

# Designing an Exchange: A Toolkit for State Policymakers

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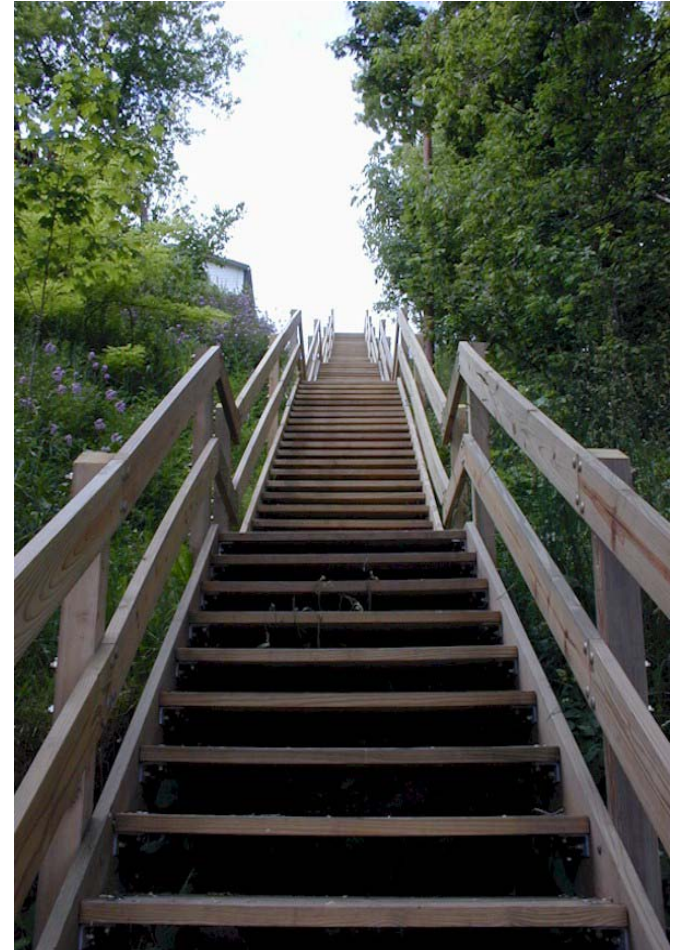
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# The Project

- ▶ 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



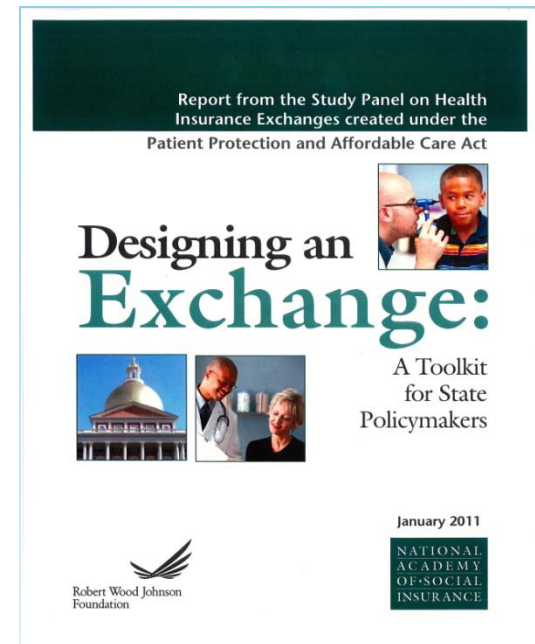
# Results from the Study Panel

## ▶ 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



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# 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**

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# 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



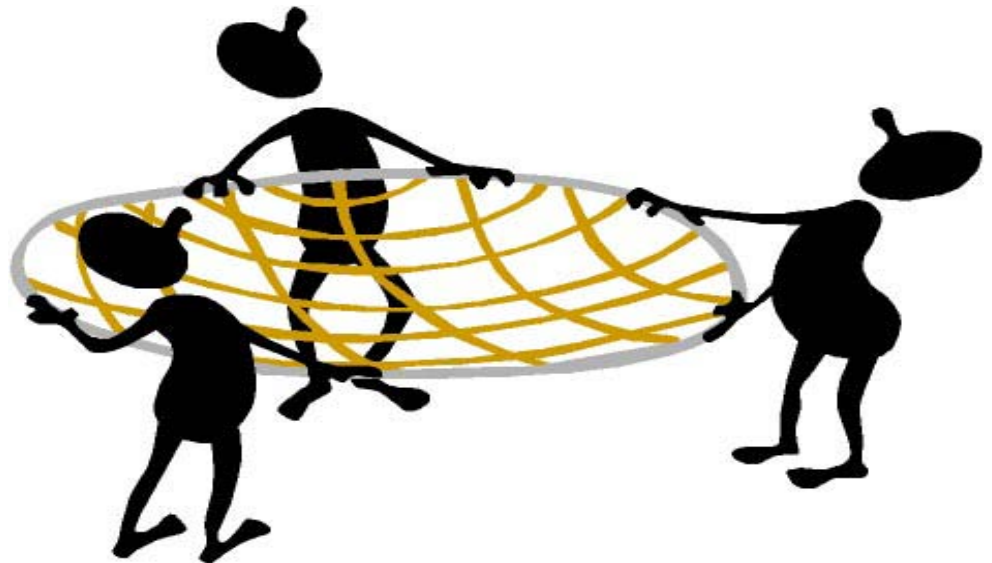
# Exchange and Medicaid/CHIP, cont'd

## 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



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