Planning and Establishing the North Carolina Health Benefit Exchange

Webinar for TAG Meeting #4

March 7, 2012

MANATT HEALTH SOLUTIONS

MERCER

OLIVER WYMAN

Discussion Roadmap

- Project Goal and Webinar Objectives
- Statement of Values and Goals for TAG
- Overview of Issues for Discussion in TAG Meeting #4
- Next Steps

Discussion Roadmap

- **Project Goal and Webinar Objectives**
- Statement of Values and Goals for TAG
- Overview of Issues for Discussion in TAG Meeting #4
- Next Steps

Project Goal and Meeting Objectives

Project Purpose: *Develop policy options and considerations and identify areas of consensus to inform the NC DOI recommendations to the NCGA on Exchange-related market reform policies.*

(pursuant to North Carolina Session Law 2011-391)

"It is the intent of the General Assembly to establish and operate a State-based health benefits Exchange that meets the requirements of the [ACA]...The DOI and DHHS may collaborate and plan in furtherance of the requirements of the ACA...The Commissioner of Insurance may also study insurance-related provisions of the ACA and any other matters it deems necessary to successful compliance with the provisions of the ACA and related regulations. The Commissioner shall submit a report to the...General Assembly containing recommendations resulting from the study."

-- Session Law 2011-391

Goals for Today's Meeting

- Present Statement of TAG Values/Goals for Consideration
- Ensure TAG Members Have a Shared Understanding of the:
  - Priority Policy Questions Related to 'Leveling the Playing Field' In and Out of the Exchange to Mitigate Adverse Selection
  - Policy and Legal Background on Each Question (e.g., Relevant Guidance, NC Statutes, etc.)
  - Potential Market Considerations Related to Each Question
  - Options and Implications for Further Discussion at the TAG 4 Meeting

Discussion Roadmap

- Project Goal and Webinar Objectives
- **Statement of Values and Goals for TAG**
- Overview of Issues for Discussion in TAG Meeting #4
- Next Steps

Statement of Values to Guide TAG Deliberations

The TAG will seek to evaluate the market reform policy options under consideration by assessing the extent to which they:

- Expand coverage;
- Improve affordability of coverage;
- Provide high-value coverage options in the HBE
- Empower consumers to make informed choices;
- Support predictability for market stakeholders, competition among plans and long-term sustainability of the HBE;
- Support innovations in benefit design, payment, and care delivery that can control costs and improve the quality of care; and
- Facilitate improved health outcomes for North Carolinians.

Discussion Roadmap

- Project Goal and Webinar Objectives
- Statement of Values and Goals for TAG
- **Overview of Issues for Discussion in TAG Meeting #4**
- Next Steps

TAG Meeting #4 Issues for Discussion

Discussion Items

- **How should rating areas be defined?**
- Should QHP issuers be required to offer products on more coverage levels than Gold and Silver to mitigate adverse selection in the exchange?
- Should NC adopt any other participation rules to limit selection issues between the exchange and the outside market?

Relevant Laws and Regulations

ACA and Federal Guidance:

- Each State shall establish 1 or more rating areas within that State. The Secretary shall review the rating areas to ensure the adequacy of such areas. *(PPACA Section 2701(a)(2)*)
  - The Secretary will address the process for States requesting approval of rating areas in future rulemaking. *(Exchange Establishment NPRM §156.255(b)(2))*
  - Rating areas apply to the non-grandfathered fully-insured small group and individual plans. Fully insured large group plans are only subject to rating areas, and other rating requirements, in states that allow large groups to purchase through the exchange. *(PPACA Section 2701(a)(1) and (a)(5)*
- Rating areas will be applied consistently inside and outside of the Exchange *(Exchange Establishment NPRM §155.140(b)(2))*
- Premium rates are prohibited from being discriminatory and may only vary by individual/family coverage, geographic rating area, age, and tobacco use. *(PPACA Section 2701(a)*

North Carolina Statute:

- A carrier shall define geographic area to mean medical care system. Medical care system factors shall reflect the relative differences in expected costs, shall produce rates that are not excessive, inadequate, or unfairly discriminatory in the medical care system areas, and shall be revenue neutral to the small employer carrier. *(NCGS: 58-50-130(b)(7))*

NC HB 115:

- Not Addressed

Responses from Other States & Stakeholders

Other States' Approaches to Rating Areas

- Some states have enacted rating rules in the individual and small group markets that include geography as a characteristic on which premiums may vary. In these cases, the state has established rating areas. Typically, states use counties or zip codes to define those areas.[1]
  - For example, Oregon has 7 rating areas which all carriers must use to set rates without flexibility.
- It is likely that states who have set geographic rating areas in existence will rely on those areas to meet the ACA requirement.
- The Commonwealth Connector in Massachusetts — with 6.6 million residents — has three rating areas.[1] These are the same areas which are used throughout the state for non-Connector products.

Excerpts of National Dialogue

- **NAIC:** "Most States will include multiple rating areas, and most States will exhibit wide variation in costs across these rating areas."[2]

[1] http://www.cbpp.org/files/Governance-Issues-for-Health-Insurance-Exchanges.pdf

http://www.naic.org/documents/committees_jt_bd_lim_med_ben_120120_risk_adjustment_implementation_issues.pdf

How Rating Areas Are Currently Defined in NC

- Most carriers use counties to determine rating areas; some use zip codes
- Many carriers offer separate regions by market type (e.g. small group has a separate rating region than the individual or large group market)
- Few carriers offer separate regions by product type (e.g. HMO small group has separate rating areas than non-HMO small group)
- Most carriers group counties into regions in the individual market
  - The range in rating factors used (highest vs. lowest) within each carrier vary from 9% to 38% in the individual market.
- Most carriers do not group counties into rating regions for the small group market
  - The range in rating factors used within each carrier vary widely from 16% to 51%

The rating process usually begins 6 to 12 months out from the time the product goes to market, making timing of the essence to determine rates for October 2013 open enrollment.

Rating Variances in the Individual Market

	Carrier A	Carrier B	Carrier C	Carrier D	Carrier E	Carrier F
Product(s)	All	All	All	All	All	All
Use of County or Zip Code	County	County	County	County	Zip Code	Unknown
Use of Regions	Yes	Yes	Yes	Yes	No	Yes
If so, how many	7	7	4	8	N/A (2 different rate factors)	8
Lowest Factor Used	0.93	0.93	0.90	0.84	0.99	0.90
Highest Factor Used	1.20	1.09	1.15	1.16	1.08	1.04
% Range from Lowest Factor	29%	17%	28%	38%	9%	16%

Sample of most insurers having greater than 5000 lives; Carrier "A" in the individual market is not the same as Carrier "A" in the small group market

Rating Variances in the Small Group Market

	Carrier A	Carrier B	Carrier C	Carrier D	Carrier E	Carrier F
Product(s)	All	All*	All	All	All	All
Use of County or Zip Code	County	County	County	County	County	County
Use of Regions	No	No	Yes	Yes	No	Yes
If so, how many	N/A (23 different rate factors)	N/A (14 different rate factors)	13	13 (9 different rate factors)	N/A (22 different rate factors)	10 (9 different rate factors)
Lowest Factor Used	0.84	0.80	0.90	0.90	0.83	0.90
Highest Factor Used	1.25	1.15	1.04	1.15	1.25	1.15
% Range from Lowest Factor	49%	44%	16%	28%	51%	28%

Sample of most insurers having greater than 5000 lives; Carrier "A" in the individual market is not the same as Carrier "A" in the small group market

** Minor variation between HMO and non-HMO products*

Draft TAG Statement: Proposal for Rating Areas

In the TAG #1 meeting, the group discussed that the NC DOI should seek statutory authority to develop the geographic rating areas. The below statement is a draft of that "ask" for the TAG's consideration.

The NC DOI, in consultation with insurers, should be responsible for the establishment of the rating areas for geographic rating under the ACA.	• Grants NC DOI authority • Involves the insurers
The NC DOI should commission a study to analyze the potential options for rating areas. This study should address the impact that different options for rating areas will have on premiums in the individual and small group markets.	• Requests a study • Focuses study on rating areas in relation to premium costs
At the conclusion of this study, the NC DOI should set rating areas. Rating areas should be set by December 31, 2012. Rating areas can be re-assessed by the Department on an as-needed basis.	• Sets timeframe for a decision • Provides options for re-assessment in future years

TAG Input Into How the Rating Areas Should Be Configured

Questions	Considerations
Should rating regions be highly segmented or less segmented?	• Higher segmentation typically leads to better pairing of cost to premium • Higher segmentation also produces more rate variation
Should the rating areas be the same across the individual and small group markets?*	• Most insurers use different rating areas for the small group and individual markets.
What other questions should be taken into account to define the rating areas?	• To be addressed at the in person meeting.

*Assuming federal guidance permits such variation.

TAG Meeting #4 Issues for Discussion

Discussion Items

- How should rating areas be defined?
- **Should QHP issuers be required to offer products on more coverage levels than Gold and Silver to mitigate adverse selection in the exchange?**
- **Should NC adopt any other participation rules to limit selection issues between the exchange and the outside market?**

Adverse Selection in a Post-ACA Environment

What is Adverse Selection?

Adverse selection occurs when individuals at greater risk of high health spending are more likely to seek coverage or choose a particular coverage option than low-risk individuals. This adverse selection increases the average insured risk and results in higher premiums. The higher premiums that result from adverse selection, in turn, may lead to more low-risk individuals opting out of coverage, which would result in even higher premiums. This process is typically referred to as a premium spiral.*

Where is There Potential for Adverse Selection?

- Between plans inside and outside the Exchange
- Among plans outside the Exchange i.e. between carriers
- Among plans inside the Exchange i.e. between carriers
- Among plans of a single carrier
- Between coverage tiers – Bronze, Silver, Gold & Platinum
- Due to existence of grandfathered plans and self-insured plans outside the Exchange

* Adapted from the American Academy of Actuaries definition of adverse selection. http://www.actuary.org/pdf/Risk_Adjustment_IB_FINAL_060811.pdf

Key ACA Mechanisms Relevant to Adverse Selection

Mitigating Individual Opt Out Risk

- Requirement (e.g. mandate) to maintain minimum essential coverage or pay a penalty *(PPACA 1501)*
- Financial assistance (e.g subsidies) with purchasing coverage in the Exchange *(PPACA 1401)*

Market Mechanisms

- Risk-mitigating mechanisms, such as the interim reinsurance program *(PPACA 1341)*, temporary risk corridors *(PPACA 1342)* and permanent risk adjustment *(PPACA 1343).*
- Standard geographic rating area definition and implementation of age band, tobacco band *(PHSA 2701)*
- Rating reforms must apply uniformly to all non-grandfathered health insurance issuers and group health plans *(PPACA 1252)*
- Guaranteed issue and renewability of coverage in the individual market (both inside and outside of the exchange) *(PHSA 2702; 2703)*
- Issuers may restrict enrollment through open or special enrollment periods. *(PHSA Section 2702)*
- Requiring all non-grandfathered small group and individual plans to include the essential health benefits package and comply with annual cost-sharing limits *(PHSA 2707)* as well as organize coverage levels by tier *(PPACA 1302(d)*

QHP Issuer Mechanisms

- The premium rate for qualified health plans must be the same, regardless of if it is sold through the exchange or offered directly from an insurer or agent *(PPACA 1301(a)(1)(C)(iii))*
- Establishment of exchange market participation requirements, which requires QHP issuers to offer at least one silver level and one gold level plan to participate in the exchange *(PPACA 1301(a)(1)(C)ii))*
- Certification of QHPs to meet certain criteria which must at a minimum include requirements related to marketing rules, network adequacy, accreditation, quality, standardization and transparency *(PPACA 1311)*

Source: Manatt Analysis, NAIC *"Adverse Selection Issues and Health Insurance Exchanges Under the ACA"*, 2011; NAIC, Patient Protection and Affordable Care Act, Section by Section Analysis, May 12, 2011

Options That States Can Consider with Regards to Leveling the Playing Field

Often Impact

QHP Participation

- Must offer a silver/gold

Option to:

- Require coverage on all 5 levels
- Require platinum plan
- Require platinum plan if you offer bronze
- Require bronze
- Limit number of plans on each level

Market Participation

Option to:

- Require certain carriers to participate in the exchange
- Require plans of the same actuarial level to be sold inside and outside
- Require carriers that sell "bronze" outside to also sell silver and gold outside
- Prohibit insurers that exit from re-entering
- Prohibit catastrophic coverage from being sold outside the exchange or only outside the exchange
- Require carriers that sell catastrophic coverage to also offer bronze or other coverage levels

Plan Participation

*Not in scope for today's discussion

Responses from Other States

Other States' Approaches to Plan Participation Requirements

Oregon

- Oregon's legislation requires, as a condition of transacting business in the health plan market, that carriers offer bronze and silver plans in the Exchange or in the non-exchange market. Oregon's legislation requires carriers to only offer catastrophic coverage through the HBE. *(SB 91)*

Maryland

- Maryland's pending legislation requires carriers that meet certain thresholds to participate in the SHOP and Individual HBE as a condition of participation in the market outside the HBE. Thresholds are $20M in annual premium in the state for the small group and $10M for the individual market.
- Maryland's pending legislation requires carriers that participate in the exchange to offer at least one plan at a silver and one plan at a gold level outside of the exchange.
- Maryland also requires QHP issuers to offer bronze level of coverage in the exchange unless they offer a catastrophic plan in the exchange. All issuers that offer a catastrophic plan must also offer at least one catastrophic plan in the Exchange *(SB 238)*

Washington

- Washington's pending legislation requires carriers that sell individual or small group plans that meet the definition of "bronze" outside the exchange to also sell plans that meet the definition of "silver and gold level plans" outside the exchange. Washington's pending legislation requires a carrier offering a bronze level plan outside the exchange to also offer the same plan inside the exchange if the exchange is experiencing adverse selection or if consumers do not have adequate choice.
- Washington's pending legislation requires that catastrophic coverage plans only be sold through the exchange. *(HB 2319)*

Other States' Approaches to Plan Participation Requirements, Continued

California

- California's legislation requires as a condition of Exchange participation that carriers "fairly and affirmatively offer, market, and sell in the Exchange at least one product within each of the five levels of coverage." The board may require carriers to offer additional products within each of those five levels of coverage. *(Title 22, California Government Code, Section 100503 (enacted as AB 1602 in 2010))*

Massachusetts Connector

- Massachusetts requires every large carrier (with certain number of lives) to participate in the Connector RFP process. The MA Connector also requires plans to participate at every level and in the employer and individual markets.

Responses from Stakeholders

Excerpts of National Dialogue

- National Association of Insurance Commissioners: The most important thing the states can do is to help facilitate a "level playing field" between participants inside and outside of the Exchange. The ACA does not require insurers to participate in the Exchange and plans offered by insurers outside the Exchange do not have to meet all of the same Exchange plan standards. The states may establish stronger requirements... The states might consider a number of policy options to address these challenges. For example, insurers could be required to operate in both markets and/or be compelled to offer products at certain levels in order to operate in a particular market. The states might require plans sold outside the Exchange to meet the same standards as those offered inside the Exchange." [1]
- American Academy of Actuaries: "If one goal is to control adverse selection and avoid disincentives both in- and off-exchange, then both markets should be considered in tandem... states should create similar participation standards both on and off the exchange to control the selection between these two markets."[2]
- Center on Budget and Policy Priorities: States can "help protect against adverse selection by requiring all insurers who wish to offer products in outside markets to also offer coverage in the exchange and to offer the same products (priced the same) both inside and out." and "States should bar insurers from offering *only* Bronze plans or *only* catastrophic plans (as defined by the Affordable Care Act) outside of the exchange." [3]

1 NAIC *"Adverse Selection Issues and Health Insurance Exchanges Under the ACA"*, 2011; NAIC, Patient Protection and Affordable Care Act, Section by Section Analysis, May 12, 2011

2 http://www.actuary.org/pdf/health/Academy_comments_on_NPRM_on_exchanges_100611_final.pdf

3 http://www.cbpp.org/cms/index.cfm?fa=view&id=3267

TAG Meeting #4 Issues for Discussion

Discussion Items

- How should rating areas be defined?
- **Should QHP issuers be required to offer products on more coverage levels than Gold and Silver to mitigate adverse selection in the exchange?**
- Should NC adopt any other participation rules to limit selection issues between the exchange and the outside market?

Relevant Laws and Regulations

ACA and Federal Guidance:

- A Qualified Health Plan (QHP) is offered by a health insurer that agrees to offer at least one qualified health plan in the silver level and at least one plan in the gold level in each Exchange *(PPACA Section 1301(a)(1)(C)(ii))*

NC HB 115:

- "The Health Insurer offering the plan meets the following requirements: offers at least one Qualified Health Plan in the silver level and at least one plan in the gold level through each component of the Exchange Authority in which the Insurer participates, where "component" refers to the SHOP Exchange and the Individual Exchange." *(§58-50-350(a)(5)b)*

Considerations

ACA requires QHPs to offer silver and gold coverage options in the exchange. North Carolina could require issuers to meet more stringent participation requirements in the exchange. QHP participation needs to be considered in conjunction with non-exchange market participation.

Meet ACA QHP Participation Requirements	*Require More QHP participation*
Pros • More insurers may be willing to participate in the exchange • Allows QHPs more flexibility	*Pros* • Fewer insurers may be willing to participate in the exchange
Cons • May be less likely to prevent adverse selection between QHPs • Consumers may be limited in choices	*Cons* • May be more likely to mitigate adverse selection between QHPs • Expands choices for consumers
Considerations for outside the exchange • Issuers may offer lower benefit plans outside the exchange, which may attract better risk outside the exchange	*Considerations for outside the exchange* • Unless metal level participation requirements also apply to the outside market, the risk of adverse selection between the exchange and non-exchange could increase*

*Assumes insurers are required to offer platinum level plans in the exchange, but are allowed to offer only lower level plans outside the Exchange

Options and Considerations

Options*	Considerations
Require coverage across all 5 levels (Bronze, Silver, Gold, Platinum and Catastrophic)	• Could ensure that exchange has enough options to attract individuals at all levels
Require Platinum Plan (in addition to Silver and Gold)	• Requires QHPs to offer coverage at the tier most likely to attract the sickest individuals
Require a Platinum Plan if you also Offer Bronze	• Matches offering coverage of lower-risk bronze plan with higher- risk platinum plan
Require a Bronze Plan	• Provides lower level options to attract better risk into the exchange; often tied to a requirement to offer bronze IN the exchange if also offered OUT of the exchange
No further restrictions; mandate ACA requirements only	• More insurers may be willing to participate in the exchange
Limit the number of benefit plans a carrier can offer on a particular level	• Limits ability of insurers to design plans that attempt to attract more favorable risk • Manages level of consumer choice and could help manage exchange administrative costs

*Some options may be interactive with options in the next area for discussion

TAG Meeting #4 Issues for Discussion

Discussion Items

- How should rating areas be defined?
- Should QHP issuers be required to offer products on more coverage levels than Gold and Silver to mitigate adverse selection in the exchange?
- **Should NC adopt any other participation rules to limit selection issues between the exchange and the outside market?**

Relevant Laws and Regulations

ACA and Federal Guidance:

- None

North Carolina Statute:

- North Carolina has a prohibition on market reentry for the individual, small and large group markets. In all markets, a health insurer that exits the market shall not issue any coverage in the applicable NC market for a five-year period. *G.S. 58-68-65(c)(2)b, G.S. 58-68-45(c)(2)b*

NC HB 115:

- "Any insurer offering only catastrophic plans outside of the Exchange Authority without offering any plans in the Exchange will be required to participate in the Exchange Authority and offer identical catastrophic plans inside of the Exchange Authority." (58-50-350(f))

Considerations

Since the exchange will attract individuals with higher than average risk, some insurers may opt to participate in the non-exchange market only, fearing that risk-mitigating mechanisms (such as reinsurance) will not adequately offset costs. NC could consider requirements that carriers have to participate in the exchange as a condition of offering products in the non-exchange market.

Pros from having additional requirements

- Will prevent insurers from" cherry picking" lower risk individuals outside the exchange market
  - The projected NC non-HBE individual market average risk score is .97 while the HBE market is 1.09
- Will stabilize markets
- Carrier participation would be accelerated- no "wait and see" option available

Cons from having additional requirements

- Some smaller carriers in NC may exit the market
- Some carriers not in the NC market may opt to not be in the market

SOURCE: North Carolina Health Benefit Exchange Study, July 18, 2011, Milliman.

Options For Dealing with Lower Actuarial Value Outside the Exchange

Options	Considerations
Prohibit catastrophic coverage from being sold outside the exchange	• Will force all lower risk, healthier individuals associated with this coverage into the exchange • However, may cause insurers to exit the market who do not want to participate in the exchange and also offer gold/silver plan options.
Require sales of catastrophic coverage in the exchange if selling catastrophic coverage outside the exchange	• Increases the likelihood that the favorable young/healthy individuals may go into the exchange • However, may cause insurers to exit the market who do not want to participate in the exchange and also offer gold/silver plan options.
Require that issuers selling bronze and/or catastrophic outside must also offer it inside the exchange	• A variation on above, would extend requirement to the bronze level to ensure the more favorable risk is steered into the exchange
Require that issuers selling catastrophic outside must also offer silver/gold outside	• Mitigates risk that insurers will only offer catastrophic plans outside, thereby "cherry picking" away from the exchange and the market place, overall

Options For All Other Coverage

Options	Considerations
Require certain carriers to participate in the exchange if they sell products outside the exchange	• Ensures that the leading market players outside the exchange must also be in the exchange. All others could voluntarily decide • Thought would need to be given on where to set the threshold
Require plans of the same actuarial level to be sold both inside and outside (e.g.- to sell a bronze outside, must also sell inside)	• Mitigates incentives to steer away or into the exchange
Require carriers that sell "bronze" outside to also sell "silver and gold" outside	• Mitigates incentive to only offer plan that is attractive to more healthy people outside the exchange; could be paired with requirement to offer bronze in the exchange
Prohibit insurers that exit either the individual or small group market in NC from re-entering for 5 years	• Commits insurers to the North Carolina market; currently in statute
Prohibit insurers that exit either the individual or small group EXCHANGE in NC from re-entering for 5 years	• Commits insurers to the Exchange market; would need to be added to statute

Discussion Roadmap

- Project Goal and Webinar Objectives
- Statement of Values and Goals for TAG
- Overview of Issues for Discussion in TAG Meeting #4
- **Next Steps**

Next Steps and Questions

- **Consider Information Provided for Discussion**
  - At next In-Person TAG Meeting, we will briefly review each area and quickly move into a discussion of each topic.
  - Email comments or thoughts on additional considerations or options to agarcimonde@manatt.com.
- **Review TAG #3 Meeting Notes**
  - Notes will be approved at March 9 In-Person TAG meeting.
- **Attend meeting on Friday, March 9th from 9:30AM to 12:30PM**

Any Questions?

Appendix

- National Dialogue on TAG #4 Issues

National Dialogue on TAG #4 Issues

American Academy of Actuaries (AAA)
Comments on Incentives or Requirements for Carriers
"If one goal is to control adverse selection and avoid disincentives both in- and off-exchange, then both markets should be considered in tandem... states should create similar participation standards both on and off the exchange to control the selection between these two markets." http://www.actuary.org/pdf/health/Academy_comments_on_NPRM_on_exchanges_100611_final.pdf

National Dialogue on TAG #4 Issues

Center on Budget and Policy Priorities (CBPP)
Comments on Rating Areas
"The Commonwealth Connector in Massachusetts — with 6.6 million residents — has three rating areas. The California public employee system (CalPERS) has five rating areas." http://www.cbpp.org/files/Governance-Issues-for-Health-Insurance-Exchanges.pdf
Comments on Incentives or Requirements for Carriers
"States can ensure that the rules for markets outside the exchange and rules for the exchange are consistent. This would eliminate any disparities that might discourage insurers from participating in the exchange or permit insurers operating outside the exchange to design benefit packages and marketing campaigns to attract healthier people away from the exchange…states can prohibit plans offered outside the exchange from using marketing and benefit design to avoid costly enrollees and require them to have adequate provider networks, contract with safety net providers, and obtain accreditation on clinical-quality measures….States should also ensure that rules that affect plan pricing are the same inside and outside the exchange so individuals and small businesses looking for coverage will not pay more to enroll through an exchange... States should enforce rules for insurers consistently inside and outside an exchange." States can "help protect against adverse selection by requiring all insurers who wish to offer products in outside markets to also offer coverage in the exchange and to offer the same products (priced the same) both inside and out…At the very least, states (including those using a selective or competitive process to pick plans for an exchange) can require insurers outside the exchange to offer products in at least the Silver and Gold coverage levels, as they must do inside the exchange." "States should bar insurers from offering *only* Bronze plans or *only* catastrophic plans (as defined by the Affordable Care Act) outside of the exchange…States should not allow insurers to use catastrophic or Bronze plans to lure healthy people outside the exchange, particularly if an insurer has no products within an exchange and therefore would not be subject to the "single risk pool" requirement." http://www.cbpp.org/cms/index.cfm?fa=view&id=3267

National Dialogue on TAG #4 Issues

Center for Rural Affairs
Comments on Rating Areas
"The Affordable Care Act allows for geography to be used as one of the factors that insurance companies may take into account when assigning insurance rates. Lower population density and smaller overall population sizes may lead insurers to charge rates in rural areas that are higher and ultimately unaffordable for rural residents, especially low-income rural residents. Small premium rating areas would disadvantage rural areas, so rating areas in plans offered through Exchanges should be at least statewide. In states with particularly small populations, interstate rating areas should be allowed." http://files.cfra.org/pdf/Health-Insurance-Exchanges.pdf

National Dialogue on TAG #4 Issues

Congressional Research Service (CRS)
Comments on Rating Areas
"Some states have enacted rating rules in the individual and small group markets that include geography as a characteristic on which premiums may vary. In these cases, the state has established rating areas. Typically, states use counties or zip codes to define those areas." http://bingaman.senate.gov/policy/crs_privhins.pdf

National Dialogue on TAG #4 Issues

Families USA
Comments on Incentives or Requirements for Carriers
"By requiring that protections applying only to exchange plans under the Affordable Care Act—such as those pertaining to plan marketing, provider networks, disclosure of plan and rate information, and quality standards—apply in the outside market as well, your state can help level the playing field to protect against adverse selection." http://familiesusa2.org/assets/pdfs/health-reform/Guide-to-Exchanges.pdf "The state should enact policies to prevent adverse selection and to ensure the stability of the exchange. The state should require insurance plans sold outside the exchange to comply with all of the same consumer protection requirements that health plans inside the exchange must meet... insurers operating outside should be required to sell at least one silver level plan and one gold level plan." http://www.familiesusa.org/assets/docs/health-reform/State-Exchange-Benchmarks.doc

National Dialogue on TAG #4 Issues

National Association of Insurance Commissioners (NAIC)
Comments on Incentives or Requirements for Carriers
"The most important thing the states can do is to help facilitate a "level playing field" between participants inside and outside of the Exchange. The ACA does not require insurers to participate in the Exchange and plans offered by insurers outside the Exchange do not have to meet all of the same Exchange plan standards. The states may establish stronger requirements." "The states might consider a number of policy options to address these challenges. For example, insurers could be required to operate in both markets and/or be compelled to offer products at certain levels in order to operate in a particular market. The states might require plans sold outside the Exchange to meet the same standards as those offered inside the Exchange." NAIC White Paper: Adverse Selection Issues and Health Insurance Exchanges Under the Affordable Care Act
Comments on Open Enrollment Periods
"States might want to consider adopting additional policies similar to the Massachusetts approach... In 2011, individuals are able to enroll during two open enrollment periods. In 2012, this will be reduced to one open enrollment period. Furthermore, individuals in Massachusetts are not eligible to enroll in the non-group market if they are eligible for employer-sponsored coverage that is at least actuarially equivalent to minimum creditable coverage, as defined by the Commonwealth Health Insurance Connector." "Outside of special enrollment periods, as required under the ACA, the states could prohibit individuals from purchasing coverage, whether inside or outside of the Exchange, only during a specified time period each year. In considering this option, the states will need to weigh the impact it would have on the market and consumer access to coverage. The states also could institute a penalty for late enrollment or limit the number of times a person can change coverage to once a year to limit the adverse selection due to a consumer "buying up" once faced with a health problem..." NAIC White Paper: Adverse Selection Issues and Health Insurance Exchanges Under the Affordable Care Act

National Dialogue on TAG #4 Issues

National Association of Insurance Commissioners (NAIC)
Comments on Open Enrollment Periods (cont'd)
"When considering these policy options, state policymakers will need to consider the penalties imposed under the ACA for individuals who fail to maintain minimum essential coverage. State policymakers also should recognize that, if an individual can only purchase or change coverage during a limited period of time each year, an aggressive outreach and education program should be in place to help ensure that consumers re informed about their choices and the consequences of their decisions. Enrollment periods should be sufficiently long to give consumers time to understand the requirements and their options, particularly prior to 2014." NAIC White Paper: Adverse Selection Issues and Health Insurance Exchanges Under the Affordable Care Act

National Dialogue on TAG #4 Issues

UnitedHealth Group
Comments on Open Enrollment Periods
"Open enrollment period rules must create incentives for consumers to maintain continuous coverage and attract a stable risk pool of members to avoid suffering from severe adverse selection. Both initial and ongoing open enrollment periods should be structured to encourage consumers to maintain continuous health care coverage, rather than permitting consumers to wait to purchase coverage until they incur high health care costs and then cease coverage immediately thereafter. Specific steps Exchanges should consider to mitigate the possibility of adverse selection include: Limiting the open enrollment to a single 30 to 45-day time frame each year; Prohibiting plan changes between open enrollment periods, and limiting increases in coverage at open enrollment to one step (e.g. bronze to silver) per year; Providing clear rules about the limited exceptions that should be allowed for individuals to enroll outside the open enrollment period; and Establishing staggered open enrollment periods tied to a policyholder's date of birth to distribute the administrative process evenly throughout the year. For programs with income eligibility criteria, the open enrollment periods and eligibility determination process must promote continuity of coverage and reduce shifts between types of coverage and subsidy levels." http://www.uhc.com/live/uhc_com/Assets/Documents/Maximizing_Consumer_Benefits.pdf