



# STRENGTHENING UTAH'S EXCHANGE

## Updated Policy Recommendations = A Winning Bill for Utah

A Utah Health Policy Project Issue Brief

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### A FRESH OPPORTUNITY FOR STATE HEALTH REFORM IN THE 2010 GENERAL SESSION

At the December 14, 2009 meeting of the Health System Reform Task Force, Speaker David Clark previewed a bill he will be introducing during the current legislative session. That bill represented a significant leap forward on several fronts and should go far in addressing the serious concerns that were found during the limited launch of the state's health insurance Exchange. Two provisions go right to the heart of UHPP concerns surrounding the Exchange by...

- 1) requiring all small businesses to purchase health insurance on the Exchange and;
- 2) pooling all of the businesses into one large risk pool. By sharing their risk, small businesses will now have the purchasing power of a large employer. This will lower rates for individual members of the pool as well as for employers.

Going one step further, the bill would also introduce modified community rating for the small business market in Utah. Who benefits when risk is spread across the entire small group market? Ultimately, all of us, as anyone could get sick or injured at any time. In the more immediate future small businesses with older employees will greatly benefit because modified community rating puts a stop to insurance practices which penalize for poor health status. For women in Utah, this would also be a big win. Currently, women of childbearing years tend to use healthcare more often than men and thus face higher premiums, and this is due solely to reproductive issues. Speaker Clark's bill would prohibit insurance companies from charging women more.

There are some limits to the community rating in the Speaker's bill. Insurance companies may still factor in age and tobacco use as risk factors. Additionally, the bill contains a few worrisome health and wellness provisions designed to reward those who are taking the steps to maintain or improve their health. Insurers will be able to factor in whether or not an applicant participates in a wellness program and if they have taken steps to keep chronic conditions like high blood pressure and diabetes under control. Just a caution: wellness provisions like these may be taking a back door approach to avoiding risk.<sup>i</sup>

The good news is that the December 14 Speaker's bill takes steps necessary to strengthen Utah's Exchange. This legislation suggests that the state may in fact be ready to tackle the enormous and complex challenge of health reform. It is our hope that the entire Utah Legislature will support something close the December 14 version of the Speaker's bill. By so doing, Utah will send the message that we are serious about providing affordable health insurance coverage to all Utahns in ways that address the needs and challenges of the state's residents.

The next section provides an update on findings from the limited launch of the Utah Health Exchange, specifically that price was the biggest issue that businesses and employees confronted when seeking a new plan. Following this, we provide the background on what has been done around health reform in Utah to this point. This is to give readers a "pedigree" of the Speaker's bill and to highlight how his

current proposal fits into the overall picture of health reform. Finally, we include a summary of UHPP's original recommendations on strengthening Utah Exchange published in November 2009, to show the growing congruity between the Speaker's December 14 bill and best practices from state-level health reform.

## EXCHANGE PILOT PROJECT FINDINGS

At the last meeting of the Health Reform Task Force the Office of Consumer Health Services, which administers the Utah Health Exchange, reported on the results of the "limited launch" of the Exchange. This pilot opened the Exchange to small businesses that wanted to offer their employees a *defined contribution* health insurance plan. A defined contribution plan is one in which an employer determines how much s/he is willing to contribute to employee health insurance costs, say \$500 a month. The employee is given the opportunity to pick a health benefit plan offered through the Utah Health Exchange that best fits their needs. No longer are all employees required to be in the same plan. Monthly premiums will be paid by the employer contribution as well as the employee if their premium exceeds the amount set aside by the employer. So if an employee chooses a plan in which their premium is \$1,200 a month, the employer will pay \$500 and the employee will be required to cover the additional \$700.

Over the launch period, 136 employers (with a total of 2,333 employees) registered for the Exchange. Of those 136 employers, 99 were approved by the insurance carriers as small businesses that met the eligibility criteria (< 50 employees). For underwriting purposes the next step was for all employees of those companies to complete the uniform health application or a waiver of coverage form. This process presented the first major hurdle the individual employees. The uniform health application was forty questions long, and many employees felt the questions were redundant, intrusive or both. For employers, the challenge was to get those employees *not* electing coverage to complete the waiver form. Again, employees found the waiver intrusive, especially since these individuals were not seeking health insurance in the first place. The Office of Consumer Health Services reported that 54.8% of respondents on its informal survey of participants agreed with the statement – "the universal health application was very difficult and hard to complete." The application was also cited as the top non-cost reason for employers to drop out of the limited launch. Of the 99 employers approved by the carriers, 19 dropped out because they could not get their employees to complete the application process.

After completing a cumbersome application process, employers were given the opportunity to select a "default" health insurance plan for employees who fail to pick their own plan from the offerings on the Exchange. Employees were then allowed to shop on the Exchange for their plan.

Two inter-related issues arose at this point. First, employees had difficulty shopping on the Exchange without a clear knowledge of the prices for any of the plans. For the most part, employers selected default plans that had similar benefit levels as their old plans under the assumption that in this new marketplace, costs would be similar or lower at best. But when the employees were turned loose on the Exchange, very few employees selected plans that were different than their employer's default plan. The ability to select a plan that met the employee's health care needs and natural appetite for value was meant to be a hallmark of the Exchange and the defined contribution market – the tool with which consumers could drive the market toward better value. Yet, because consumers could not see the actual prices, many simply had no

gauge of costs versus value and therefore were unwilling to pick anything other than their employer's chosen plan. Second, among the insurance underwriters, the feeling was that if these businesses were looking for new health benefit plans, it must be because they employed an inherently riskier pool of employees. Given their charge to keep the Health Exchange solvent and actuarially sound, the insurance community tried to pass this increased risk back onto the customer—the businesses and their employees.

All these factors resulted in a significant drop-off in participation. Of the 80 businesses that were left after the application process, only 13 are now participating in the Exchange. Costs were cited as the primary reason for exiting the pilot. In the survey by the Office of Consumer Health Services, 77.5% of respondents said that prices quoted in the Exchange were “somewhat” to “much higher” than their current premiums.

While many of these issues are technical in nature—for example, a process for filtering plans and providing some idea of costs is being developed, the Department of Insurance has since convened meetings with insurers to whittle down the application, the issues of benefit costs, size of the market and rating practices.

## BACKGROUND

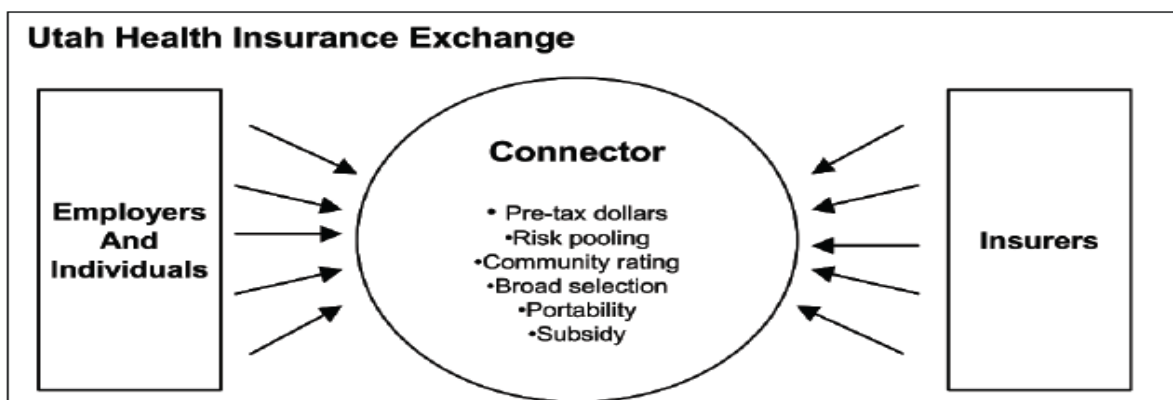
Utah began its health reform discussions in 2007, passing the first in a series of insurance reform bills during the 2008 General Session. [House Bill 133](#) (Health System Reform, sponsored by current House Speaker David Clark) created a web-based portal or “Exchange” where employers and consumers can shop for affordable, quality insurance. During the 2009 General Session additional parameters were created around the Exchange with the passage of [HB188](#) (Health System Reform-Insurance Market). The passage of this legislation means that Utah is second only to Massachusetts in creating this type of virtual store-front—though Utah's Exchange is more like a flea market and less like the Travelocity-like Commonwealth Connector that operates in Massachusetts.

With a few additional changes, Utah could become a leader in state-level health care reform. Utah's Exchange contains important building blocks for reform, yet there are steps that need to be taken in order to achieve the goals envisioned by those that worked to draft and pass HB133 and HB188. As Utah's Exchange becomes fully operational, employers will certainly appreciate a one-stop shop along with new market choices and tools to contribute towards premiums with pre-tax dollars. However, without mechanisms to pool risk and manage cost growth, these same employers (especially small business owners) may soon become disenchanted with the Exchange. As currently configured, Utah's Exchange could push employers into a defined contribution arrangement *before* the necessary affordability and benefit standards are in place for them and their employees. **Yet, with a number of changes aimed at spreading risk and making coverage more affordable for employees, Utah's Exchange has the potential to serve as the foundation for market-based, value-driven reforms.**

## STRENGTHENING & MONITORING UTAH'S EXCHANGE

Following are UHPP's main concerns with the current structure of Utah's Exchange:

- **Affordability:** The point of making the Exchange available to all small businesses and individuals is to create a large enough risk pool that will permit insurers to *community rate* (share risk across the entire small group and non-group market inside *and outside* the Exchange). To this end, coverage must be made truly affordable through the use of affordability standards. If coverage is *not* made affordable, young and healthy people simply will not participate, opening the door to *adverse selection* (when older and sicker individuals are drawn into a risk pool, thus driving up costs within the pool). Given that 70% of the uninsured have household income under 200% of poverty, eligibility for public programs and premium subsidies should also be integrated in a more functional manner into the Exchange.<sup>ii</sup> For example, consumers should learn of their eligibility for public programs and subsidies whenever they shop on the Exchange. Without any limitations on out-of-pocket costs families will forego cost-effective care, defeating the broader purpose of reform.
- **Open Enrollment:** Currently, there is only one open enrollment period for small businesses which limits the number of individuals that can come into the market. To ensure long term viability and sustainability, there should be a much larger pool of purchasers. Opening enrollment more frequently would allow small businesses, especially those with high turnover, to enroll new employees in a more timely fashion. The Legislature worked hard to enable CHIP to have continuously open enrollment. This prudent decision allowed for greater access to CHIP for otherwise uninsured children. Providing more enrollment periods for the Exchange would do the same for all Utahns looking for health insurance.
- **Community rating instead of medical underwriting:** Currently, businesses entering the Exchange will still be medically underwritten according to the risk profile within their individual business. This means the group will be rated according to how healthy or sick their employees are as a group. The true power of an Exchange comes from its function as a purchasing pool where risk is spread over a larger group.



- **Defined Benefit Standards:** Currently, health plans participating in the Exchange have yet to be categorized in terms of the level of benefits offered, and there is no minimum benefit standard. Both pieces are critical for the sake of comparison shopping and to ensure people are

purchasing plans that are of value. If the intent is to move toward a consumer-oriented market where individuals can compare apples to apples when they shop for benefits, plans must be categorized.

- **Portability:** Health plans in the Exchange are not yet truly portable. If you lose your job, there is no guarantee that you will be able to purchase your same plan at the same price after you have exhausted your COBRA benefits. Individuals no longer affiliated with an employer are not yet allowed to shop for coverage in the same market.

## The Bottom Line

In its December 14 iteration, Speaker Clark's 2010 bill begins to address concerns around the basic functionality of the Utah Health Exchange. Pending further improvements on issues described above, the new bill suggests Utah could be on the way to robust health reform at the state level. The steps it outlines are meant to move Utah's health insurance industry towards the goal of providing coverage to all Utahns, regardless of health status. There are still steps critical left to be taken, especially in the areas of affordability and providing consumers with the tools they need to find the best value for their insurance dollars. Without the passage of this bill, however, Utahns will be left with the status quo. Insurance premiums will continue to grow at exponential rates, more small businesses will drop coverage, a greater number of the state's residents will be left paying out-of-pocket for larger and larger medical bills. This is not acceptable to stakeholders on either side of the political spectrum. State health reform needs to move forward, however incrementally, and the Speaker's December 14 bill is the place to start.

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<sup>i</sup> Families USA (2009). Reward/Penalty Plans for Wellness: Coming Soon to an Office near You? <http://www.familiesusa.org/assets/pdfs/wellness-plans.pdf>.

<sup>ii</sup> Utah Healthcare Access Survey, 2008