

Health Insurance Exchange Working Group
Meeting Minutes
Thursday, August 2, 2012
Department of Insurance

Working Group Members Present

- Director Bill Deal
- Senator John Goedde
- Representative John Rusche
- Representative Lynn Luker
- Zelda Geyer-Sylvia
- Scott Kreiling
- Dave Self
- Scott Leavitt – sitting in for Tom Shores
- Kevin Settles
- Dr. John Livingston
- Alex LaBeau
- Wayne Hoffman
- John Watts

Members Absent:

- Tom Shores

Others Present:

- Director Dick Armstrong – Department of Health & Welfare
- Tom Perry – Governor’s office
- Deputy Director Tom Donovan – Department of Insurance
- Penny Schwiebert – Project Staff
- Significant number of other interested persons and members of the public – approx. 60 - 70

Call to Order: Director Deal called the meeting to order at 10:05 a.m.

Director Deal extended a warm welcome to the members of the committee and all those who were present. He noted that this working group is tasked with finding solutions to the requirements posed by the Affordable Care Act (ACA). He hopes that this working group can establish a path forward for Idaho, now that the Supreme Court has decided that the contested portions of ACA are constitutional. The group will be asked to evaluate the potential impact of the requirements of ACA, especially those regarding the establishment of a health insurance exchange. He noted that there are different approaches to an exchange, and the committee is tasked with considering all of them. Governor Otter, in forming this committee and its counterpart dealing with the impact to Medicaid, had outlined several questions that the committee must consider in making its final recommendations.

He said that this meeting was called to establish the foundation of future meetings. No testimony from members of the public attending will be heard but they were free to write down questions or comments and leave with his staff; this is a learning session.

Director Deal noted that states had approached the establishment of an exchange in different manners:

Approximately 16 states opted to establish a State Based Exchange (SBE)

1 state opted to partner with another state

17 states are studying their options

10 states have done nothing significant

7 states chose not to create a State Based Exchange

Director Dick Armstrong, Idaho Department of Health and Welfare, spoke to the committee about the Medicaid component of ACA. He said that in the spring of 2012, his department had opted to partner with Leavitt Partners to help prepare for the impacts to Idaho of the provisions included in ACA. He said that the population that might prove to be the most expansive would be childless adults. Currently, this population is not eligible for Medicaid benefits, but the provisions of ACA would include them. His committee is tasked with studying where health care costs are now, and the impact that an expansion under ACA would have on the state. His committee was also given a list of questions by the Governor. These questions must be addressed, but it would take additional research to answer them fully. He forecast two or more meetings would be needed to fulfill this mandate.

Tom Perry, office of the Governor, gave a quick synopsis of the Supreme Court decision regarding ACA. He noted that there were two principal requirements at issue: the requirement that everyone have some sort of health insurance (the individual mandate), and the expansion of Medicaid benefits to cover those individuals who are 133% above the poverty line. The Supreme Court considered that the individual mandate would be unconstitutional, but the provisions in the bill for a penalty could be considered a tax, which was constitutional. Therefore, that portion of ACA was constitutional. The required expansion of the Medicaid program, however, was struck down as being unconstitutionally coercive. Therefore it is considered to be a choice by the individual states. They could choose to expand the Medicaid program or not.

Deputy Director Tom Donovan, Department of Insurance, said that it was his intention to present an overview of the Idaho market, a review of prior DOI activities/planning for an exchange, an overview of ACA insurance and market reforms, an overview of an exchange, exchange options and critical dates, and the Governor's charge to the committee and the next steps. (His PowerPoint is posted to the DOI website: www.doi.idaho.gov under the Health Insurance Exchange Working Group link)

Mr. Donovan addressed statistics regarding health benefit plans and dental & vision plans (slides 5-17). He noted that there is some discrepancy in the figures. The figures were voluntarily submitted by individual companies and probably contained some inaccuracies. He

noted that the figures indicated did not include self-funded plans or employer plans with 50-100 employees. He clarified that the numbers indicated were lives covered, not plans. He noted several locations where the number of lives covered had dropped since 2009. Members of the committee noted that this might be a result of the weak economy. Some employers have opted to drop health care coverage for their employees, or businesses have ceased to exist.

Mr. Donovan moved on to a review of prior DOI activities and planning for an exchange (Slides 18-22). He said that the goal of the planning committee (the Health Insurance Accessibility and Affordability Workgroup) was that the exchange be market-driven. He said that a draft of legislation authorizing an exchange had been sent to the federal Department of Health and Human Services, and HHS had expressed some concern about how the information being acquired would be used, but did not object to the draft.

Members of the committee asked if the costs associated with setting up and implementing an exchange had been calculated. Mr. Donovan said that many persons had discussed the possible costs. The DOI had considered contracting with an outside company to gather an analysis of the costs, but the decision to incur that cost was never made. Mr. Donovan noted that Penny Schwiebert, who would be presenting in the afternoon, would have better figures for potential costs of an exchange. He noted that other states, when planning their exchange, had simply estimated the costs. Director Deal noted that there are "ballpark" figures available, primarily those of surrounding states. He estimated \$40 million and noted that the plan was to "piggyback" onto the Idaho Department of Health & Welfare's computer system, which would reduce the cost substantially. Mr. Donovan was unable to estimate the number of employees it would take to run an exchange.

A member of the committee inquired about any grants offered by HHS to help with the planning. Mr. Donovan noted that Idaho had initially applied for a \$30.9 million L-1 implementation grant, and was awarded \$20.3 million. This was a one-year grant. It was intended to be used for final planning and beginning implementation of an exchange. However, the Idaho Legislature did not grant the authority to spend these funds.

Mr. Donovan then reviewed ACA insurance and market reforms (Slides 25-31). He noted that the primary requirements of the law were: the inclusion of dependents in their parents' plan until the age of 26, no lifetime limits on health care, guaranteed renewability of coverage, no exclusions for pre-existing conditions, and not medical underwriting.

There were questions from the committee about a change in ratios in determining rates. Director Deal noted that the current compression is 5:1; by 2014 that figure will be a 3:1 ratio. This would result in higher rates for younger people, and lower rates for older citizens. Mr. Donovan pointed out that the rate requirements for 2014 will apply to small employer and individual plans in and out of an exchange.

Ms. Geyer-Sylvia estimated that once this 3:1 compression was in place, the rates for the younger population would double. She suggested that the younger population might choose to pay the tax rather than buy insurance. This could increase the number of uninsured people in the state. Mr. Hoffman asked if there were any flexibility, federal or state, in the guidelines to protect the younger population. Mr. Donovan said that he did not think there was such a provision in the guidelines. Mr. Kreiling noted that there is some flexibility in the ACA, particularly regarding choosing a benchmark plan for essential health benefits. Rep. Luker noted that defining the essential benefits package is critical.

Mr. Donovan noted that HHS has not issued rules on essential health benefits to date, other than a recent rule for data collection. He said that the state has a “soft” deadline of September 30, 2012 to define them, but in order to make a good decision, it is important to see any rules governing this issue. Director Deal agreed that state control of essential benefits benchmarks is critical. He said that the Department has been working with insurance companies on plan information. We now have more information for a plan for Idaho.

Mr. Settles spoke on a report on state-based exchanges from earlier in the year. He was frustrated that there were no rules issued and only a few guidelines. He said he believes that Idaho needs to decide if Idaho wants a full state-based exchange or a partnership with another state. Director Deal said that these are the kinds of handicaps that the Department had been dealing with since the passage of ACA.

Mr. Donovan proceeded with his presentation by explaining the prohibition of preexisting condition exclusions (slide 28). He said that there is a concern that younger populations would choose to stay out of the exchange, and then jump back in when a medical condition arose.

Mr. Donovan continued with his presentation (slides 29-36).

The committee discussed the ramifications of a federal exchange. Mr. Leavitt noted that Idaho cannot simply choose to do nothing. Mr. Donovan pointed out that the federal government would then step in and run an exchange. Sen. Goedde asked about the penalties that would result if Idaho chose not to do anything – no exchange, partnership, etc. The Director said that he didn’t have an answer to Sen. Goedde’s question. The Director did note that if a federal exchange was in place, Idaho would lose its ability to regulate the insurance industry in the state. A state-based exchange, on the other hand would keep the regulatory authority over the insurance industry in the state.

Senator Goedde commented that 7 states had chosen to do nothing. The Director said that those states understood that route would result in a federal exchange.

Rep. Luker and Mr. Leavitt both noted that the question of cost and control are both important issues when considering which route to take in planning an exchange.

The Director said that the Governor had indicated that the cost of an exchange was an important issue and needed to be addressed. He suggested that a company such as Leavitt or Milliman could be hired to help gather enough data to make a reasonably accurate estimate of the cost.

Another avenue that was discussed was to allow a federal exchange to take place for the immediate future. Then at a later date, apply for a state-based exchange. Mr. Kreiling said that this approach could actually be more expensive than simply choosing a state-based exchange now. The Director noted that each state governor had until 11/16/12 to announce their plans – state-based exchange, partnership, or a federal exchange.

Mr. LaBeau noted that rules can change over time, so this fact must be considered when selecting a plan. Long-term thinking would help in making smarter decisions that would benefit the state.

Mr. Watts noted that 10 states had not made any effort to plan/implement an exchange. It might be wise to ascertain why they made this decision.

Mr. Settles reminded the committee that Idaho has some of the lowest health insurance rates in the country. It is imperative to make a decision that will keep those rates low. Mr. Self said that the consumers must be a priority in this decision; this committee must look at what is best for Idaho and its citizens.

(The meeting adjourned for lunch at 12:00 p.m.)

The Chairman called the meeting to order at 1:05 p.m.

Copies of the Essential Benefits December 16, 2011, Bulletin and the 2011 Health Survey Instructions were passed out to the members of the committee. (Copies are posted to the website).

Mr. Donovan continued his presentation (slides 39-62). He pointed out that each state-based exchange must be self-sustaining by January 2015. He pointed that Section 1311 is the section that primarily deals with the exchange and this section outlines the requirements for it. He said that Idaho's vision of an exchange is a "one stop shop" and it should have an "open market" look.

Rep. Rusche inquired about a situation where the state's essential benefits requirements exceed the standards set by the federal government. Would the extra cost be covered by an additional premium, or would the state absorb the additional expense? Mr. Donovan said he believed the state would be responsible, not the individual insured, but he did not believe that this case would be a problem for Idaho.

The question of the consequence of a federal exchange was discussed. Rep. Rusche posed the question that under a federal exchange an Idaho citizen could enroll in a health plan based in Hawaii that had no network in Idaho. The lack of a network would result in higher costs to the individual, and the possible lack of a responsive customer service component would be equally worrisome. Mr. Donovan replied that any insurance company selling insurance in the state of Idaho must be licensed in the state. He said that it would be the exchange that would certify the health plan. He also believes that a minimum standard of benefits would be in place for any insurance company offering insurance in the state. He assumes that this minimum standard would also exist under the federal exchange. In a state-based exchange the state could delegate the certification process to another entity e.g. the Department of Insurance.

Sen. Goedde asked Mr. Donovan if a federal exchange would limit the companies participating in their exchange to a state-specific criteria, or would they allow multi-state companies to participate. Mr. Donovan said that initially, there have been clear indications that the federal exchange would accept any company meeting minimum standard requirements. HHS has indicated that it will revisit the issue in the future.

Rep. Luker inquired about the exchange grant funds available. Could those be used in the Navigator establishment? Mr. Donovan said that it appeared funds needed for the Navigator would come from the state.

Mr. LaBeau questioned that the Navigator could severely impact the insurance brokers in the state. Any Navigator would have to have the knowledge of a broker. Mr. Donovan said there was a rule dealing with this issue. Mr. Donovan noted that agents and brokers can be Navigators, they just cannot receive "compensation" for having sold through an exchange. An agent/broker must choose to be compensated through grant-funding or possibly a fee-based arrangement. The rule does state that there can be a role for agents and brokers in an exchange. In a federally-run exchange, the state would have no role in the selection process for Navigators. Mr. Leavitt said that it appears a state-based exchange gave the state a larger role in the selection or awarding of grants for the Navigator.

Rep. Rusche asked if the intention of ACA was to fund the Navigator role by circumventing the commission structure. Mr. Donovan said that it appears that the role of agents and brokers would be smaller.

Mr. Hoffman inquired about any penalties that would be assessed on the exchange for failure to comply with guidelines, etc. Mr. Donovan said that there will be a federal rule issued in August to address this issue. Rep. Rusche said that he felt any tax credits or penalties would be handled by the Internal Revenue Service. Mr. Settles noted that guidelines would be set by the federal government. There was some confusion about who or what would handle subsidies, penalties, etc. Ms. Geyer-Sylvia stated she believed that any penalties would not be addressed by the state exchange. Ms. Schwiebert noted that question of penalties had not been addressed yet.

There were several questions from the committee about the “calculator”. Rep. Luker asked if Idaho would be responsible to keep track of all information input into the system, and would use this information to screen all applicants. Ms. Schwiebert said that this function would be run through the data services hub. Idaho would be responsible to input all this information into the hub. She said that early innovator states, along with the federal government, have set up work groups to deal with the design and implementation of the calculator.

Ms. Schwiebert, Project Manager, presented her portion of the Power Point (slides 85-103). She noted that an exchange is an avenue to purchase health insurance coverage, and increases access to health care coverage. It organizes health insurance in the marketplace. She reminded the committee that there were many options open to the state: a strictly Idaho-based exchange, partnership with other states, or a federally facilitated exchange. (slides 65-66).

Her visual presentation of the web portal indicated how information comes into the exchange and is dispersed to those who inquire about it (slide 67). She pointed out that anyone accessing the exchange is not aware if it is a state-based exchange or a federally-facilitated exchange. There is every effort to address each individual’s questions or concerns quickly and efficiently. She presented a profile of someone who has entered the web portal and is seeking insurance information. There are many opportunities for help for this person on the website – including assistance from a call center. She noted that there is already a federal call center being developed.

One of the first things that states who had chosen to establish a state-based exchange did was to talk to agents and brokers involved in the industry and ask them to define their roles and responsibilities, and the scope of their options within the guidelines of ACA. This is something a state-based exchange can do.

Ms. Geyer-Sylvia inquired about the location of a call center established to address questions from the public. Ms. Schwiebert said that it would not be located in Idaho in a federally facilitated exchange. Ms. Watts asked if Idaho could contract with the federal call center if Idaho had a state based exchange; Ms. Schwiebert said that this is a question many states are posing. She pointed out that the goal of the exchange call center in all functions was to be a “one stop shop” and not become a location where the caller is transferred over and over again until their questions are answered. The goal is “first time resolution”.

Mr. Self asked about definitions for “coaching the consumer”, as it regards the Navigator role. Ms. Schwiebert said that there had been such definitions at the federal level, but not at the state level for Idaho.

Rep. Luker brought up the question of how the broker gets paid for their services in this model. Ms. Schwiebert said that each state will determine its own model for how the agent/broker gets paid in a state-based exchange. HHS must approve each state’s model. The federal model is being developed.

She summarized the role of the exchange (slide 69). She enumerated the exchange components (slide 70).

Rep. Rusche asked if part of the exchange will be to develop a quality rating process for different plans that are sold through the exchange. Ms. Schwiebert said that it is called the "Quality Rating System."

Ms. Schwiebert presented 3 different models for an exchange (slide 72).

Members of the committee asked if Idaho has the option of starting with a federal exchange and then moving to a state-based exchange at the next enrollment. Ms. Schwiebert said that was very possible. Idaho could also partner with another state, or states, to combine some services, but only if it declares itself a state-based exchange. Idaho could buy services from the federal system until it could develop its own. Idaho could out-source certain services to a private contractor.

She noted that by November 16, 2012 each state must declare its decision on whether to establish a state based exchange or partner with the federal government in fulfilling certain functions, such as plan management or consumer assistance, at the state level and present a blueprint for accomplishing the requirements of ACA.

A list of requirements for a state-based exchange was presented (slide 73). A list of state-based exchange blueprint requirements was presented (slide 74-77). Ms. Schwiebert noted that the requirements for this blueprint are extensive, and given the fact that Idaho has not even begun to address them, it appears unlikely that Idaho could meet them by November 16, 2012. Mr. Kreiling said that he understood HHS could offer a contingency waiver so that the deadline of 11/16/12 could be extended. Mr. LaBeau asked if Idaho couldn't simply copy the blueprint from another state. Ms. Schwiebert said that the blueprint must show "**significant progress toward the plan**". The blueprint is a description of how a state will, or has completed various aspects of an exchange.. Mr. Self suggested that Idaho contact the Leavitt Group for help in developing a blueprint for Idaho. Mr. LaBeau said that the cost benefit analysis is something that must be addressed. Ms. Schwiebert said that at this point, Idaho can only look at other, similar states for an idea of the cost and that using another entity, such as Leavitt, to complete a cost benefit analysis would be an excellent use of outside services. Mr. LaBeau again pointed out that Idaho currently enjoys the lowest rates in the nation. Mr. Settles said that his understanding is the current baseline is \$4500 per person.

The requirements for a federally-facilitated exchange were listed (slide 79). The list of guiding principles for a federally-facilitated exchange was noted (slide 80). She pointed out that the whole intention of ACA was for states to have their own state exchanges. She also noted that the blueprint for the federal exchange was exactly the same as for a state exchange. The blueprint of a federal exchange has not yet been published.

Under the Partnership Model, there are two routes the state can choose – Idaho could control plan management and/or consumer assistance (slide 81-8). Rep. Luker inquired how the partnership plan would affect the cost analysis. How much control would the state have under this system as regards the cost? Ms. Schwiebert said that the federal government wishes to “collaborate and coordinate” with state agencies. She said in all probability that Idaho would work with them, but the state would not have a voice there in any final decisions. She repeated that HHS wants the states to establish their own exchanges and has made every effort to support the states toward that goal.

She reviewed partnership requirements by the November 16 deadline (slide 85).

Ms. Schwiebert repeated that the state could default to a federal exchange initially and then, at the next declaration date, could elect to implement a state exchange. The state would have to submit a declaration and a blueprint letter for this selection. She reminded the committee that November 15 is the grant application deadline; there is also another grant deadline in August. She said that she had been advised to alert the federal exchange early that Idaho planned to morph into a state exchange. Both parties (feds and Idaho) could then design a plan that would lend itself to changing into a state exchange. A member of the committee asked if the partnership/federal exchange requirements lend themselves to moving to a state exchange at a later date? Ms. Schwiebert said that the only parts of the federal exchange that the state would administer would be plan management and consumer assistance. If the state elected to move to a state exchange, these would be the only parts of an exchange a state would have implemented during a partnership. Mr. Watts inquired about the previous federal grant that Idaho had received. Could this be used in planning for an exchange? Ms. Schwiebert said that authorization to use those funds had not been given, and access to those funds was virtually unavailable since Idaho has not yet pursued or authorized a state-based exchange. Rep. Luker said that if Idaho allows HHS to step in and create a federal exchange, Idaho could see how this program was designed and possibly contract much of those features when implementing a state plan. Rep. Luker also asked if Idaho would have the option of allowing brokers into the exchange. His interpretation is that Idaho would have the ultimate decision whether brokers would be part of the exchange.

Ms. Schwiebert presented some timelines (slides 88-89). She noted that Idaho could apply for another grant as late as October 2014.

She addressed the steps need to establish a state-based exchange (slides 90-91). She pointed out that Idaho has somewhat of an advantage in being a late-adopter. Other states have used this time to develop systems and programs to facilitate a state exchange. Idaho could leverage ideas from these other states.

Regarding costs, she addressed the start-up grants awarded and estimated costs for other states (slide 94-96).

Director Deal thanked Ms. Schwiebert for her hard work.

Director Deal suggested August 29 or 30 as dates that might be available for members of the committee. He said that his office would publish an agenda at least a week prior to the next meeting. He said that an interval of 2-3 weeks was needed so that the sub-committees could accomplish their tasks.

He noted the list of questions posed by Governor Otter and said that he proposed that the sub-committees could take individual questions to answer. Each sub-committee chairman would set up a meeting to address the questions assigned to his committee. Director hoped that at least some of the questions will have been addressed by each sub-committee by the next meeting of the full committee.

Rep. Rusche noted that the Leavitt Group had been contracted by the Medicaid Working Group and he suggested that this committee would also like to hear from the Leavitt Group. Mr. Donovan said that the Department had made initial contact with some groups that might be able to help. Perhaps some of these groups could address committee at the next meeting. Director Deal agreed that contacting the Leavitt Group was a good idea and the Department would do so as early as possible.

Sen. Goedde suggested that the Department share committee contact information with the members of the committee.

Director Deal said that one of the priorities of this committee is to deal with a state-based exchange. He invited all members of the committee to share their ideas or suggestions with the Department.

Next Meeting

The next meeting will be August 29, 2012 in the Senate Auditorium in the State Capitol – 10:00-3:00.

Adjournment

The meeting adjourned at 3:15 p.m.

Minutes by Teresa Jones
Idaho Department of Insurance