

Implementing State-Based Health Insurance Exchanges Under the Affordable Care Act

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A key element of the Affordable Care Act (“ACA”) is the creation of state-based health insurance exchanges, which will allow individuals and small businesses to purchase private health insurance through competitive marketplaces. The ACA authorizes states to establish an exchange; if states elect not to or are unable to do so, the U.S. Department of Health and Human Services (“HHS”) shall establish a federally facilitated exchange in the state. HHS is developing the infrastructure and guidance for federally facilitated exchanges (“FFE”). Massachusetts and Utah have operational exchanges. Other states such as California, Colorado, Connecticut, District of Columbia, Hawaii, Maryland, Mississippi, New York, Oregon, and Washington have taken significant steps toward establishing their exchanges by determining how they will be organized and governed. However, many states have not passed legislation to establish a state-based exchange. Others states, including Florida, passed legislation as a precursor to creating an exchange, but delayed taking further action to develop or organize an exchange or enact further legislation pending the U.S. Supreme Court’s decision on ACA. Following the U.S. Supreme Court’s decision on June 28, it remains uncertain whether Florida will establish a state-based exchange. If it does, Florida insurance regulators and policymakers will be forced to make many important decisions concerning organizational structure, governance, funding, technology infrastructure, and the scope of benefits for a state-based exchange, on a compressed timetable. Regulations implementing the ACA require HHS to approve or conditionally approve state-based exchanges no later than January 1, 2013, for operation in 2014. However, to receive HHS approval or conditional approval for a state-based exchange, a state must complete an *exchange blueprint* that documents how the exchange meets or will meet all legal and operational requirements associated with the state’s chosen model. The exchange blueprints must be submitted to the HHS by November 16, 2012. As part of the *exchange blueprint*, a state must also demonstrate operational readiness to execute exchange activities. Key dates regarding the implementation of state-based health insurance exchanges are set forth in the

following table:

DATE	ACTION REQUIRED
November 16, 2012	States must submit exchange blueprint
January 1, 2013	HHS to approve or conditionally approve state-based exchanges
October 1, 2013	Enrollment in state exchange
January 1, 2014	Exchanges take effect for individuals and small group employers. The small group market is defined to include employers with 1-100 employees; however, states may elect to define it as employers with 1-50 employees until January 1, 2016.
January 1, 2015	Exchanges must be self-sustaining and may generate revenue through assessments, user fees, or other means.
January 1, 2016	States must define small group market to include employers with 1-100 employees.
January 1, 2017	States may allow insurers to offer large group plans through the exchange.

Resources [Health Insurance Exchange Establishment Grants \(view Exchange grant details by state\)](#)
[State Actions to Address Health Insurance Exchanges Patient Protection and Affordable Care Act Section-by-Section Analysis, including Health Care and Education Reconciliation Act Amendments and Regulatory Guidance](#)

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