



UTAH'S EXCHANGE AT THE CROSSROADS

Utah Small Business Owners Want More from Utah's Exchange

A Utah Health Policy Project Issue Brief

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SUMMARY

The Affordable Care Act (ACA) enacted in March 2010 presents unique challenges to states like Utah that have health reforms already underway. Between now and 2014, when the most significant insurance laws and coverage expansions go into effect, these states must bring their plans into alignment with the ACA standards. This is a tall order for Utah, where many of the principles undergirding its reforms may be in conflict with the fundamental goals of federal reform, in particular:

- the need to make coverage affordable
- the role of government in facilitating a responsive insurance marketplace
- businesses' desire to share risk as a way to limit costs
- a mandate to bring young people into the market
- decent benefit standards

The irony in state leaders' continued hostility to the ACA is that only 4 years ago, 130 of Utah's most prominent stakeholders expressed overwhelming support for the reforms that are now at the heart of the ACA.ⁱ More recently a survey of Utah small businesses found strong support for insurance exchanges designed to pool risk for small groups.ⁱⁱ Despite this broad support for the general components of the ACA, Utah's elected leaders are pushing back on federal requirements for exchanges and encouraging other states to follow their lead. This is a problem because the state's actions are based on false premises:

- that Utah's Exchange is a successⁱⁱⁱ
- that state reforms are headed in the right direction

It is time for health reform stakeholders to step forward...

1. to look objectively at the results of state reforms to date: have the original goals been met?
2. to bring state reforms into alignment with the ACA standards: develop metrics and milestones to measure progress along the way.
3. to create a mechanism to bring unbiased stakeholder expertise to bear on implementation of the ACA moving forward—starting with governance structure.

UTAH RECEIVED EXCHANGE PLANNING GRANT

It's difficult to tell from Utah's Exchange (X) Planning Grant whether Utah plans to bring the X up to ACA standards.^{iv} The grant comes with 2 caveats:

- It does not commit the state to implementing the ACA.
- Utah can choose to do all, some, or *none* of the 6 proposed activities.

The grant proposed the following 6 activities (those in *italics* would bring Utah's X closer to the ACA):

1. Improve the core functions of the Utah X.
2. *Design and begin to build a seamless interface between the X and current public programs.*
3. Develop a module on the X to provide consumers with useful, accurate, and timely information on cost and quality as it relates to health care providers and insurance companies.
4. *Create a network of customer service centers for consumers and businesses that will use the X.*
5. Develop a marketing, education, and outreach plan to promote utilization of the X.
6. Explore possible partnerships with other states, including a Regional X.

Other states are implementing these planning grant activities:

- Establish governance structure for X that eliminates conflicts of interest.
- Convene stakeholders to gather input and leverage resources.
- Conduct economic and actuarial modeling to study policy issues that would impact the design of Xs.
- Integrate X with existing programs.
- Develop an outreach and communications strategy for 2011-2014 to guide the design of the X.
- Develop legislation to implement X under ACA standards.^v

These and other steps would have made sense for Utah. Moreover, all would have improved upon Utah's unique approach to the Exchange.

UTAH OFFICIALS WEIGH IN ON FEDERAL EXCHANGE STANDARDS

Utah's response to the federal government's request for comment on implementing Xs is must reading for stakeholders interested in bringing Utah's X up to the ACA standards. Opening with the questionable premise that the "Utah model is one of the leading models of state-designed health system reform," the 34-page document asks for special dispensation to effectively ignore basic ACA goals and continue on the state's reform path.

Highlights + Most Troubling Comments

(in *italics* with UHPP's response in plain text)

- *Any attempt to standardize benefit designs tends to discourage competition and entry into the market and limits choice.* This and many other comments challenge the most fundamental of ACA changes.
- *States may find it difficult to comply with requirements regarding outreach... While the reform contemplates a navigator system to...accomplish that objective, it appears to also grow the role of state government in...organizing and implementing these programs.* In light of Utah officials' rejection of the Consumer Health Assistance grant opportunity (which could have been subcontracted to the private sector), the irony is too painful.
- *The true goal if health reform is to change the game when it comes to health outcomes.* Where is the proof that shifting costs to employees, giving them more "skin in the game," improves health outcomes?
- *Traditionally, working families could not pool resources from multiple sources. In the Utah mode, this has been changed.* Has it? Not even the re-launch of the X brings in the "premium aggregator." Utah's timeline delays this step until 2012.^{vi} This should have been in place before creating a defined contribution market.

HARD LESSONS FROM X PILOT LAUNCH

In September of 2009 small businesses seeking to offer employees a *defined contribution* health plan (where they can dedicate a fixed amount toward benefits) could apply for coverage on the Utah Exchange (X). At first, 136 employers (2,333 employees) began the X enrollment process, but only 99 met the eligibility criteria (<50 employees). The next step was for all employees to complete the uniform health application or a waiver of coverage form. Of the 99 participating employers, 19 dropped out because they could not get their employees to complete the application—and no wonder: the application was 40 questions long and many felt the questions were redundant, intrusive, or both. Next, employers had to select a "default" plan for employees who failed to pick their own plan. Employees were then allowed to shop on the X for a plan.

Two related issues arose at this point. First, the application and enrollment process was not consumer friendly. Without a clear understanding of the prices, benefits, or provider networks offered by the plans, employees had difficulty shopping on the X. Second, employers selected default plans with similar benefits as their old plans under the assumption that costs would be similar or lower on the X. But when the time came for employees to choose a plan, most opted for the default plan. The ability to select a plan to suit employees' needs and natural appetite for value was to be the hallmark of the X, yet, because consumers could not see the actual prices, many had no way to compare costs relative to the value of the given product.

Only 11 of the original 99 employers enrolled for insurance coverage through the X in 2010—incidentally, in their comments on the federal X regulations (*see inset, at left*), state officials are proud of this. **The top reason for dropping out was cost:** premiums quoted in the X were on average 20-30% higher than those in the external market.^{vii} Underwriters assumed that if businesses were looking for new health plans, it must be because they employed an inherently riskier pool of employees. Given their charge to keep the X solvent and actuarially sound, the underwriters and insurers tried to pass this increased risk back onto the customer: the businesses and their employees.

FEW LESSONS FROM X PILOT REFLECTED IN RE-LAUNCH

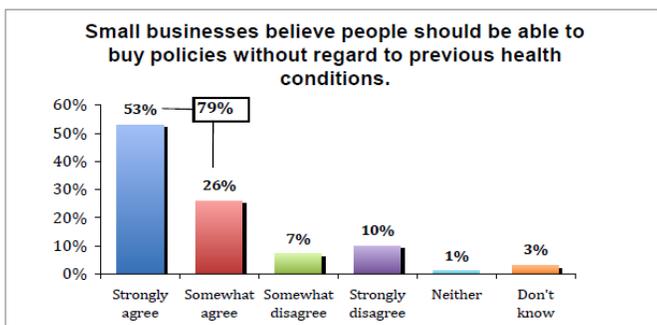
Given the disappointing results of the pilot launch, it is surprising that so few of the lessons are reflected in the re-launch. Under the re-launch of the Utah Health Exchange small businesses were given a 2-week window (September 1-15, 2010) to sign up for coverage if they wanted coverage to start January 1, 2011. Between the disappointing pilot launch and the re-launch, state leaders made mostly superficial changes to the X: namely a statewide prospective risk adjuster and a simplified uniform health application. What leaders are forgetting is that small business owners want more for

their employees than to simply get off the hook for premium costs. They want their employees to have **decent benefits, reasonable cost sharing, and the ability to combine premiums** from different employers or from their spouses' employers. None of these issues are addressed in the re-launch. Some are postponed to 2012 or later, as noted in the state's comments on X regulations.

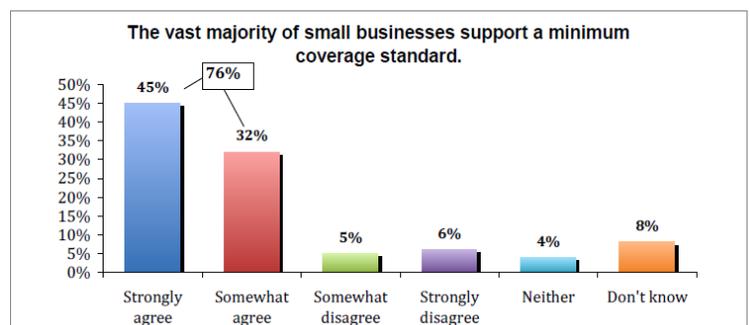
Despite these issues, the Office of Consumer Health Services has been working out the problems many of the first interested businesses encountered, and the X is growing. As of May 1, 2011, 100 employer groups (2,821 covered lives) get their health insurance through the X—and 20% are providing health insurance to their employees for the first time. The average group size covered through the X is 13 employees (ranging from 2-49) and while they are located all over Utah, most are located in Salt Lake City. The average defined contribution amount is \$350/month (ranging from \$1683 to \$0). Yes, the X is growing, but there are 67,000 small businesses in Utah. Only 100 are using the X to date—a drop in the bucket.

It's time to move forward. At best, Utah's X operates a web-portal for small businesses to find insurance for their employees. The state reform process has yet to realize *any* cost containment, which is ironic considering the premise of state reform: that savings should be found as a first step before expanding coverage. Federal reform (the ACA) expects exchanges to address not only quality, but the other 2 crucial pillars of reform—cost and access. Joel Ario, HHS Director of the Office of Insurance Exchanges, stated in a call to UHPP that a successful Exchange *must* include risk pooling, seamless enrollment into subsidies and public plan options, and inclusion of the individual market.^{viii}

Utah's small business owners and their employees don't just want information, choice, and a pleasant shopping experience—they want decent health insurance that is affordable. Utahns who buy their coverage on the individual market, including 140,000 self-employed Utahns, want access to affordable, quality health care too. The ACA gives Utah small business owners what they have been clamoring for all along. If Utah wants flexibility in how it implements the ACA, the state will go beyond fixing the X as it stands, digest the hard lessons from the pilot launch, and meet the minimum ACA standards for Xs.



Small Business Majority (2009). Utah Small Business Healthcare Survey.



ROBUST EXCHANGES ARE THE CENTERPIECE OF THE AFFORDABLE CARE ACT

The Affordable Care Act (ACA) is designed to strengthen the private health insurance market so that it can serve as the platform for a fully functional and responsive health care coverage system—at its heart are the state-based Xs. States wishing to operate the Xs have a number of important design choices to make,^{ix} but all decisions must meet minimum ACA standards, including:

1. *Select health plans based on federally defined standards (affordability, no preexisting conditions exclusions or rating on health status, etc.) for eligibility to participate in the X.*
2. *Assist small businesses and individuals in making informed decisions about their options.*
3. *Develop and implement application and enrollment procedures, including mechanisms to determine eligibility for premium tax credits and cost sharing subsidies.*

4. Create seamless eligibility and enrollment linkages with Medicaid and CHIP.
5. Administer other features of the ACA, like individual and large employer responsibility requirements.^x

Utah's X is not yet equipped to meet these standards, though discussion is now underway to tackle 2-4. Other differences between the federal X standards and Utah's X are shown below:

ACA Standards for Exchanges (X)	Utah's X Standards
Certify health plans as "qualified" with defined actuarial tiers. Apply federal rating system.	Open to all interested carriers. Discussions are underway to create benefit tiers, but these are not yet in place.
Oversee marketing, network adequacy, and quality. Require contracting with essential community providers.	Oversees these, but not necessarily meeting all federal requirements.
Assist in informed insurance decisions.	Yes, but not operating across all required settings.
Determine eligibility, application, and enrollment procedures for Exchange coverage & premium and cost-sharing subsidies.	Eligibility for income-related subsidy program (UPP) is separate and disconnected from Exchange, though efforts are underway to strengthen this interface. Training about UPP is now required for brokers who sell on the Exchange.
Coordinating seamless eligibility for the Exchange, Medicaid/CHIP.	Informing applicants of possible Medicaid eligibility but not operating seamless enrollment system.

The to-do list in Utah's planning grant may not be adequate to the task of closing these gaps. Stakeholders (and HHS officials) must hold Utah officials accountable to the full implementation process, starting with a stronger public input process and a detailed plan for bringing Utah's reforms into line with the ACA. The good news is that this is what small business owners (and providers and consumers) have wanted all along.

CONCLUSION

As reflected in their recent comments on the X regulations (*see box, page 2*), Utah officials have allowed insurers and underwriters to dictate the direction of state health reform. The ACA requires that the reformed insurance marketplace balance the needs of *all* stakeholders: small businesses and their need for predictable health care costs; consumers' need for affordable health insurance that will be there at their time of need; and insurers' need for ground rules to help them compete over the right things, like keeping people healthy, and not over the wrong things, like avoiding risk.

ⁱ United Way of Salt Lake (2009). *Four Pillars of Health Reform* (a product of the United Way Financial Stability Council Health Committee). http://web.me.com/bcrim/CI_Health/Health_Reform_files/Four%20Pillars%20of%20Reform.pdf

ⁱⁱ Small Business Majority (2009). Utah Small Business Healthcare Survey.

http://www.healthpolicyproject.org/Publications_files/Business/Utah_research_report_062209.pdf; see Utah Health Policy Project's survey highlights: http://www.healthpolicyproject.org/Publications_files/Business/UHPPSmallBizSurveySummary7-14-09postJK.pdf

ⁱⁱⁱ See House Speaker David Clark's testimony to the U.S. Senate H.E.L.P. Committee: <http://help.senate.gov/imo/media/doc/Clark.pdf>; Gov. Gary Herbert's press release on the X re-launch. State Representative Carl Wimmer's testimony on his anti-federal health reform bill, which passed in the 2010 legislative session: <http://le.utah.gov/~2010/htm/doc/hbillhtm/HB0067S01.htm>

^{iv} http://www.healthpolicyproject.org/Publications_files/State/UTAH%20HEALTH%20EXCHANGEPLANNING%20GRANTRevisedWorkPlanforHHS.pdf

^v Department of Health and Human Services (2010). *Health Insurance Exchanges: State Planning and Establishment Grants*. www.healthcare.gov.

^{vi} State of Utah (2010). Utah's Response to the Federal Request for Comments on Implementing Health Insurance Exchanges. Posted here:

http://www.healthpolicyproject.org/Publications_files/State/UtahCommentsOnExchangeRegulations10-10.pdf

^{vii} http://www.healthpolicyproject.org/Publications_files/Exchange/UHEAdvisoryBoardDec22.2010.pdf

^{viii} http://www.healthpolicyproject.org/Publications_files/State/SummaryJoelArioCallMar232011.pdf

^{ix} The Commonwealth Fund (2010). Health Insurance Exchanges and the Affordable Care Act: Key Policy Issues.

<http://www.commonwealthfund.org/Content/Publications/Fund-Reports/2010/Jul/Health-Insurance-Exchanges-and-the-Affordable-Care-Act.aspx>

^x Georgetown University Health Policy Institute (2010). *Health Insurance Exchanges: New Coverage Options for Children and Families*.

<http://ccf.georgetown.edu/index/health-insurance-exchanges>.