



**CABINET FOR HEALTH AND FAMILY SERVICES  
OFFICE OF HEALTH POLICY**

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Governor

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**Janie Miller**  
Secretary

**Carrie Banahan**  
Executive Director

April 18, 2011

Jodi Mitchell  
KY Voices for Health  
120 Sears Avenue, Suite 212  
Louisville, KY 40207

Dear *Jodi* Ms. Mitchell,

The Patient Protection and Affordable Care Act (PPACA), Public Law 111-148 enacted on March 23, 2010, and modified by the Health Care and Education Reconciliation Act, Public Law 111-152 enacted on March 30 2010, requires a Health Benefit Exchange ("Exchange") to be operational in each state by January 1, 2014. In general, a Health Benefit Exchange is an organized, competitive marketplace to facilitate the comparison, choice, and purchase of health insurance coverage for individual consumers. Various sections of PPACA, establish requirements and options for states pertaining to:

- 1) the functions or responsibilities of an Exchange,
- 2) eligibility for participation in an Exchange and impact on Employers,
- 3) health plan participation in an Exchange,
- 4) market rules for benefit plans offered inside and outside an Exchange,
- 5) risk sharing arrangements to mitigate adverse risk selection among health plans participating inside and outside an Exchange,
- 6) the structure and governance of an Exchange,
- 7) the financing of Exchange operations; and
- 8) consumer outreach and education.

The Commonwealth of Kentucky was approved for a Health Benefit Exchange planning grant on September 30, 2010. As a requirement of the planning grant, the Commonwealth is required to solicit stakeholder input relative to carrying out the activities of an Exchange, and this letter is soliciting such input. This request identifies a broad set of areas of interest for a Health Benefit Exchange. Examples are provided to highlight the types of questions that are of interest;

however, these examples should not be viewed as an exhaustive list of the only questions of interest. Commenter's may respond to one or more of the following areas or questions, or provide comment on Exchange issues or questions not listed. Please indicate the questions to which you are responding.

**Functions:**

1. An Exchange is responsible for performing a specified list of functions. Beyond the functions specifically listed, are there additional functions that should be considered for an Exchange?
2. A "Navigator" program is required to be established under an Exchange to conduct outreach and assist individuals and employers with enrollment. What issues should be considered in establishing a "Navigator" program?
3. Agents play an important role in assisting individuals and employers with purchasing health insurance coverage. What role should agents play in assisting individuals with coverage in the Exchange?

**Eligibility and Employers:**

1. Individuals and small employers are eligible to participate in an Exchange in 2014. Small employers may be defined as 50 or less or 100 or less employees. Which definition of small employer should be used for initial Exchange participation in 2014?
2. Exchange participation is allowed for large employers beginning in 2017. Should large employers (greater than 100 employees) be allowed to participate in an Exchange? Should there be an upper limit on large group participation in an Exchange (i.e. 200, 500, etc. employees)?
3. Should there be participation requirements for employer groups in an Exchange (i.e. minimum share of employees participating, minimum employer contribution, limits in the range of product benefit values that may be selected by employees – all employees must choose from one actuarial level, etc.)?
4. What Exchange design features are likely to be important for employer participation? What are some relevant best practices?
5. What considerations are important in facilitating coordination between employers and Exchanges? What key issues will require collaboration?
6. What issues of other interest are important to employers with respect to their participation in an Exchange?
7. Individuals without access to employer coverage with incomes below 400% of the federal poverty level (\$88,000 for a family of four) will be eligible for premium subsidies for the purchase of coverage through an Exchange. A State may operate a "Basic Health

Plan” for individuals between 133% and 200% of the federal poverty level and use 95% of the tax credits that would have been available to these individuals for Exchange coverage to operate the “Basic Health Plan”. Should Kentucky establish a “Basic Health Plan”? If so, what types of benefits should be included in the Basic Health Plan?

8. One of the functions of an Exchange is to determine eligibility for Medicaid and premium subsidies. What issues need to be considered in establishing an Exchange that will determine eligibility for Medicaid and premium subsidies? How should the Exchange create a seamless system for individuals who fall back and forth between “Medicaid” eligibility and “premium subsidy” eligibility due to changes in income? How should continuity of plan coverage and provider networks be maintained for those individuals who fall back and forth between “Medicaid” eligibility and “premium subsidy” eligibility?

### **Health Plan Participation:**

1. Health plans that wish to participate in an Exchange are required under PPACA to comply with a specified list of requirements. Beyond the PPACA requirements specified, should additional requirements be required of health plans to participate in an Exchange?
2. Should all health plans be required to participate in an Exchange and comply with the requirements or should health plans compete or bid to participate in an Exchange?
3. Should the number of benefit plans offered in an Exchange be limited or unlimited?

### **Market Rules:**

1. Health plans participating in an Exchange are required to comply with certain requirements in areas such as marketing and network adequacy, etc. Should the same rules exist for plans sold inside and outside an Exchange?
- 2.. Should health plans be required to offer the same product plans inside and outside an Exchange?

### **Risk Sharing:**

1. States are required to establish a reinsurance program for individual health plans sold inside and outside an Exchange between 2014 and 2016. The program is to be funded by fully-insured and self-insured plans. What issues should be considered in establishing the temporary reinsurance program?
2. A risk adjustment mechanism is required to be established for health plans sold inside and outside an Exchange to adjust for unequal distribution of actuarial risk. What issues should be considered in establishing a risk adjustment mechanism?
3. For a health plan’s business inside and outside an Exchange, PPACA establishes a single risk pool for small employer plans and a single risk pool for individual market plans as a way to mitigate adverse selection between an Exchange and the outside market. Are there issues that should be considered regarding how risk pooling works between an Exchange and the outside market to ensure a well functioning market in total?
4. States may merge their individual and small employer group markets for rating and risk sharing. What issues should be considered regarding this option?

### **Structure and Governance:**

1. An Exchange may be operated by a government agency, a non-profit entity established by the state, or the federal government on behalf of a state if a state does not wish to establish an Exchange. Should Kentucky operate its own Exchange or allow the federal government to operate the Exchange? If Kentucky operates its own Exchange, what issues should be considered in deciding which option to choose for Kentucky?
2. Various options for the structure of an Exchange are permitted: 1) joint Exchange for individuals and groups, 2) separate Exchanges for individuals and groups, 3) multiple subsidiary Exchanges each serving a distinct geographic area, or 4) regional Exchange including multiple states. Which option(s) should Kentucky choose to structure its Exchange? What issues should be considered in deciding which option to choose for Kentucky?

### **Financing:**

1. A minimum essential benefit plan is required to be sold inside and outside an Exchange. A state may choose to require additional benefits but must cover the cost of the additional benefits for individuals eligible for premium subsidies through an Exchange. What issues should be considered regarding state requirements for additional benefits above the minimum essential benefit set? What funding sources should be considered for the cost of additional benefits?

### **Consumer Outreach and Education**

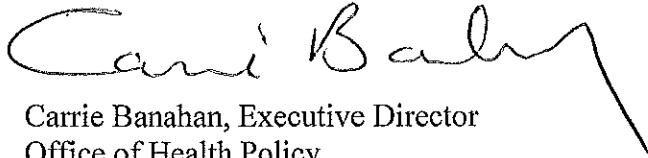
1. What kinds of outreach strategies are likely to be most successful for an Exchange in enrolling individuals who are eligible for premium subsidies and cost-sharing reductions, and retaining these individuals in the Exchange? How can these outreach efforts be coordinated with efforts for other public programs?
2. What kinds of design features can help consumers obtain coverage through the Exchange? What information are consumers likely to find useful from Exchanges in making plan selections? Which kinds of enrollment venues are likely to be most helpful in facilitating individual enrollment in Exchanges and qualified health plans?
3. What kinds of information are likely to be most useful to consumers as they determine whether to enroll in an Exchange and which plans to select (within or outside and Exchange)? What are some best practices in conveying information to consumers relating to health insurance, plan comparison, and eligibility for premium subsidies, or eligibility for Medicaid? What types of efforts could be taken to reach individual from diverse cultural origins and those with a disability or low literacy?

**Other Comments:**

Please provide any other comments or concerns regarding a Kentucky Exchange that were not addressed in this letter.

Submit your written comments by May 17, 2011 to the Office of Health Policy, 275 East Main Street, Mailstop 4 W-E, Frankfort KY, 40601.

Sincerely,

A handwritten signature in black ink that reads "Carrie Banahan". The signature is fluid and cursive, with a long, sweeping tail that extends downwards and to the right.

Carrie Banahan, Executive Director  
Office of Health Policy