JOSHUA GOLDBERG  
NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS  
MAY 4, 2013

ACA IMPLEMENTATION UPDATE

IMPLEMENTATION TIMELINE

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<tbody>
<tr>
<td>Temporary High Risk Pool Program</td>
<td>Temporary Reinsurance Program For Early Retirees</td>
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| Immediate Market Reforms:  
- No Lifetime Limits  
- Restricted Annual Limits  
- Restrictions on Rescission  
- First Dollar Coverage of Preventive Services | | | | | | |
| Medical Loss Ratios with Rebates | | | | | | |
| Exchanges | | | | | | |
| Subsidies | | | | | | |
| Individual/Employer Mandates | | | | | | |
| Market Reforms  
- Guaranteed Issue  
- No Pre-Existing Condition Exclusions for Adults  
- Rating Rules  
- Essential Benefits  
- No Annual Limits for Essential Benefits | | | | | | |
| Co-Op Plans & Multistate Plans | | | | | | |
| Risk Adjustment | | | | | | |
| Individual Market Reinsurance and Risk Corridor Programs | | | | | | |
**NAIC ACTIVITIES**

<table>
<thead>
<tr>
<th>Completed</th>
<th>In Process</th>
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<tbody>
<tr>
<td>• Individual and Small Group Model Acts</td>
<td>• Individual and Small Group Model Regulations</td>
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<tr>
<td>• SERFF Plan Management</td>
<td>• Consumer Assistance Materials</td>
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<td>• Exchange Model Act</td>
<td>• Market Conduct Updates</td>
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<td>• Plan Management White Papers</td>
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<td>• Early Reform Model Language</td>
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<td>• Summary of Benefits &amp; Coverage</td>
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<td>• MLR Formula &amp; Definitions</td>
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**EXCHANGE OPTIONS**

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<tr>
<th>State Based</th>
<th>Partnership (Including “Quasi-Partner”)</th>
<th>Federally Facilitated</th>
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<td>• State operates Exchange</td>
<td>• Feds operate Exchange, but state makes many key decisions</td>
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<td>• Plans submitted through SERFF or other system designated by state</td>
<td>• Feds set standards and operate the Exchange</td>
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• State maintains oversight of health plans and may coordinate with the federal Exchange

• Plans submitted through HIOS and SERFF if required by state
**IMPLEMENTATION FOCUS**

<table>
<thead>
<tr>
<th>2013</th>
<th>2014</th>
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<tbody>
<tr>
<td>Apr</td>
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<td>State QHP Certification</td>
<td>Federal QHP Review, Deficiency Correction &amp; Testing</td>
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<td>Open Enrollment</td>
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<td>Outreach &amp; Education</td>
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<td>Market Conduct</td>
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**PLAN MANAGEMENT**

**QHP submission window has closed for FFEs and most state Partnership Exchanges**

- States will review QHP submissions using SERFF or HIOS.
  - At the conclusion of its review, state will report deficiencies in areas where it is reviewing plans.
  - HHS will upload plan data from SERFF into HIOS in Partnership Exchanges.

**State Based Exchanges set their own timelines**

- All rates must be submitted to HIOS by 7/31 if issuer participates in the Exchange.
CONSUMER ASSISTANCE

**Agents & Brokers**
- State Based Exchanges can decide role of agents and brokers
- Producer role is more unclear in FFE and Partnership Exchanges.

**Navigators**
- State Based Exchanges select and oversee Navigators
- Feds select Navigators in FFE and Partnership states.
- States oversee Navigators in Consumer Assistance Partnership Exchange States
- Navigators subject to state producer licensing laws and certification and training requirements in all states

**State Assisters (Exchange grant funds available)**
- State or Exchange employees who are trained to answer questions and assist consumers

**Application Assisters (Counselors)**
- Primarily in hospitals and clinics
- Volunteers with training and certification
- Conflict of interest concerns remain

PREEMPTION

Provisions of PPACA will potentially preempt state laws.

Similar to HIPAA:

*Nothing in this title shall be construed to preempt any State law that does not prevent the application of the provisions of this title.*

PPACA §1321(d)

Exceptions:
- Grandfathered plans: States may not require grandfathered plans to be pooled with post-reform plans.
**ENFORCEMENT**

Options for Enforcement of 2014 Market Reforms

- Amend state rules to meet minimum federal standards
- Use general authority (form review, rate review, unfair trade practices) to enforce federal rules
- Enter into a “Collaborative Enforcement Agreement” with CCIIO under which the state reviews for compliance, but CCIIO uses federal penalties
- State enforces state rules; CCIIO enforces federal rules

Letter sent to commissioners on Feb 15 outlining where CCIIO believes state enforcement authority exists – most states assumed to have authority

CCIIO will informed carriers in AL, MO, OK, TX, and WY that they will be enforcing the ACA and that carriers must submit information to CCIIO

**FEDERAL ENFORCEMENT ACTIONS**

**Penalties**

- The maximum amount of penalty imposed under this paragraph is $100 for each day for each individual with respect to which such a failure occurs
- No penalties if “reasonable diligence” found
- Administrative review
- Judicial review

**Deny Exchange Participation**

Federal government may not prohibit the sale of a policy or use of a rate in a state
CONSUMER ASSISTANCE

Complaints and consumer questions will be received by Exchanges and State Departments of Insurance

• Need to coordinate to ensure complaints go to right entities
• Need to ensure answers are correct
• Need to ensure that consumers are helped in a timely manner

Consumer outreach is critical to the health of the marketplace and Exchanges and Departments should work together

CHALLENGES

Time and Resources

• All nongrandfathered plans in the state must be replaced or amended
• Review of forms and rates will be concentrated between now and August, straining state resources

Adverse Selection and Rate Shock

• Abrupt transition to adjusted community rating will raise premiums on young and healthy
• Increasing use of self-insurance with low attachment point stop-loss coverage could destabilize small group market

Systems Development and Integration

• Will Data Services Hub be ready in time?

Coordination

• Dual regulation can add to administrative costs if Exchange and DOI requirements are not coordinated

Role of Agents and Brokers

• Mechanism for consumer assistance by licensed agents and brokers in an FFE is still unclear
QUESTIONS?

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Jolie Matthews-Senior Health Policy Counsel
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