



Best Steps for Texas to take in 2011 to Implement Health Reform

1. Build an Effective and Consumer-Friendly Health Insurance Exchange for 2014

Avoid Adverse Selection

Premiums can rise dramatically in the exchange if it is designed in a way that encourages “adverse selection” against the exchange—more people who are sick getting coverage inside the exchange while more people who are healthier get coverage outside of the exchange. The key to protecting the exchange from adverse selection is having the same market rules for insurance sold inside and outside of the exchange.

A Texas small business exchange in the 1990s (the Texas Insurance Purchasing Alliance) failed when differing rules outside of the exchange created severe adverse selection in the pool. Utah has aligned its inside and outside rules after the pilot launch of its exchange with differing rules revealed flaws.

Federal law requires several, but not all, key market rules to be the same for plans sold inside and outside the exchange, including rating rules, coverage of “essential health benefits,” combining risk pools in and out, and charging the same premium for the same plan in and out.

Decisions Ahead:

- Must insurers sell the same products inside and outside?
- Which rules must be aligned—the same inside and outside the exchange?
- Should benefit design be standardized to mitigate risk selection and allow consumers to make apples-to-apples comparisons?

Recommendations:

- Federal law categorizes coverage tiers as platinum, gold, silver, bronze, and catastrophic, and says plans in the exchange can only sell bronze level and catastrophic plans if they also sell more comprehensive silver and gold plans. It is up to states to align this rule in and outside of the exchange by barring insurers from offering only higher-deductible bronze plans or catastrophic plans outside of the exchange, which would lure young and healthy people outside the exchange, driving adverse selection against the exchange and driving up its premiums.
- To further discourage adverse selection, Texas must apply the same rules inside and outside of the exchange for:
 - Prohibiting marketing practices or benefit design that discourage enrollment by people with high health needs;
 - Network adequacy;
 - Accreditation;
 - Enrollment forms;
 - Assessments for operations; and
 - Agent’s commissions.
- Even if Texas elects to start with the minimum standardization required in federal law, we should allow the exchange governing board the flexibility to adopt standards that exceed the federal minimum later if that proves desirable.

Ensure Effective Governance

Decisions Ahead:

- Should Texas run the exchange or leave it to the federal government?
- How will exchange governance be kept free from conflicts of interests?
- Where will the exchange be housed?
- One statewide or multiple regional exchanges?

Recommendations:

- To ensure maximum responsiveness to Texas interests, Texas should design and run its own exchange.
- Those with a financial interest in exchange decisions (insurers, agents, and health care providers) should be on advisory panels but not on the governing board.
- Regardless of where it is housed, the exchange must be able to work closely with both the Health and Human Services Commission and the Texas Department of Insurance. Expertise from both agencies, as well as additional expertise neither has, will be needed to build and operate the exchange marketplace.
- One statewide exchange will be more cost effective to build, ensure consistency across the state, and ensure a larger pool of enrollees making participation by insurers more attractive and mitigating adverse selection. Regional health plans

<ul style="list-style-type: none"> • Separate or merged exchanges for individuals and small businesses? 	<p>will not face barriers participating in a statewide exchange.</p> <ul style="list-style-type: none"> • Texas should have one administrative structure regardless whether the individual and small employer “pools” are merged.
Be Consumer-Friendly	
<p>Decisions Ahead:</p> <ul style="list-style-type: none"> • How should the exchange choose plans for participation? • How should the exchange design the Navigator program? 	<p>Recommendations:</p> <ul style="list-style-type: none"> • The exchange needs some flexibility to raise standards for participating plans to improve price competition, quality, and customer satisfaction. A Texas exchange should be able to use its market power, just as larger employers do, to get good deals for the Texas small businesses and individuals who buy insurance in the exchange. • The exchange must contract with a diverse array of entities as “navigators” to help uninsured individuals and small businesses navigate the system and obtain coverage. Texas should build a robust navigator program by contracting with entities that understand public coverage and commercial insurance, are in rural and urban areas, and can provide information in a culturally and linguistically appropriate manner.
2. Ensure TDI Has Needed Authority and Capacity	
<p>Decision Ahead:</p> <ul style="list-style-type: none"> • What authority does the state need to give TDI to ensure it can protect consumers? • How will TDI ensure premiums are reasonable and transparent? • What additional capacity is needed? 	<p>Recommendations:</p> <ul style="list-style-type: none"> • To ensure TDI can fully enforce consumer protections, the state needs to adopt conforming laws for many federal insurance reforms that have already taken effect (young adult dependent coverage to age 26, no pre-existing condition denials for kids, rescissions only in cases of fraud, etc.). Federal enforcement may result if TDI authority is not enacted. • TDI does not have authority that exists in most states to deny excessive rates. TDI should be able to approve or deny health insurance rate increases before they are charged to consumers. • Although federal grants will cover new costs associated with rate review, consumer assistance, and exchange planning, TDI will need some additional capacity to focus on health reform implementation.
3. Build Systems to Ensure Efficient, Family-Friendly Enrollment	
<p>Decisions Ahead:</p> <ul style="list-style-type: none"> • Will the state provide HHSC adequate funding to timely and accurately determine eligibility and enroll qualified Texans? • Should the exchange sub-contract with the HHSC to process premium tax credit eligibility? 	<p>Recommendations:</p> <ul style="list-style-type: none"> • The Health and Human Services Commission has much improved how quickly and accurately it can determine eligibility and enroll qualified Texans in Medicaid and CHIP given current caseloads. In its legislative appropriations request, HHSC has requested funding for new technology and staff to keep up with ongoing caseload growth from the economic downturn—essential for HHSC just to stay current. Eventually HHSC will need additional staff to implement health reform. Fortunately, federal matching funds are available at a 9-to-1 federal-state ratio for states to develop Medicaid eligibility and enrollment systems, but only for state systems that meet minimum standards for speed and accuracy and for interoperability with the exchange. • Fully integrating the exchange’s new eligibility functions with the existing HHSC system would be more cost effective than building an entirely new separate system. A fully coordinated screening process with the exchange would help ensure a seamless “no wrong door” system and allow the state to take advantage of the enhanced federal match rate to create economies of scale that reduce overall administrative costs.

For more information on key steps needed to make the most of health reform in the 2011 Texas Legislative Session, please see www.cppp.org/research.php?aid=1016, or contact Anne Dunkelberg at dunkelberg@cppp.org or Stacey Pogue at pogue@cppp.org.