-officio DCH Commissioner is not an elected official? Reason is nature of position*
  - *Can a proxy be chosen? YES – will be written in by-laws*

**\*General Consensus among the members\***

Selection Criteria of Directors

- Resident of the State of GA
- Appropriate knowledge, experience and skills
- Shall not have been convicted of any felony offense
- Shall be free of conflicts of interest

The subcommittee did not feel it appropriate to get into specificity

Having appropriate knowledge and being free of all conflicts of interest go against one another.

- There are retired CEO's with the appropriate knowledge who are not in a position to gain financially. Every effort should be made to not appoint someone who can steer consumers toward a particular product.
- Just because someone is no longer President, doesn't mean they no longer have a connection to a certain company or product.
- Is a private citizen with stock a conflict?
- Would it be better to say that any conflicts of interest must be disclosed?
- Need to define the degree of conflict and create protection against someone with a strong financial interest.
- Cannot have a majority with a conflict (working for insurance carrier, agents, etc.)
- Hospitals also have a big conflict.
- Is there something along the lines of recusement from voting that could be implemented?

**\*Board shall have formal process for identifying and disclosing any potential conflict of interest.\***

Terms of Directors

- Three year terms
- Limited to three terms
- Initial appointments will have staggered terms
- Ex-officio Director's terms concurrent with office

**\*General Consensus among the members\***

Executive Leadership

- Led by an Executive Director/CEO
- Governor has discretion to appoint initial CEO to three year term (Gov may waive)
- Thereafter, Board assumes appointment duty
- Duties defined in by-laws

**\*General Consensus about recommendations from Governance Subcommittee  
with slight adjustments made\***

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*Insurance Markets -- Russ Childers*

**Risk Pooling**

- The majority opinion was that risk pools should remain separate due to actuarial differences, differences in regulation in the two markets, and protection against instability in one pool affecting the other
- This decision should be part of the legislation creating the Exchanges and action of the legislature would be necessary to combine the pools
  - Point that this decision is in conflict with the Governance subcommittee who wished to leave decision to the discretion of the Board in the by-laws

**Small Business Sizing**

- Majority opinion to limit the SHOP from 1-50 until 2016 in order to give time for adjustments because of adverse selection
- Disagree with continuing to push pool size up (SHOP should not allow companies larger than 100 employees)

**Contracting**

- Exchanges should operate as a facilitator, providing information on plans, enrollment in appropriate plans, and a conduit for funds from the various sources
- Negotiation between the Exchange and Insurance carriers
- All carriers with plans that meet the QHP standards should be able to offer in the Exchange
  
- Depending on competition to drive rates down?
  - All regulatory oversight remains with DOI
  - Competition will drive prices down over the long term, but initially companies offering coverage should be similar to how they are offering coverage outside the Exchange
- Clarification – Prohibit from excluding a QHP, but need to maintain flexibility and not prohibit the Exchange from approving a non-QHP

**Treatment of Plans**

- Plans offered inside and outside the Exchange should be as similar as possible (requirement of the law)
- Under state law, plans must be sold through a licensed agent – not making the recommendation to change this law
  - Subcommittee believes there should be a licensed insurance agent involved
- Didn't really consider agent responsibility

- If same product and price, agents outside the Exchange get commission, so what happens inside the Exchange? Does the revenue go to the Exchange or insurance company?
  - Operations & Finance looked at agents and brokers
- In creating a level playing field, first take into account ACA, then make adjustments if necessary
  - Not giving power to the Exchange to create a level playing field – the state should have this responsibility

### Mandates

- Benefit, coverage and provider mandates should be the same both inside and outside the Exchange
- If ACA mandated benefits are less than min benefits in GA, would you decrease benefits required by the state and vice versa?
  - This would be left up to the legislature. In experience, as soon as minimum benefits are released if ACA is in place, the legislature will pass a state law to match.

### Coverage Area

- Allow plans to offer in only their regional service areas in order to maximize choice and competition in all areas of GA.
- Need to take into account risk adjustment and ratings, which may be different in different areas of the state
- What regions will be used? It is hard to determine which regions because there are many different region structures throughout the state.
  - The Exchange legislation is not required to set up regions. As long as it is approved, a carrier may offer in a specific region.
  - For rating purposes, regions would be set either by the Exchange or DOI
  - As far as where consumers would go, some regions would have to be determined due to cherry-picking
- Is there any risk that if the rating area is defined too narrowly that it would be a back-end to medical underwriting?
  - An insurer isn't going to offer coverage in a region where the hospitals are not part of the PPO network
- Region needs to be similar in size to a 5 digit zip code

### Interstate Agreements

- Share costs of development through co-operation with other states
- Against giving the authority to the Exchange to enter into agreements to offer coverage on a multistate basis.
  - If interstate agreements are offered, legislature would have to change state laws
- Allow cooperation to accommodate employers & individuals in border areas (current practices)

## Risk Adjustment

- Technical are that needs people versed in methodology
- Federal methodology will be created by federal government – state would have to adapt this methodology
- Board would decide details of how money is transferred between carriers

**\*General Consensus about recommendations from Insurance Subcommittee with slight adjustments made\***

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## *Operations & Finance -- Jimmy Childre*

- Interested in providing value, not regulation in determining prices
- Facilitate connection between buyer & seller

## Use of Existing State Resources

- Seek to leverage existing state capabilities – not duplicate roles currently performed by state entities

## Exchange Portal

- Exchange as a front door to marketplace
- Develop a portal that is user friendly, easily accessible and navigable
- Linked to Medicaid eligibility engine

## Education and Outreach

- Reach out to uninsured populations
- Promote services to the community to ensure long-term viability

## Customer Service

- Encourage carriers and brokers to be in the Exchange
- Primary role during pre-enrollment period
- Exchange acts as a conduit through which disputes and complaints could be referred to existing resolution capabilities

Qualification Criteria for Plans on Exchange: All plans that are certified by DOI

Exchange should recruit additional plan sponsors and enable large employers to shop on the Exchange.

If not focusing on QHP's, we could end up with a separate federally compliant Exchange. Subcommittee has not discussed anything other than QHP's.

Approach of the subcommittee was to design what would be best for GA. Looked at how to design a self-sustaining market, but not change the role of brokers & navigators.

Recognize the need for brokers; not interested in dictating the relationship between brokers & consumers. Rather not have legislation on these roles – would rather have free market principles.

Plan rating – identify how much of a vehicle for transparency we want the Exchange to be.

Info aggregation from multiple sources.

Need clarity regarding customer service – who do people call if they have a problem?

Don't want to duplicate resources (DOI, insurance companies, etc.); Keep all of these roles in place and fill in where there are holes.

Does state-based Exchange preclude other exchanges? NO

Exchange financing – Does the federal government anticipate a fee being involved with the Exchange? Just says it must be self-sustaining – Didn't define whether fee would be part of MLR.

Recognize that if Exchange is selling plans at the same price with an added fee, it may serve as a shopping mechanism for people to go on the Exchange, get information and go purchase plans somewhere else.

In the long term, administrative costs will be brought down (this could be what the fee is).

Is there a value the Exchange could bring to brokers (take over things that brokers currently do) in order to save the broker time and costs?

Only create savings by taking over existing functions and doing them cheaper.

Part may be market driven, but part may also be technology driven. Does the insurance company not save money by the Exchange sending one check vs. the insurance company sending out multiple invoices?

Conversation is way down in the weeds – these kind of decisions is what the Board should be talking about. How deep do we want to go?

Helpful clarification – What kind of budget are we thinking to get the Exchange to be self-sustaining? Are we thinking broad based fees or just fees for those in the Exchange?

Committee can build scenarios based on percentages of the market, but need to know how far this work is supposed to go – do not want to go outside the charge of the Executive Order.

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*Contingency Plans -- Ron Bachman*

Start with the idea of where we are now and where we could go. The committee looked at possibilities in certain situations, not just how the Exchange would change.

Support the idea that there is a need for a Georgia-specific health reform.

Scenario Planning:

Scenario 1 – Constitutional Plus

PPACA ruled constitutional and Political Alignment A has some control, could have “Son of PPACA”; less control for states – GA may be better off deferring to feds

PPACA ruled constitutional and Political Alignment A has total control, state-based Exchange limited

Scenario 2 – Constitutional Minus

PPACA ruled Constitutional with Alignment B in control, it is likely PPACA will be repealed and replaced, so an Exchange would no longer be needed. However, a state-based or private Exchange still has a place to survive – Georgia should prepare alternative reform legislation.

Scenario 3 – Unconstitutional Partial or Complete

PPACA individual mandate ruled unconstitutional with Alignment B in control, state-based Exchanges will be made inactive and ineffective. A repeal of PPACA will limit the life and value of state-based Exchanges initially developed for federal compliance – Georgia should prepare alternative reform legislation.

PPACA ruled unconstitutional as a whole, value of state-based Exchanges will be limited – Georgia should prepare alternative reform legislation.

Scenario 4 – Unconstitutional Reconstituted

PPACA ruled unconstitutional with Alignment A in control, PPACA regulations may be expanded in ways that may minimize the control of state-based Exchanges or eliminate their need – Georgia should prepare alternative reform legislation.

In order to determine which direction we are moving, look at court cases and polling around the Presidential election as well as the House and Senate. We should have a plan for all of these scenarios.

All this subcommittee is saying is that GA needs an alternative reform plan not just around Exchanges. Not making any recommendations at this time. For clarity, stakeholders are motivated to see what the final recommendations of the other subcommittees will look like.

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*Committee Discussion --*

The scope of the recommendations of the Contingency planning committee is hugely expansive and beyond the scope of the Executive Order – must be cognizant of what we have been asked to provide by the Governor.



Need to focus on what is the state's immediate response – this is the recommendation we need. Saying the state needs alternative reform does not suffice. This is far beyond Exchanges and our mission is a recommendation targeted toward Exchanges.

Three of the committees looking at confines under PPACA, the alternative says we need to go one step further and change existing state laws.

Going beyond an immediate response is outside of the scope of the committee.

In the three other committees, PPACA was looming, but committees were moving forward with the understanding that there was a problem with the insurance market in small businesses. Committees worked under the view that we needed a more affordable reform.

If the state doesn't prohibit private exchanges, they will emerge on their own, so why is there a problem with the Governor implementing a state-based Exchange?

The committees are not taking mutually exclusive approaches. Some of the recommendations from the Contingency Plans committee would be necessary if PPACA fails. Use the ideas combined with suggestions from the other three committees to create an optimal situation for GA.

Agreement that this information and approach to an alternative reform is important and will go to the Governor. The problem is with the Executive Order. The official report from this committee will only include Exchange specific information. The Contingency Planning work is not discounted.

There is a general consensus with the whole Advisory Committee over what was presented and the changes that were made during the meeting.

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*Closing Remarks & Takeaways -- Blake Fulenwider*

The staff and Committee decided that a November meeting date was not necessary. A drafting committee consisting of Subcommittee chairs or their designees was formed to help in the drafting of the final report to the Governor. The staff will begin to compile and disperse to writing committee to tweak language.

Tight time frame - want to be accurate and reflect everyone's opinions, but need to have structure. Chairs will get approval from respective members and sign-off on final product.