

POLICY QUESTIONS FOR THE COLORADO HEALTH BENEFIT EXCHANGE BOARD OF DIRECTORS

(February 13, 2012)

The Colorado Health Benefit Exchange faces an extensive list of policy questions as it builds a new health insurance marketplace to meet the unique needs of Colorado. In accordance with Senate Bill 11-200, the COHBE Board of Directors is responsible for serving as a governing body and for assisting in deciding certain key issues related to the operations of the Exchange. For reference, we've attached the Powers and Duties of the Colorado Health Benefit Exchange Board of Directors. The COHBE staff currently is compiling an expanded list of policy questions that will be provided to the Board for consideration in the coming 18-24 months.

To make sufficient progress in Exchange development, a subset of policy issues will be introduced during board meetings for initial discussion. In most cases, a vote will not be called at that meeting. The additional time between meetings will allow the board members to, if necessary, request additional data, gather public input and take formal action at the next meeting – or later. The board will either make policy decisions or, when appropriate make appropriate recommendations. Policy issues will be organized in the following manner:

- Policy issue under consideration
- State and Federal law that pertain to the policy issue
- Data to consider that relate to the policy issue
- Consideration of the policy issue
- Recommendation and next steps

What is the appropriate size of the small employer market?

SB11-200: Consider the appropriate size of the small employer market under the Exchange, taking into consideration the definition of "small employer? Pursuant to section 10-16-102.

State Revised Statute Section 10-16-102: "Small employer" means any person, firm, corporation, partnership, or association that is actively engaged in business that, on at least fifty percent of its working days during the preceding calendar quarter, except as provided in section [10-16-105](#) (12), employed no more than fifty eligible employees, the majority of whom were employed within this state and that was not formed primarily for the purpose of purchasing insurance. "Small employer" includes a business group of one. In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of state taxation, shall be considered one employer.

Federal Law:

EMPLOYERS:

(1) LARGE EMPLOYER.—The term "large employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 101 employees on business days during the preceding calendar year and who employs at least 1 employee on the first day of the plan year.

(2) SMALL EMPLOYER.—The term “small employer” means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 1 but not more than 100 employees on business days during the preceding calendar year and who employs at least 1 employee on the first day of the plan year.

(3) STATE OPTION TO TREAT 50 EMPLOYEES AS SMALL.—In the case of plan years beginning before January 1, 2016, a State may elect to apply this subsection by substituting “51 employees” for “101 employees” in paragraph (1) and by substituting “50 employees” for “100 employees” in paragraph (2).

Key Data

The current small group market is defined as 50 employees or less. Over 50 employees is a different marketplace with different plans, delivery systems and rating.

Approximately 298,000 people (7% of the Colorado population) were in the employer-sponsored small group market in 2011. Analysis completed by Jonathan Gruber estimates the number of users for the SHOP Exchanges will be sufficient

Source: Colorado Benefit Exchange Background Research, Jonathan Gruber, 2011

The Small Employer Workgroup evaluated the issue and recommended the small group market stay at 50 for now and move to 100 when required in 2016. They reached consensus that the impact on the marketplace and risk to implementation was not warranted given the mandate to expand the market within two years of implementation.

Considerations

Advantages:

- Expanding from 50 to 100 employees will increase the size of the small group market which could provide additional customers to drive the success of the SHOP.
- Increasing the number of employees could result in a larger risk pool in the small group market and could create more stable premiums.
- Since the change is required in 2016, it could be advantageous to increase the size limit now so that all market rule transitions/disruptions occur at the same time.

Disadvantages:

- Expanding the definition to 100 employees in 2014 would add an additional level of change and uncertainty to the market already experiencing change and disruption.
- Additional work to change rating, distribution systems, and processes would add implementation risk for the SHOP.
- May drive adverse selection

Recommendation

Effective 1/1/2016, enacted law requires the small group market to move to 100 employees. We recommend (that the Board recommend to the Division of Insurance) keeping the current definition of the small group market in 2014 and 2015 to minimize market disruption and implementation risk. How the Exchange will handle Business Groups of 1 as defined in Section 10-16-102 will be addressed separately.