

# Healthcare Law

December 21, 2011

## Federally-Facilitated Exchanges and the Continuum of State Options

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Since passage of the Patient Protection and Affordable Care Act (ACA) on March 23, 2010, the federal government and many states have devoted an extraordinary level of resources to planning and developing the systems, policies and protocols to implement Health Insurance Exchanges that will deliver on the promise of the ACA. Some states will stand up a State-based Exchange (SBE) on January 1, 2014, that requires at least conditional certification from the Department of Health and Human Services (HHS) on January 1, 2013. Others will not and will choose instead to rely on alternative Exchange models, such as the Federally-facilitated Exchange (FFE) or a Partnership Exchange, where the federal government will run an Exchange in the state, and the state may take on some Exchange functions at its option.

A new report, "Federally-Facilitated Exchanges and the Continuum of State Options" authored by Deborah Bachrach and Patricia Boozang of Manatt Health Solutions and published by the National Academy of Social Insurance (NASI) with the support of the Robert Wood Johnson Foundation, describes the three options available to states in setting up Exchanges: State-based Exchange, Federally-facilitated Exchange and Partnership Exchange. This timely report explores and expands on the continuum of state-federal Exchange models articulated in late-November [federal guidance](#) that reflects HHS's continuing movement in the direction of state flexibility related to Exchange implementation.

To assist states and stakeholders, the paper lays out a framework for considering the various Exchange options, reviews how the core functions of an Exchange might be effectuated in the different Exchange models, and explores the advantages and disadvantages of each. Importantly, the report notes that the process for standing up an Exchange is fluid. While a state may start out in 2014 with a Federally-facilitated or Partnership Exchange, over time it may assume more responsibility for Exchange functions, ultimately obtaining certification as a State-based Exchange. Further, regardless of the model, all basic responsibilities of an Exchange are the same and states must comply with these requirements.

The ACA mandates five core functions of Exchanges:

- Eligibility determinations for qualified health plans (QHPs) and Insurance Affordability Programs (Medicaid, CHIP, Basic Health Program and Advanced Premium Tax Credits/Cost Sharing Reductions);
- Plan enrollment;
- Plan management;

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- Consumer assistance; and
- Financial management.

States considering both the Federally-facilitated and Partnership Exchanges are wrestling with the degree of responsibility they want to assume, control they must cede to the federal government, and state fiscal implications with respect to the core functions of the Exchange – some of which implicate traditional state insurance and Medicaid responsibilities and others that represent entirely new functions for both the state and federal governments. Ultimately, the challenge in the Partnership Exchange will be balancing the state role and desire for autonomy in certain Exchange functions against the degree to which a Federally-facilitated Exchange can respond to local market practices and still assure that consumers and small businesses have simple and streamlined access to affordable insurance coverage as mandated by the ACA. The choices states make will impact traditional state responsibilities in both the public and private insurance markets, with implications for consumers, providers and payers.

The authors conclude that regardless of the implementation details that emerge with respect to the continuum of Exchange models, the goals, requirements and imperatives of Health Insurance Exchanges remain the same: to provide access to affordable health insurance coverage to all Americans through a consumer-oriented, best-in-class commerce experience.

The full report is available on the [NASI website](#).

*This report is part of Manatt Health Solutions' library of thought leadership relating to the opportunities and challenges that exist for states in implementing federal healthcare reform. Most recently, the team authored "[Medicaid Managed Care: How States' Experience Can Inform Exchange Qualified Health Plan Standards](#)" (November 2011); "[Implementing National Health Reform in California: Payment and Delivery System Changes](#)" (November 2011); and "[HHS Proposed Rules on Exchange Implementation Requirements](#)" (August 2011).*

*For a detailed list of white papers authored by Manatt Health Solutions, please click [here](#).*

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