

Designing an Exchange: A Toolkit for State Policymakers

March 8, 2011

Lee Goldberg, National Academy of Social Insurance

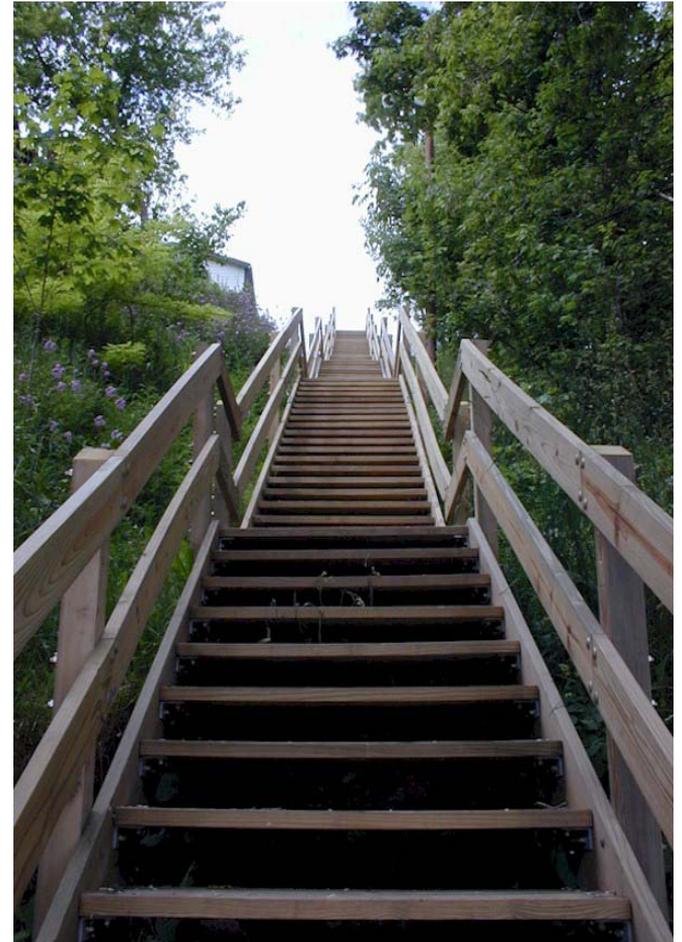
Deborah Chollet, Mathematica Policy Research

Renée M. Landers, Suffolk University Law School

NATIONAL
ACADEMY
OF • SOCIAL
INSURANCE

The Project

- ▶ Develop legislative language for states to use in establishing exchanges
- ▶ Builds on the valuable work of NAIC
- ▶ NASI assembled a diverse panel of academics, and policy and industry experts
- ▶ Funded by the Robert Wood Johnson Foundation



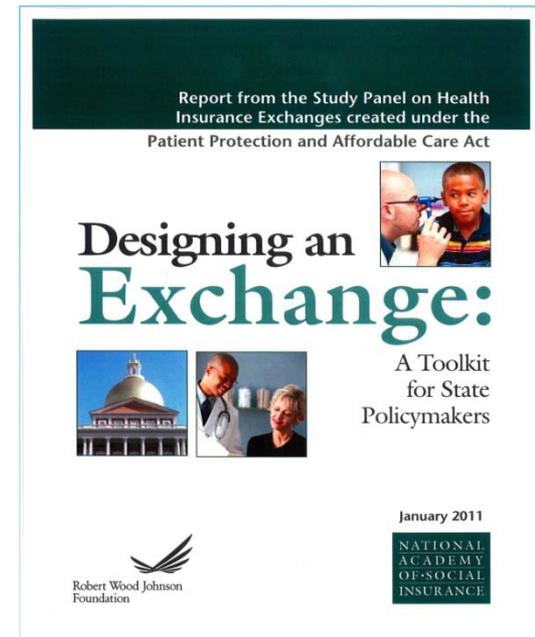
Results from the Study Panel

▶ Toolkit

- Legislative language and “section by section” guide that describes suggested alternatives to the NAIC language
- Narrative that explains the legislative language from NASI and briefly discusses some of the broader issues

▶ Issue Brief series

- Governance (Van De Water and Nathan)
- Others on their way



How to Use the NASI Toolkit

- ▶ NASI legislative language in italics
- ▶ Additional text where NAIC offered none
 - e.g., governance options
- ▶ Alternatives to NAIC language
 - e.g., coordination with insurance regulatory agency
- ▶ In all cases, preserve the structure and text of NAIC model act
- ▶ Drafting notes explaining the intent of NASI language, sometimes suggesting additional issues that a state might consider

Uses for NASI Toolkit

- ▶ Language that a state might adapt to its legislation authorizing an Exchange
- ▶ Information that states might find useful in:
 - Implementing regulations
 - Developing interagency agreements and memorandum of understanding
 - Furthering state policy to improve the continuity and quality of coverage and care, and to constrain cost



Deborah Chollet

Senior Fellow

Mathematica Policy Research

Establishment of an Exchange

- ▶ NASI language offers detail for three governance alternatives:
 - Cabinet-level executive branch agency
 - Independent executive branch agency
 - Private nonprofit
- ▶ NASI language addresses key concerns as they relate to each alternative:
 - Board composition and terms, and independent advisory committees
 - Conflict of interest
 - Application of state laws on hiring, procurement, ethics, freedom of information, etc.
 - Possible constitutional constraints and Exchange rulemaking authority
 - Interagency cooperation – e.g., with Medicaid and CHIP, Depts. of Insurance and Corrections

Duties of an Exchange



- ▶ ACA requires that an Exchange:
 - Certify participating health plans
 - Hold regular open enrollment periods
 - Maintain a website offering comparable plan information
 - Rate qualified health plans
 - Operate a toll-free consumer hotline
 - Provide an on-line calculator that shows premiums net of available subsidies
 - Screen applicants for Medicaid eligibility and enroll them when eligible
 - “Provide for the establishment of” a SHOP Exchange for small employers

Duties of an Exchange, cont'd

▶ **NASI alternative language**

- Increases website functionality to include concurrent determination of eligibility for Medicaid or premium subsidies
- Requires the Exchange to inform individuals of overpayments of tax credits, procedures for reporting of change in income, including any available “safe harbor” provisions
- Adds to Navigator duties (to counsel individuals on enrollment choices), provides for appropriate certification, and requires the Exchange to make a sufficient number of Navigators available to serve disadvantaged or hard-to-reach populations
- Recognizes that a state may establish a SHOP Exchange for small employers independent of its Exchange for individuals, and (if consistent with federal rules) accommodate defined-contribution employer plans
 - States could develop method for collecting aggregated premiums to make it more attractive to employers
 - States may also seek economies of scale through integration of some administrative functions

Health Benefit Plan Certification



- ▶ ACA requires that Exchange-certified health plans:
 - Be licensed and in good standing in the state
 - Offer essential benefits and at least one dental supplemental plan
 - Offer at least bronze level coverage, and at least one silver and one gold plan in the Exchange
 - Require cost sharing only within federal limits
 - Charge the same premium inside and outside the Exchange, and submit justification for premium increases
 - Meet other federal and state requirements regarding
 - Marketing practices
 - Network adequacy and essential community providers in underserved areas
 - Accreditation, quality improvement
 - Uniform enrollment forms and coverage descriptions, and information on quality measures and performance

Health Benefit Plan Oversight

▶ **NASI alternative language**

- Requires plans to notify participants promptly about premium, benefit or network changes
- Offers 3 options addressing the division of responsibility between the Exchange and Commissioner of Insurance, with differences in Exchange costs:
 - The Exchange certifies, but the Commissioner oversees compliance with requirements for certification
 - The Exchange certifies, but specific oversight responsibilities are allocated to the Commissioner and the Exchange as would be efficient
 - The Exchange certifies and oversees compliance with all requirements for certification beyond licensure

Funding and Publication of Exchange Costs



- ▶ ACA requires the Exchange to:
 - Be self-sustaining by January 1, 2015, and allows the Exchange to charge assessments or user fees to participating health insurance carriers, or otherwise generate funding to support its operations
 - Publish the average costs of licensing, regulatory fees and other payments it requires; its administrative costs; and amounts lost to waste, fraud and abuse

- ▶ NASI alternative language would require:
 - Greater transparency on Exchange expenditures and reserves
 - Reporting projected Exchange financial operations, sufficient to evaluate its financial sustainability



Renée Landers

Professor of Law & Faculty Director,
Health and Biomedical Law Concentration
Suffolk University Law School

Exchanges and Medicaid/CHIP

- ▶ ACA lacks clarity on key points:
 - Eligibility determination
 - Entity responsible for periodic redetermination of Medicaid or CHIP eligibility or eligibility for tax credits
 - How individuals will be counseled regarding potential recoupment process or assisted in reporting income changes

- ▶ Pivotal issues related to expected churn:
 - Continuity of coverage, “enrollment fatigue”
 - Continuity of care
 - Consumer satisfaction



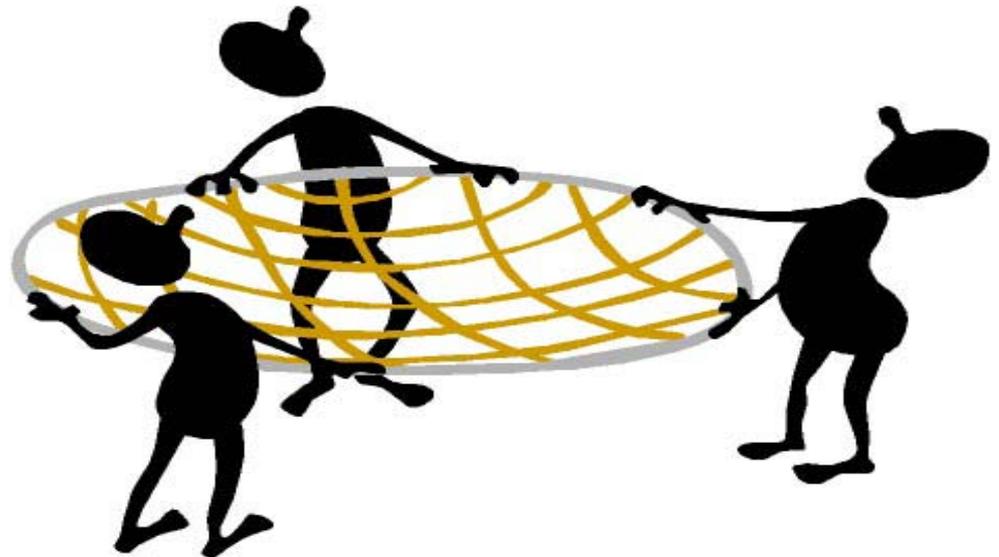
Exchange and Medicaid/CHIP, cont'd

NASI alternative language

- ▶ Exchanges should work with Medicaid/CHIP agencies to develop:
 - A single application covering all options
 - Transition procedures when eligibility changes, coordinate plan payments across transitions, and encourage cross-market health plans to promote continuity of coverage and care
 - Consistent methods and standards for prompt calculation of income based on modified adjusted gross income (MAGI) to guard against lapses in coverage
 - Prompt processing of applications regardless of program
 - Procedures for transitioning individuals among program to protect them against delays in eligibility, enrollment
 - Rapid resolution of inconsistent information affecting eligibility
 - Procedures that provide clear information to individuals regarding a resolution process, interim assistance as well as, procedures for reconciliation and procedures for reporting changes in income

Exchange and Medicaid/CHIP, cont'd

- ▶ States may require Exchange & Medicaid/CHIP collaboration on strategies to promote continuity of coverage, such as:
 - Promoting health plans that participate in both Medicaid and the Exchange markets
 - Retention of Medicaid enrollees in Exchange plans through the end of the contract year, accepting Medicaid payment for the Medicaid benefit package



Cross-Cutting Concerns

- ▶ Building cost into the Exchange
- ▶ Transitions between Medicaid and the Exchange
- ▶ Accuracy of state risk adjustment to stabilize markets as federal reinsurance and risk corridor programs sunset
- ▶ Allowing Exchanges to evolve over time
- ▶ Potential need for broader legislation in some states to manage:
 - Adverse selection inside and outside the Exchange
 - Flight of low-risk groups 50-100 to self-insurance

Next Steps

- ▶ Issue briefs
 - Adverse selection
 - Other possibilities:
 - Lessons from Medicaid outreach and enrollment
 - SHOP Exchange and employee choice
 - Eligibility determination
 - Active purchasing
 - Accommodating new delivery systems
- ▶ Technical assistance to states



Norman Thurston

Health Policy & Reform Initiatives Coordinator
Utah Department of Health



Kelly Harms

Operations Analyst

Health Insurance Exchange, Oregon Health Authority



NATIONAL
ACADEMY
OF•SOCIAL
INSURANCE

Help us determine the topic of the next NASI webinar on health insurance exchanges and provide feedback!

**Please click here to fill out an evaluation or cut and paste the following URL:
<http://www.surveymonkey.com/s/XT5W7XW>**

Lee Goldberg, Director of Health Policy
(202) 243-7288
lgoldberg@nasi.org
www.nasi.org