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RE: The Affordable Care Act: Key Issues for Public Comment

December 2, 2010

To Whom It May Concern:

Flexible Benefit Service Corporation ("Flex") is pleased to present our comments and suggestions in response to the Council's request for public comment regarding the creation of Illinois' Health Insurance Exchange model as required under the Affordable Care Act. Flex appreciates the opportunity to provide input on this very important topic.

Flex is an Illinois company that has been an integral part of the healthcare delivery system for more than twenty-two years. Starting as a small two person brokerage firm in 1988, we have since grown to have nearly one hundred employees, and provide general agency and third-party administrative services for thousands of individuals and employers not only in Illinois but nationally as well. We have leveraged that experience to draft our responses to the Council's questions in a way that we feel will create an effective and viable Exchange for the state.

You will find our detailed answers attached, but in summary, we feel that a local Exchange that allows for a dual-market approach will provide the most effective means of ensuring that Illinois offers the best options to its consumers. This model will:

- Be adaptive and responsive to the needs of Illinois, not the Federal government
- Provide competition between insurance carriers, which will help keep prices down and service levels up
- Help ensure the Exchange remains focused on its goal of covering all Illinois citizens, and providing as many means of accomplishing that goal as possible
- Provide the least amount of market disruption when the Exchange opens its doors

We look forward to the opportunity, should it be desirable, to discuss our responses with the Council in more detail.

The proper establishment and operation of the Healthcare Exchange in Illinois is one of the most important policy matters the current administration will preside over, and we feel strongly that given the correct guidance, the Exchange will serve the state well.

Sincerely,

John DiVito, President
Flexible Benefit Service Corporation

The Affordable Care Act: Key Issues for Public Comment
Health Insurance Reform and the Option for Establishing an Insurance Exchange in Illinois

I. Functions of a Health Benefit Exchange

1. What advantages will Illinois see in operating its own exchange versus permitting the US Department of Health and Human Services (HHS) to run an Exchange for the State?

   By utilizing a local Exchange, Illinois will provide an Exchange that is more effective, efficient, and responsive to the needs of Illinois individuals, employers, and their workers. A Federal Exchange will be cumbersome and burdened with the need to adapt to a national market, which will not best serve the needs and lifestyles of Illinois consumers.

2. What are the most desirable outcomes from an insurance market perspective? What features should the Exchange contain in order to reach those outcomes?

   The most desirable outcomes from an insurance perspective include:

   a. **All Illinois citizens are insured**
   b. **A healthy insurance market that exists both inside and outside the Exchange**
   c. **A wide range of carriers participating in the Exchange**

   This can be accomplished by the Exchange through:

   a. **Giving consumers and their advisers quality information about the services offered by the Exchange**
   b. **Limiting the Exchange's focus to individual and small group health insurance**
   c. **Promoting tax-advantaged approaches to financing healthcare expenses, such as Cafeteria Plans, Health Reimbursement Arrangements, and Health Savings Accounts.**

3. What, if any, Exchange functions beyond the minimum clearinghouse functions required in the ACA would benefit Illinois and why?

   We feel that the Exchange will best serve Illinois consumers if it remains simple and straightforward, so we do not advocate adding functions beyond those required, with the possible exception of becoming a central information hub for aggregating premium payments and coverage periods. Having the Exchange be a hub for this information would be a natural fit since that data will need to be utilized by the Exchange for its own administrative purposes; exposing that data to agencies and parties who need it would be a logical extension to the Exchange's responsibilities.

4. What advantages are presented to Illinois if the Exchange were to limit the number of plans offered; for example, plans could be required to compete on attributes such as price or quality rating? Is the Exchange a stronger marketplace if it permits "any willing provider" to sell coverage?

   A strong marketplace exists when the players in that marketplace have competition, so we do advocate opening up the Exchange to any willing insurance carrier who can demonstrate that they meet the requirements of being an insurance carrier through the Exchange.

II. Structure and Governance

1. If Illinois chooses to establish its own Exchange, which governance structure would best accomplish the goal of more affordable, accessible health insurance coverage? Why?

   A not-for-profit structure would be the appropriate model to utilize for the Exchange. This would best ensure that the Exchange remains focused on providing services to Illinois individuals and consumers, and would facilitate a more responsive and adaptive leadership.

2. If the Exchange is run by an executive director and/or a governing board, what should be the expertise of those appointed? How long should the terms be? Are there existing models to which the State should look?

   The board should consist of individuals who are thoroughly familiar with Illinois and our health insurance market, both on an individual and group basis, and should include business leaders, insurance brokers, general agents, and representatives from insurance carriers and providers. Terms should be limited to ensure that there is always fresh, vibrant leadership, and we suggest that a term limit of one term, lasting four years, be established.

III. The External Market and Addressing Adverse Selection

1. Should Illinois establish a dual market for health insurance coverage or should it eliminate the external individual market and require that all individual insurance be sold through the Exchange? What would be the effects of doing so?

   Illinois should unequivocally adopt a dual market format. Nothing will do more to drive the cost of healthcare up than the removal of choice and competition. By allowing for a dual market, Illinois would allow consumers the continued freedom of choosing what coverage best meets their individual needs and lifestyles, while providing access to guaranteed coverage for those who need it. This will cause carriers to focus their efforts on producing the best value for the dollar, which benefits everyone. The ACA ensures that the plans marketed by carriers either in or out of the Exchange will be part of

the same risk pool and cover the same basic services, so the risk of a consumer purchasing a non-viable plan outside of the Exchange has already been eliminated. However, in order to further ensure that there is a level playing field, any carrier that sells insurance outside of the Exchange should also be required to sell insurance in the Exchange (and therefore meet all the requirements of being a carrier in the Exchange).

2. What other mechanisms to mitigate "adverse selection" (*i.e.* requiring the same rules for plans sold inside and outside of the Exchange) should the state consider implementing as part of an Exchange?

   From our perspective, "adverse selection" is actually a non-issue. The rules established by the ACA already require price parity both in and outside of the Exchange, and also require that the appropriate risk pools be merged together. Therefore, whether coverage is purchased in or out of the Exchange is actually irrelevant – price protection and risk sharing is still the same, eliminating adverse selection. The Exchange need not concern itself with this issue.

3. Are there hybrid models for the Exchange the State should consider? What characteristics do they offer that would benefit Illinoisans?

   We do not feel that a hybrid model best suites Illinois. The dual market model, as mentioned above, is the preferred choice.

4. If the Exchange and the external market operate in parallel, what strategies and public policies should Illinois pursue to ensure the healthy operation of each?

   Illinois should enact a more effective penalty for non-compliance with the required coverage provisions of the ACA. Further, Illinois should require that once someone purchases insurance, they must be required to keep that insurance for a minimum of two years or face a penalty of $2,000 to ensure people don't just sign up on a temporary basis. Finally, opting into coverage being offered through the Exchange should only be allowed initially when the Exchange is first opened, and then moving forward only when certain qualifying events occur, such as a HIPAA Special Enrollment event occurs.

5. Should the same rules apply to plans sold inside and outside an Exchange? Should the same plans be sold inside and outside the Exchange without exception?

   As per the ACA, yes, the same rules should apply to plans sold both in and out of the Exchange. The market outside of the Exchange should be allowed to offer different plans to consumers to promote competition in and outside of the Exchange. The Exchange already will have significant advantages over the plans offered outside of the Exchange with credits and subsidies which are only available through the Exchange.

6. What rules (if any) should the State consider as part of establishing the open enrollment period?

   We recommend that Illinois follow the rules as laid out in the ACA.

7. The ACA requires states to adopt systems of risk adjustment and reinsurance for the first three years of Exchange operation. How should theses tasks be approached in Illinois? What are issues the State should be aware of in establishing these mechanisms?

   We have no recommendations for this question.

8. Given the new rules associated with the Exchange and the options available for restructuring the current health insurance marketplace, what should the state consider as it relates to the role of agents and brokers?

   The agents and brokers must continue to be a part of the distribution system. Healthcare reform has further complicated the health insurance equation and the role of the agent and broker has never been more important. There is no governmental entity or independent organization that has the ability to replace the services of the agent and broker. In our opinion the agents and brokers act as the Exchange today. They shop the market for their clients, ensure providers are in network, answer benefit questions, assist with claims issues and so much more. They should continue to fulfill that role once the Exchange is operational. The same rules regarding licensing and certification in place today should continue to remain enforced as well.

   Further, the ACA also allows for the role of the Navigator in the Exchange, and we feel that organizations currently known as General Agents for the insurance industry are a solid fit for the role of the Navigator. The existing delivery system of insurance to individuals and small groups is very successful, and we do not see the need for the establishment of the Exchange to disrupt that system. Indeed, as a General Agent for Blue Cross and Blue Shield of Illinois, Aetna and United Healthcare and many others for both group and individual health insurance as well as being a Third Party Administrator for tax-advantaged accounts on a national basis, we serve a client portfolio that ranges from small to large sized groups as well as individual consumers. We work with and help support thousands of brokers and agents as well as individuals and employers directly. With our experience, staff of nearly one hundred employees, extensive subject matter knowledge, robust operation and current working partners, we very much represent what Navigators will become once the Exchange goes live. With that in mind, the Exchange need not concern itself with restructuring the robust and successful delivery model for health insurance, and can instead focus its efforts on making available the right plans and choices for Illinois consumers.

IV. Structure of the Exchange Marketplace

1. Should Illinois operate one exchange or two separate exchanges for the individual and small group markets? Why?

   Two Exchanges should be operated – the unique characteristics of the two markets can best address the needs of those two markets if they are kept simple, direct and to the point. That will be much easier to accomplish if the Exchanges are separated.

2. If there will be separate markets and separate exchanges, how large must the pools within these markets be to ensure stable premiums for both?

   The size of the pool is irrelevant as the ACA limits premium ratings both in and outside of the Exchange, as well as requiring that the risk pools for both markets be combined.

3. What should the Illinois definition of small employer be for initial Exchange participation in 2014?

   Two to fifty lives.

4. Should Illinois consider setting any conditions for employer participation in the shop Exchange (*i.e.* minimum percent of employees participating, minimum employer contribution)?

   Yes, to help ensure a stable and viable book of business, employers purchasing insurance through the shop Exchange should be required to meet certain conditions regarding participation and contribution similar to how the market works currently. On average, the required participation is 70% of the eligible workforce (excluding valid waivers, such as those people who already have coverage), and the required premium contribution should be 50%.

5. Should Illinois permit large group employers with more than 100 employees to participate in the Exchange beginning in 2016? Are there any special considerations for including this group of which the Sate should be aware?

   No. Large groups have a lesser need for the Exchange, and many other options available to them to better serve their employees, in addition to having substantial guidance from ACA in how their plans should operate.

6. Should Illinois consider creation of separate, regional exchanges for different parts of the State? Should Illinois consider a multi-state Exchange?

   Yes there are significant rating and provider issues that could be better

handled through regional exchanges in Illinois. Multi-state Exchanges, however, do not seem to make sense for Illinois.

V. Self-Sustaining Financing for the Exchange

1. How should the Exchange's operations be financed, after federal financial support ends on December 31, 2014?

   Revenue should come from premiums, just as it does now.

2. What are the ramifications of different financing options, specifically as they relate to the unique characteristics of Illinois' existing economy and health insurance marketplace?

   Flex has no opinion on this, as there really aren't any realistic alternatives than to make the Exchange generate revenue through Premium. Adding a surcharge to the premium to generate operating revenue is standard practice today and is acceptable to the market.

3. Should the State consider a separate funding source for maintaining state benefit mandates? If so, what are some options?

   No.

VI. Eligibility Determination

1. How should the Exchange coordinate operations and crate a seamless system for eligibility, verification and enrollment in the exchange, Medicaid, the Children's Health Insurance plan(CHIP) and perhaps other public benefits (food stamps, TANF, etc.)?

   There should be a centralized IT hub of information that combines data from the Exchange and the various other governmental agencies. The State would be well served to partner with vendors familiar with eligibility coordination to assist in this endeavor.

2. When enrollees move between public and private coverage, how should Illinois maintain continuity of health care—in plan coverage and in availability of providers, e.g. primary care physician?

   This will be dependent on which carriers the client utilizes. The role of the Exchange in this scenario would be to provide clear, concise decision-making tools for the client in order to help them understand the ramifications of any changes they make. Ultimately, this needs to be the responsibility of the policy holder, just as it is today.

3. What will maximize coordination between Medicaid as a public payer and insurance companies as private payers offering health insurance on the Exchange in their provider networks, primary care physicians ("medical homes"), quality standards and other items?

   Satisfactory reimbursement levels for both the public and private sector, so as not to create the cost shifting paradigm that exists today which has created many of the problems that exist with our current healthcare system.

4. Should Illinois establish a "Basic health Plan"? If so, what should be included in such a plan? Specifically, what does a "basic health plan" offer as a tool to facilitate continuity of coverage and care?

   In our opinion, the Basic Health Plan doesn't resolve the challenge of facilitating continuity of coverage and care. All it really does is change the income level for subsidized coverage from 133% of the Federal Poverty Level to 200%, and will only result in increased premiums for all.