Building a Better Health Care Marketplace

Policy Brief #2: Negotiating for a Better Deal

A well-made state exchange can help deliver lower costs for individuals and small businesses. Just as big businesses negotiate with insurers, using the bargaining power of their employees to push for lower premiums, so too can exchange enrollees benefit from a muscular exchange that negotiates on their behalf for better choices and lower costs.

But to live up to this potential, the exchange will need to do more than simply take all insurers who want to sell their products to its enrollees. It will have to take a close look at the benefits being offered, and the premiums and cost-sharing being charged, to assess whether they provide a good value.

Based on that assessment, the exchange should then negotiate with insurers to offer lower cost, higher quality coverage options for consumers. Similarly, the exchange should monitor year over year premium increases to ensure enrollees continue to get a good deal. And because negotiating power and economies of scale depend on having a large pool of enrollees, the exchange should be made as large as possible.

About this Series:

The creation of a new health insurance exchange offers states an opportunity to improve health care and lower costs by pooling consumers' bargaining power, creating economies of scale, and pushing insurers to delivering lower costs and higher quality. Iowa PIRG's *Building a Better Health Care Marketplace* project provides recommendations to advocates and policymakers for how to create a strong, pro-consumer exchange. Support for the project is generously provided by the Robert Wood Johnson Foundation. For further information on this project, and other policy briefs in this series, please visit http://www.iowapirg.org.

A Better Deal for Consumers

A strong exchange is a negotiating exchange. Empowering the exchange in this way will provide consumers and small businesses with an exchange that is not only a transparent and fair marketplace, but also a much-needed advocate standing up for their interests. With insurers competing with each other for access to exchange enrollees,

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quality will increase and premiums will come down. A negotiating exchange will deliver concrete value for enrollees, with the potential to save consumers millions of dollars.

Some policy-makers, as well as the insurance industry, have argued that the exchange should not negotiate for a better deal. Instead, they argue, plans should be allowed to set rates however they like, and be excluded from the exchange only for flagrant misconduct. This "all willing sellers" model, however, while potentially increasing the number of choices consumers have, would also lead to higher premiums. A negotiating exchange, on the other hand, will be concerned with both the affordability of premiums and the availability of insurance options, so it will be able to effectively balance these concerns.

A further reason to insist on a negotiating exchange is to safeguard taxpayer dollars. The new health reform law provides federal tax credits for Americans whose income could make it difficult to afford health insurance. These tax credits will be delivered through the exchange, and their cost will be pegged to prices on the exchange. As a result, an exchange that successfully negotiates for lower premiums will not only deliver savings to enrollees, but also create savings for all taxpayers.

To give the exchange authority to negotiate, it must have the power to exclude low-value plans. The ability to say "no" is a prerequisite for any successful negotiation, and if the exchange is to deliver the maximum value for consumers and businesses, the state must explicitly give it the authority to exclude plans that fail to deliver robust consumer protections, quality care, and reasonable costs.

Stopping Excessive Premium Hikes

The exchange also has an important role to play in policing unreasonable rate increases. By pushing back against insurers with a history of significant rate hikes, the exchange can use its negotiating power to make premium increases more predictable and stable for consumers.

In many states, regulators review insurers' proposed rate increases to ensure that they are justified. The new law sets up a similar procedure at the federal level for states that do not currently review rates. In determining whether a premium increase is justified, regulators weigh some considerations that are similar to those the exchange should use in its negotiations, including whether the benefits offered are reasonable given the premium being charged. However, rate review also looks to broader issues, including the impact of the rate increase on insurers' solvency and ability to pay future claims.

Because the exchange, unlike a regulator, is concerned first and foremost with the interests of consumers, rate review is no substitute for an exchange with the power to negotiate. But states should take steps to harmonize the exchange's negotiations with their regulatory rate review processes, increasing the exchange's effectiveness and efficiency.

First, the exchange should have the power to act on information from federal and state regulators, and exclude plans with a track record of unreasonable premium increases and no clear plan for bringing them under control. Second, the exchange should participate in the review of products sold in the exchange by providing comments on the reasonableness of the increase and its likely impact on consumers. The same standards should apply to insurance plans whether they are offered on or off the exchange, but the expertise of the exchange should be brought to bear on the plans sold in its marketplace.

Expanding Bargaining Power

The bigger the exchange, the greater its negotiating power. As more people get their coverage through the exchange, it will gain leverage with insurers eager for the business of those enrollees. And the larger it is, the greater its ability to achieve economies of scale to reduce administrative costs. As a result, a large exchange is a strong exchange.

Per the federal law, individuals without group coverage will be able to use the exchange, as will small businesses of up to 100 employees, once the law's full provisions go into effect in 2014. The law allows states that currently define a small business as one with 50 or fewer employees to first open the exchange to these smaller businesses and then expand to businesses with up to 100 workers by 2016. Further, states are explicitly authorized to open the exchanges to larger employers starting in 2017.

Because the potential savings for consumers increase with the size of the exchange, the state should aim to maximize both eligibility and enrollment. The state should create a single, state-wide exchange, rather than splinter off its residents into separate regional exchanges depending on where they live, and it should operate a single exchange serving both individuals and small businesses.

It should also plan to open the exchange to employees of large businesses as soon as possible. However, expanding eligibility could create a risk of adverse selection and drive up premiums, for example if large employers with an older workforce flocked to the exchange, while those with younger, healthier workers stayed away. The exchange should be charged with reporting to the legislature with recommendations on how to minimize these risks, so that it can adopt appropriate safeguards as it brings larger businesses onto the exchange.

In addition to opening eligibility to as many people as possible, the exchange should actively reach out to enroll people, because potential enrollees won’t increase its bargaining power the same way actual enrollees will. Further detail on best practices on outreach and enrollment will be included in a later policy brief in this series.