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Deal with feds reached: Utah slated for two online health exchanges

Reform • A deal struck by Herbert will keep Avenue H for Utah's small businesses, let the federal government run a market for individuals.

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Utah will have two online marketplaces for health insurance — one run by the federal government for individuals and the state's existing Avenue H for the employees of small businesses, a new agreement says.

The details of the deal are outlined in a letter sent Thursday from Gov. Gary Herbert to U.S. Health and Human Services Secretary Kathleen Sebelius, who is expected to approve the agreement for Utah's insurance exchanges on Friday, the governor's office said.

A two-page overview shows Herbert appears to have gotten everything he wanted from federal regulators — essentially, keeping Avenue H out of federal health reform, also known as the Affordable Care Act (ACA). It will not screen applicants for Medicaid eligibility and will not assess whether individuals qualify for federal tax subsidies.

The federal government also will not compete with Avenue H: it will not operate its own Small Business Health Options Program (SHOP).

The letter also asks HHS to acknowledge that Utah law prohibits Avenue H from sharing any of its employer data with federal officials.

Herbert's letter hints at one potential outstanding disagreement — sharing Avenue H data, as required under the federal law. Utah law prohibits Avenue H from doing anything to facilitate ACA mandates, so the state will not share any data about Utah residents or businesses, the governor said.

"In order to ensure clarity on this issue, I request that HHS acknowledge Utah's data sharing limitations as part of any agreements to certify Avenue H as a state-based SHOP exchange," Herbert wrote.

The agreement is unique to Utah and essentially opens up a fourth alternative for operating the federally-mandated exchanges. Previously states had only three choices — a state-run exchange, a federally-run one, or a state-federal partnership exchange.

Herbert is expected to discuss the terms of the agreement in a 10 a.m. telephone news conference with media outlets on Friday.

The ACA will require most Americans to have health insurance by January 2014. The online exchanges are designed to be a pathway for millions of uninsured Americans to buy policies.

In Utah, nearly 400,000 people are uninsured. Consumers are expected to use the new online markets to comparison shop for plans, enroll in federal programs such as Medicaid and check to see if they qualify for tax breaks or insurance subsidies.

Herbert initially told federal regulators he planned to expand Utah's SHOP exchange to include the individual market, with some caveats. Utah got conditional approval for the proposal from HHS, but was told it must make some changes to bring Avenue H into compliance with ACA standards.

In February, however, Herbert changed course, asking HHS for a split system after he was unable to get legislative support for a state-run individual exchange. Lawmakers generally dislike the ACA's mandates and also balked at the \$15 million to \$30 million projected price tag for expanding Avenue H.

Utah created Avenue H in 2009 for businesses with 50 or fewer employees, to help their employees access coverage. Avenue H allows companies to provide workers with a fixed amount of money, called a defined benefit, to supplement what they pay for one of 140 available plans.

The new federal agreement calls for Utah to award grant funds to two organizations to help small businesses navigate Avenue H.

According to data from the Governor's Office of Economic Development, which oversees Avenue H, 344 Utah companies are enrolled in the exchange and 8,035 individuals get insurance through its plans.

Utah advocates for the poor on Thursday said the exchange decision was long overdue, but noted that the bifurcated system HHS has approved raised a number of questions for consumers.

"The state has had its concerns addressed about Avenue H, but consumers now need to have their concerns addressed, making sure that the coverage they are offered is affordable and that they are getting the benefits they are entitled to under the law," said Lincoln Nehring, senior health policy analyst for Voices for Utah Children.

Among the many things consumers will need to know: Where to find reliable information about exchange programs and how to get assistance with applications, insurance options and federal subsidy eligibility. Avenue H consumers may also need help determining whether the coverage plans they can choose from meet the affordability standards under the law.

Additionally, advocates want to know how the federal exchange will be paid for and how the rules for exchange navigators, who are supposed to help consumers with insurance decision-making, will be tailored to fit Utah's unique system.

"The agreement in the governor's letter provides a structure for how this will all work out," Nehring said. "But we have to work on the details now."



Tribune file photo Utah Gov. Gary Herbert

Others were more critical of the Utah agreement, noting that it prevents those using Avenue H from being screened for Medicaid eligibility, which could save money for some low-income, working Utahns.

“One of the goals of health reform was to eliminate the barriers that trapped people in inadequate or costly insurance policies — or forced them out of coverage altogether,” says Jason Stevenson, education and communications director at the Utah Health Policy Project. “The state’s decision to prevent small business employees from being screened for Medicaid eligibility erects a principled, but pointless brick wall in front of thousands of Utah small businesses.”

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