



May 17, 2011

Carrie Banahan
Executive Director
Office of Health Policy
275 East Main Street
Mailstop 4 W-E
Frankfort, Kentucky 40601

Dear Ms. Banahan,

As a coalition of concerned Kentuckians that includes over 150 stakeholder organizations seeking to build a healthier Kentucky, we welcome the opportunity to comment on the health exchange-related provisions of the Patient Protection and Affordable Care Act (ACA) and to offer our thoughts on the questions identified in your letter of April 18th. Kentucky Voices for Health (KVH) believes the Commonwealth stands to benefit greatly from the ACA, particularly if consumer information is clear and trusted community groups are empowered to assist the state in developing these reforms. In each case, that means building them into the process. Below are our comments relative to the questions posed by your office in each of the eight subject areas identified.

Functions

- **Navigator Program:** As consumer advocates, we believe the navigator program is one of the critical building blocks to a reformed health care system that merits serious attention and development. Consumers need information to be able to make educated decisions about meeting their needs and the value of plans offered in the market. KVH believes the following consumer principles should be followed in establishing a navigator program:
 - The navigators must have the consumer as their client;
 - Conflicts of interest should be prohibited—navigators must be paid in a manner that does not create incentives to encourage or discourage certain consumer behavior or preferences—i.e., the consumer must trust they are being provided objective information that is in their best interest;
 - Navigators must be able to provide information to consumers, likely individuals who have been uninsured and have greater barriers to care than the typical private insurance population, in a way that can be understood by the consumer, including presentation of information in a culturally sensitive manner or geared for those with low-proficiency English, and for people with disabilities who have special communication needs;
 - Navigators must be able to effectively serve low-income, disadvantaged, and hard-to-reach populations. To do this, navigators must also be knowledgeable

about Medicaid and KCHIP and procedures for transitioning among Medicaid, KCHIP, and exchange plans;

- Navigators should undergo some form of screening or educational process to ensure they have the experience, capacity and expertise to perform the duties required of them and to protect consumers from potential fraud (current proposals on licensing navigators should be carefully researched to determine the impact of ensuring access to navigators and participation by community organizations);
 - The Kentucky Department of Insurance (DOI), as the regulator of insurance in Kentucky, should serve as an ombudsman to receive consumer complaints and resolve disputes involving navigators. We encourage the ombudsman to partner with community organizations as trusted local sources in furthering the consumer assistance program.
- **Agents:** KVH believes insurance agents should be permitted to play a role in exchanges, but their use should not be required. Agents can be an important source of consumer information and assistance, but care should be taken to minimize conflicts of interest and ensure that consumers are not directed by agents only to plans participating in an exchange that are offered by companies they represent. Agents should complement the role of navigators; they must be impartial and their role is limited to the requirements outlined in the Affordable Care Act.

Eligibility and Employers

- **Employer Size:** Participation in exchanges should not be limited to employers with 50 or fewer employees. Employers with up to 100 employees should initially be allowed to participate in 2014 and even larger employers should be allowed to participate in 2017 as allowed under the ACA. This will increase the size of the pool covered under the exchange and extend tax credits to as many businesses as possible. Further data may be needed to examine the impact that employer size may have on the market.
- **Enrollment:** Information technology should be developed, enhanced and/or contracted for that creates eligibility and enrollment systems that are coordinated seamlessly with existing state-administered health and social service benefit programs. These systems should be developed in consultation with relevant stakeholders and consumer representatives.

Open enrollment periods should also be available to families at least once a year during a standardized time period. Qualifying events that will trigger special enrollment periods for subscribers and dependents (such as changes in family circumstances, pregnancy, loss of coverage, employment status change, and change of residence) should be established and clearly communicated to consumers.

It is critical that enrollment be user-friendly for consumers. It should be easily understood for users with low literacy, available in multiple languages, and accessible to individuals with disabilities. Kentucky Voices for Health recommends a simplified

process with minimum amount of steps in the process. Privacy and security policies should be made available to the consumer before and at the time of enrollment.

- **Application:** The exchange and the Medicaid and KCHIP programs should be streamlined to require a single application for all health plan options and should accept electronic applications without the need for paper documentation. Assistance should be readily available in cases where eligibility cannot immediately be determined. Adequate information should be collected at the time of application to ensure individuals who later become eligible for Medicaid do not have to submit additional documentation/information. Exchanges should see it as their responsibility to ensure the continued enrollment of eligible individuals and families for tax credits or public programs.

It is crucial that exchanges rely not only on online enrollment, but create additional avenues for people to apply in person, by mail and phone, and through existing Medicaid/CHIP enrollment structures. Online enrollment is only effective if users have Internet/computer access, so additional outreach may be necessary to broaden the availability of enrollment opportunities such as kiosks in central locations, mobile units to rural communities, and training of community-based organizations. Exchanges should also conduct public-private marketing campaigns that involve community listservs and blogs, faith-based settings, community organizations, etc, to get the word out about where, when, and how consumers can find such assistance.

- **Exchanges Should Be Attractive to Employers:** The exchange should facilitate enrollment and billing of employer groups to minimize bookkeeping and paperwork on the part of the employer. Employers should be allowed to use premiums to incentivize health behaviors on the part of their employees, such as tobacco use and involvement in wellness incentive programs.

Health Plan Participation

- **Health Plan Certification:** The certification criteria should be driven first and foremost by consumers' and small business employees' need for affordable, adequate and accessible health care coverage. Many low-income and medically-underserved individuals who will enroll in exchanges interact with the health care system through community health centers, public health departments, and other community providers. The definition of essential community providers should allow for the network adequacy to meet the physical, dental, and behavioral health needs, particularly with underserved populations. Providers in the health plan networks should also be in reasonable geographic proximity to enrollees. Lack of transportation to providers can be a considerable hindrance to seeking care, particularly in lower income, underserved communities.
- **Plan Participation Process:** KVH believes that exchanges should take bids from health plans to participate in the exchange and negotiate with them to achieve the lowest

possible premium rates for the highest quality of care. There should be an adequate number of plans allowed to participate in the exchange to promote consumer choice and competition among plans.

Market Rules

- **Level Playing Field:** To the extent possible, market rules should be the same for insurers outside the exchange as for those participating in the exchange. The separation of healthier and less-healthy people into different insurance arrangements will occur if a disproportionate number of people who are in poorer health and have high health expenses enroll in plans offered through insurance exchanges, while healthier, lower-cost people disproportionately enroll in plans offered through the individual and small-business markets outside the exchanges. If the cost of exchange coverage is higher than the cost of plans offered in outside markets, costs will increase not only for consumers and businesses purchasing coverage through the exchanges, but also for the federal government. Identical market rules for plans inside and outside exchanges can minimize the risk of adverse selection.
- **Standardization:** It is essential to develop a standardized format for displaying plan options to consumers. Determining eligibility for exchange participation, individual tax credits, and Medicaid/CHIP should be streamlined using a single portal. Consumers need to be able to easily compare plans offered both within and outside exchanges. Given the complexity of health plans, this comparison is only possible if benefits are standardized. Standardization will also discourage plans being offered outside of exchanges that attract younger, healthier individuals—leading to adverse selection within the exchange.

Risk Sharing

The primary consideration for all risk sharing activities, such as risk adjustment (to adjust for unequal distribution of risks among plans), risk pools and reinsurance, should be to minimize the impact on consumers. Limits should be placed on the ability of insurers to pass on reinsurance costs and risk adjustment/risk pool assessments to consumers in the form of higher premium rates.

Structure and Governance

- **Independent Agency:** The exchange should be placed in an independent agency within state government and should be required to strictly comply with state laws pertaining to transparency, accountability, and public participation. The exchange governing board should be composed of experts who have credible experience in the health insurance marketplace including enrollment experts and those who can well represent the users of the exchange including consumers, employers/small businesses, self-employed individuals, providers, public health, advocates with experience enrolling hard to reach populations, etc. Strict conflict of interest requirements must govern relationships with insurers, who should not be represented on the board.

Management of exchanges should be professional, apolitical and have strong health insurance experience. Exchanges should outsource services for which competitive markets exist and for which performance can be easily monitored.

- **Regional Exchanges:** Any consideration of participation in a regional or interstate exchange must take into account the potential effects on Kentucky's existing consumer protections and regulatory authorities. In addition, coordination issues with Medicaid, KCHIP, and other state coverage programs should be carefully examined to ensure that consumer safeguards and access to coverage would not be diminished in a regional or interstate exchange.

Financing

- **Funding Administration of Exchange:** Exchanges should consider a variety of revenue sources to fund administrative costs, including an assessment on all insurers in the market. Efforts should also be undertaken to keep administrative costs in exchanges as low as possible.
- **Essential Plans:** Exchanges should offer a range of health plans that are tiered according to premium and benefit levels. Consumers should have a wide range of choices depending on their circumstances. Enrollees should have access to not only physical health services but also behavioral, dental and vision services that adhere to nationally accepted guidelines.

Consumer Outreach and Education

- **Accessibility:** Exchanges should use standardized language that is easily understood. All materials and processes need to be accessible for individuals from diverse cultural backgrounds and those with limited English proficiency. Accommodations should also be made to meet the needs of persons with disabilities, including through the use of assistive technologies.

Exchanges should have an accessible, consumer-friendly website that serves as a resource for consumer education, comparison of health coverage options, eligibility determination, and enrollment. The exchanges' contact information should be clearly displayed on the website and at highly visible locations within communities. An exchange website should be accessible to individuals with low literacy, disabilities, and limited English proficiency. Information should be downloadable to allow for information to be easily shared with consumers by coalitions such as Kentucky Voices for Health that provides outreach support. Telephone support and in-person enrollment options should be available for individuals without internet access and consumers with low literacy.

- **Consumer Education:** Extensive consumer education campaigns, including education about how the new exchanges will operate, how and where consumers will be able to access information about plans in the exchange, how to enroll in exchange

plans, the availability of navigators and consumer assistance programs, and the tax implications related to eligibility for premium subsidies should be established. Consumers should be involved in the planning and implementation process to ensure their perspective is heard and to allow them to attest as to whether or not reforms are effective and understood.

- **Outreach:** Community health, education and outreach workers with existing relationships in diverse communities should be incorporated into exchange outreach efforts. Outreach efforts should include a mail campaign who are homebound or who lack time or ability to travel to a state office. Outreach efforts involving partnerships with communities and public facilities should also be conducted to reach consumers in their communities. Exchange designers should also create and utilize an Advisory Group with consumer representation as a regular resource to provide input on proposals and sharing of information with people with disabilities, limited literacy and low English proficiency. Coordination with advocacy organizations such as Kentucky Voices for Health should also be incorporated in the outreach plans.

- **Essential Information:** The following information should be prominently presented in a clear and concise format, using standardized terminology and descriptions, on any exchange website and in written materials for consumers without internet access. This information must be timely, reliable, and comprehensible:
 - Provider networks, including information on provider quality.
 - Descriptions of benefits and formularies, including any limits on health care services, supplies, equipment, drugs, etc.
 - Premium costs and cost-sharing to allow consumers to estimate the total expected cost of coverage, including the premium and cost-sharing levels by income, for those eligible for premium tax credits and cost-sharing reductions. Cost-sharing levels should also be clearly differentiated between in-network and out-of-network care. Underwritten plans should offer an expected premium range to better inform consumers about the potential variation in premiums they could face due to age, smoking status, and family size.
 - Coverage level (bronze, silver, gold, platinum); with a description of what these classifications signify, including benefits and cost sharing differences.
 - Plan accreditation status (including score) and HEDIS and CAHPS scores. This information should be coupled with consumer-friendly educational information about accreditation and quality measurement and should be presented in an easy to understand format that conveys overall plan value, such as star ratings.
 - Information on chronic disease management programs or services offered.
 - Sample cost and health benefit examples for common medical conditions, such as diabetes.
 - Medical loss ratio and a description of what the ratio signifies.
 - Actuarial value of health plans coupled with relevant educational information about what actuarial values represent and what they do not represent and how they are calculated.
 - Plan financial information, including annual profit and executive salaries.

Exchanges should also direct consumers to resources with information about how the health insurance system operates in Kentucky. Consumers need information about when, how, and under what circumstances they can switch between plans, along with information on the transition of eligibility between Medicaid, KCHIP, and private coverage. Exchanges should alert consumers to the existence of and provide contact information for navigators, consumer assistance grant recipients, hospital and pharmaceutical financial assistance programs, and other similar informational programs.

Thank you for the opportunity to share the perspective of Kentucky Voices for Health on the development of health insurance exchanges in Kentucky. As we move closer to implementation, there will be many issues and questions that arise for which there are not clear answers and more guidance and information will be required. In our view, if the exchanges are to succeed, it is essential that advocates and organizations such as ours be kept actively involved in and regularly updated on the implementation process. Our ultimate goal is the creation of a robust exchange that will provide meaningful and affordable health coverage to Kentuckians, who will have the tools necessary to understand and make best use of the exchanges.

We trust that you will find Kentucky Voices for Health to be a resource in this effort. Please do not hesitate to contact me at 502-552-1406 or via email at KVHexec@kyvoicesforhealth.org.

Sincerely,

A handwritten signature in cursive script that reads "Jodi Mitchell".

Jodi Mitchell
Executive Director
Kentucky Voices for Health