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White House gives nod to Utah's dual exchange

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May 13, 2013 05:21 AM EDT

Utah will be the only state in the country next year to run its own Small Business Health Options Program exchange — under a modified set of Obamacare rules — and let the federal government set up the exchange for the individual market.

Republican Gov. Gary Herbert announced Friday that Utah had received a crucial nod from the White House that will allow the state to bend Obamacare's exchange rules to accommodate the state's small-business exchange.

No other state has tried anything like what Utah is proposing — to split its exchange completely in two and let the feds run half. One set of rules, established by the state, will govern the small-business exchange, which was established before the federal health law. Another set of rules will govern the individual exchange. That exchange will look like its counterparts in other states where the federal government is stepping in.

“The only way this was going to work was if we were granted flexibility. Fortunately for all, [the Department of Health and Human Services] proved to be flexible, concurring with everything we proposed to be able to operate an exchange that meets the needs of Utah residents,” Herbert said in a statement.

The key concession involved how much data Utah would have to share with the federal hub.

In a letter to Herbert, Gary Cohen, czar of the federal Center for Consumer Information and Insurance Oversight, said the administration wouldn't require states to report detailed data in 2014. And after that, SHOPs, as small-business exchanges are called, “would be required to report only aggregated data that contains no information that identifies an individual or an employer.”

Herbert had expressed concerns that sharing data with the administration that identified individuals or employers covered on the small-business exchange would violate state law. “HHS acknowledges our limitations and agreed to my proposal,” he said.

Advocates for greater health coverage reacted tepidly to Utah's unique arrangement. Judi Hilman, executive director of the Utah Health Policy Project, worried that under the deal, small-business employees wouldn't be notified about whether they're eligible for Medicaid or a tax credit on the individual exchange. In other words, they won't know that insurance may be more affordable than they realize under the health law.

“By discounting the fact that some Utah small-business employees could be eligible for Medicaid — which could save employers and their workers hundreds of dollars a month

— Utah has decided that protecting principle is more important than providing the state's small businesses with the same options available in other states," Hilman said in a statement.

Although Utah is the only state pursuing this sort of arrangement at this time, Cohen emphasized that the rules changes would also be available to "similarly situated states." Massachusetts is the only other state with a small-business exchange already up and running, but its situation is different because it also runs an individual exchange.

Utah and HHS reached the deal after years of wrangling over whether the state's existing exchange would satisfy the minimum criteria of the president's health law. Other states eyed talks between Utah and the White House as a potential exchange alternative that might be acceptable to Republicans.

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