

# **Health Insurance Exchange Stakeholder Perspectives on Structure and Governance**

## **Introduction**

Between July and October 2010, the Health Reform Implementation Board and Director of Health Reform Implementation convened nine stakeholder community forums in partnership with two state-level health advocacy organizations, the Colorado Consumer Health Initiative and the Colorado Coalition for the Medically Underserved. Five forums were held in the Denver Metro Area and four in Alamosa, Grand Junction, Colorado Springs and Greeley.

The attendance at the community forums in the metro area was well over 140 individuals and forums in communities outside of Denver ranged from 15 to 45 participants. Each forum was attended by a wide variety of stakeholder groups including health underwriters, health plans, consumer groups, advocates for a single payer health care system, provider groups, business representatives, health care consumer advocates and members of the general public.

The goals of the community forum process included:

1. Build shared understanding about Exchanges
2. Seek and collect input from wide range of stakeholders on best way to structure the Exchange(s)
3. Gather information to develop a “Stakeholder Perspective” document that can inform the efforts of the general assembly and new governor during the 2011 session and moving forward.

This brief summarizes the issues and stakeholder perspectives related to the **Structure and Governance of the Health Insurance Exchanges** in Colorado.

## **Background**

The Patient Protection and Affordable Care Act (hereafter, Affordable Care Act) directs states to establish a health insurance exchange that serves individuals (American Health Benefit Exchange) and one for small employers (Small Business Health Options Program, or SHOP), or one exchange to serve both purposes. These exchanges provide one-stop-shopping markets for a range of subsidized and unsubsidized coverage options.

The goal of an exchange is to be a mechanism for organizing the health insurance marketplace to help consumers and small businesses access coverage in a way that permits easy comparison of available plan options based on price, benefits and services and quality. Exchanges potentially create more efficient and competitive markets for individuals and small employers by pooling people together, reducing transaction costs, and increasing comparability and transparency.

In addition to certifying that all health plans sold through the exchange meet federal requirements, exchanges will perform (or arrange) several administrative and consumer support functions, such as supplying standardized plan and cost comparison information, assisting consumers with health plan selection, streamlining enrollment processes and facilitating access to subsidies and public programs.

An immediate decision for states is whether to establish their own exchanges or to rely on the federal government to do so on their behalf. There are pros and cons for Colorado to consider in making this decision. The state applied for and received a grant in the amount of \$999,987 to do

## **Health Insurance Exchange Stakeholder Perspectives on Structure and Governance**

economic modeling and actuarial analysis to determine the feasibility of state based exchanges and continue engaging stakeholders in the analysis of establishing exchanges in Colorado.

While the Affordable Care Act sets broad parameters for the exchanges governance, it still allows for state flexibility. It specifies the following:

- Exchanges may be administered by a governmental agency or nonprofit entity established by the state;
- States may operate state, regional, or subsidiary exchanges;
- Exchanges may perform all required functions in-house or contract out key services.

### **Colorado Stakeholder Perspectives on Structure and Governance - Themes**

The most consistent perspectives shared during the community forums about governance and authority were:

- **Colorado should establish a statewide exchange.**
  - Some stakeholders believe we should explore multi-state relationships with neighboring states after we successfully implement Colorado exchanges, but suggest we wait to explore these options.
  - Some stakeholders still had questions about this approach, wondering if it would be better to participate in a federally created exchanges.
- **Colorado should establish a quasi-governmental governing authority to implement and manage the exchanges.** This entity should be:
  - Outside of state government
  - Accountable and transparent, including compliance with state open meeting laws
  - Responsive and nimble in order to respond to an ever-changing marketplace, consumer and business needs and federal guidance and rules
  - Non-duplicative of current Division of Insurance functions
  - As small and efficient as possible to keep costs down.
  - Some stakeholders held a different perspective and believe that the exchanges should be managed by a government entity, perhaps the Division of Insurance.
  - Some stakeholders suggested that local Water Boards, CoverColorado and Pinnacol might be models for the governing authority for the exchanges.
- **Exchanges should be governed by a diverse and knowledgeable board which includes representation of those served by the exchanges, both individuals and businesses.**
  - There is not consensus among the stakeholders who participated in these meetings about the role of health insurance carriers, brokers and providers on the governing board and the degree of representation of consumers and businesses on the board.

## **Health Insurance Exchange Stakeholder Perspectives on Structure and Governance**

- **If Colorado chooses to establish two separate exchanges** (one exchange for individuals (American Health Benefit Exchange) and one for small employers (Small Business Health Options Program, or SHOP), **with separate risk pools, or to combine the risk pools, the exchanges should be managed by the single state wide governing entity.**
  - Stakeholders in favor of maintaining separate risk pools for the individual and small business exchanges fear that it will decrease the amount of disruption and consumer confusion since these markets currently operate under different rules and regulations.
  - Some stakeholders held a different perspective on the management of the risk pools arguing that the individual and small business risk pools should be merged and managed under one exchange. Stakeholders with this perspective believe this approach will create “volume discount pricing” and create the largest risk pool to maximize shared risk.

# **Health Insurance Exchange Stakeholder Perspectives on Structure and Governance**

## **Submitted Recommendations from Stakeholders**

Throughout the Community Forum process, stakeholder groups formally submitted statements of principles to guide the development of the Exchange. The following excerpts (listed in alphabetical order) that specifically relate to structure and governance have been copied from these submitted documents:

### **AARP**

#### **Structure and Governance**

Whatever governance structure is ultimately adopted by Colorado, AARP believes that it must include the consumers of its services – individuals, small employers and their employees. Consumers need to have “a seat at the table” and they need to have equal voting rights with other stakeholders. There should be sufficient representation of consumers to ensure that their voices are heard. While other stakeholders have a role, the governing structure should assure that the consumer voice is equal to others. The governing body’s deliberations and decisions should be transparent, and should provide ample opportunity for public input.

In addition, the Exchange must have adequate authority to fulfill its responsibilities. The Exchange is charged with functions that are critical to the successful expansion of coverage. Thus, it needs authority to enable it to succeed in bringing consumers the best plans and services possible at affordable prices. As discussed above, the Exchange should have authority to negotiate with and select plans if that is what it determines is needed in order to maximize the value of coverage offered and simplify choices for buyers. Without the ability to negotiate for the best offerings for consumers or to limit offerings, the opportunity for an Exchange to foster improvements in benefits, quality and cost for those in the individual and small group markets may be foreclosed.

Whatever governance structure is ultimately selected, it will be important to ensure that the Exchange has the appropriate authority to ensure full collaboration of all players and appropriate oversight and enforcement authority. AARP urges Colorado to establish an entity that has the authority needed to ensure the unprecedented level of state and federal collaboration and the active cooperation of the state agencies (Medicaid, Public Health, Insurance, etc.) that will be required for the successful implementation of the ACA. The Exchange must connect with other State and national entities to provide a "one stop" and seamless process for determining eligibility and effectuating enrollment for federal subsidies, Medicaid or CHIP and other public health programs. (This may necessitate re-engineering current Medicaid eligibility and enrollment processes.) The key is to provide a "single point of entry" for consumers.

Governing bodies should include strong consumer representation and also provide the opportunity for additional issue-specific working or advisory groups to be created and to give ongoing input into the process. To avoid conflicts of interest, the governing board should not include insurers that would be subject to regulation and oversight by the Exchange. The governing body’s deliberations and decisions should be transparent, and should provide opportunity for public input. It would be worthwhile for Colorado to examine the models developed by California and Massachusetts. California’s Exchange was designed as a public entity with no affiliation to a state agency or department. It will be governed by an executive

## **Health Insurance Exchange Stakeholder Perspectives on Structure and Governance**

board of five individuals, who are appointed by the Governor, Senate Committee on Rules, Speaker of the Assembly, and the California Secretary of Health and Human Services or a designee. In Massachusetts, the Commonwealth Health Insurance Connector Authority is an independent, public entity. It is governed by a board of ten members: the secretary for administration and finance, ex officio, who shall serve as chairperson; the director of Medicaid, ex officio; the commissioner of insurance, ex officio; the executive director of the group insurance commission; three members appointed by the governor, one of whom shall be a member in good standing of the American Academy of Actuaries, one of whom shall be a health economist, and one of whom shall represent the interests of small businesses; and three members appointed by the attorney general, one of whom shall be an employee health benefits plan specialist, one of whom shall be a representative of a health consumer organization, and one of whom shall be a representative of organized labor.

### **Aetna**

Aetna believes that an effective Exchange marketplace is critical to the success of federal reform and should:

- Establish an efficient regulatory environment that does not add unnecessary administrative burden and expense by:

- *Leaving rate review with the Insurance Commissioner, who already has the authority and experience to regulate insurer solvency and rates.*
  - The Exchange's role should not duplicate or impinge on the Insurance Commissioner's ability to ensure that insurers are financially stable and able to pay claims when they are incurred, so that consumers and providers are not saddled with unpaid medical bills.

### **Health Advocates Alliance**

Signing organizations include: The ARC of Colorado, The Arc of Arapahoe & Douglas, The Bell Policy Center, Chronic Care Collaborative, Colorado Academy of Family Physicians, Colorado Center on Law and Policy, Colorado Children's Campaign, Colorado Consumer Health Initiative, Colorado Cross Disability Coalition, Colorado Nurses Association, Colorado Progressive Coalition, Family Voices Colorado, Health Care for All Colorado, The Legal Center for People with Disabilities and Older People, MS Society, Colorado Chapter, Barbara Yondorf

- Colorado should have one, statewide health insurance exchange.
- The governance structure should be designed to maximize public accountability, efficiency, transparency and independence.
- The board of directors should have majority consumer representation.
- In order to avoid real or perceived conflicts of interest, health plans and insurance brokers should not serve on the board of directors or be involved with decision making regarding operation of the Exchange.
- The governing body must provide defined and meaningful processes for stakeholder input.

### **Health Care for All Colorado**

**Create the largest size risk pool to protect against adverse selection.**

To be successful the exchange must enroll a large and diverse population with many healthy lives.

## **Health Insurance Exchange Stakeholder Perspectives on Structure and Governance**

- Colorado should have a single statewide Exchange.
  - State and Local Government and not-for-profit employers should be allowed to participate in the exchange.
  - The Exchange should allow large employers to participate if legally permitted.
- Regional or National Exchanges that expand the risk pool should be explored, as long as Colorado mandates are preserved.

### **Control Costs**

Exchanges are required to fulfill a number of administrative functions that will increase costs. Costs need to be reduced to offer better value to consumers.

- The Exchange should be designed to function as the single administrator and processor of claims and should collect a modest fee for this service from insurers and providers.
- Exchange services must be offered to large employers at a nominal fee to reduce their direct and indirect costs for providing health coverage.

### **Ensure Transparency**

The State should require transparency at every level for decisions made about the Exchange and for all insurance companies participating in the Exchange. Taxpayer money will be paying for both.

- The Exchange must be required to follow Colorado's Open Records law.

### **Colorado Association of Health Plans**

#### **Exchange Structure**

Exchanges can minimize market disruption through thoughtful, incremental implementation. Thus, Colorado should exercise its option through 2016 to maintain the current state definition that small employers have less than 50 employees. Exchanges should also allow any participating small employer to exercise the option to select a single qualified health plan for its employees, as the market works today. Additionally, Colorado should keep the individual and small group risk pools separate whether there is one merged Individual and Small Group Exchange, or whether there are two separate Exchanges.

Exchanges should also be as efficient as possible because consumers ultimately bear the cost. Therefore, Exchanges should focus on their core function: being a consumer-friendly market facilitator where consumers go to obtain health insurance coverage. To ensure successful implementation and continuation, the funding for Exchanges should come from a broad base of sources.

#### **Exchange Governance**

Exchanges should have a governance structure that encompasses broad stakeholder representation, including the health insurance industry. The governance board charged with overseeing the Exchanges should be accountable to and reflective of the representative government that establishes it. Also, it should be dedicated to the success and sustainability of the Exchanges, as well as the success and sustainability of the individual and small group markets. In that role, the governance board should be allowed to enter into contracts with third parties to serve administrative functions for the Exchanges. The work and deliberations of the governance board should be subject to the same transparency requirements as any state agency

## **Health Insurance Exchange Stakeholder Perspectives on Structure and Governance**

(for example, open meeting requirements.)

### **Regulatory Authority**

Exchanges should foster a regulatory environment that does not add unnecessary administrative burdens that will increase costs for consumers. Therefore, existing regulatory authority and state agency expertise should be leveraged and not duplicated by the Exchanges. The Division of Insurance (DOI) should maintain exclusive jurisdiction over health insurance carriers.

Exchanges are charged under PPACA with excluding plans with excessive rates. However, determining rate excessiveness should be the role of the US DHHS and the Colorado DOI, not the Exchanges. Additionally, Exchanges should not negotiate premiums, set premium levels, or review premium increases. Insurers should continue to set actuarially justified premiums, which are in turn reviewed by U.S. DHHS and the Colorado DOI. Also, since the prices must be the same inside and outside the Exchanges per federal law, it is critical that the DOI, as the entity responsible for ensuring insurer solvency, have the purview for reviewing pricing inside and outside of the Exchanges.

The impact of all new federal regulations should be thoroughly studied before requiring more regulatory and benefit mandates.

It is also important that a similar regulatory framework is established inside and outside the Exchanges. PPACA requires that the risk pool be the same inside and outside the Exchange, thereby requiring an equal regulatory environment to prevent unbalanced risk pooling.

### **Colorado Medical Society Structure and governance**

Whether or not the state opts to operate the exchange within the state government or by an independent, not-profit organization, it is essential that the exchange governance functions in a transparent manner, inviting and considering input from all stakeholders, especially patients. The best interests of consumers – the ultimate beneficiaries – must serve as the ultimate guide for decisions within the exchange. Governance must assure that conflicts of interest are minimized. Practicing physicians should participate in the governance structure of the exchange in order to provide important information in the establishment of the exchange and to offer front line feedback once the exchange is operational.

### **Role of the insurance commissioner**

#### **Interface between the Exchange and Division of Insurance**

There is an obvious intersection between the role of the exchange and the Division of Insurance (DOI). Among many other roles, DOI has authority to review and approve carriers' rate increases; it also reviews their market conduct and adherence to other laws and may penalize them accordingly. Every effort must be made to standardize health insurance regulations both inside and outside of the exchange. We recommend that DOI be given an explicit oversight and regulatory role in helping the exchange to achieve and maintain the goals laid out previously in this letter. Both consumers and providers should have access to regulatory enforcement of health care protections.

## **Health Insurance Exchange Stakeholder Perspectives on Structure and Governance**

### **Rocky Mountain Health Plans**

#### ***Structure and Governance***

The Exchanges should be a semi-independent, quasi-government authority managed outside the civil service and state procurement structure. If it is organized as a non-profit corporation, the board of directors should be appointed as outlined below.

- Exchanges should be governed by a board of directors that has relevant expertise, representing a broad spectrum of stakeholders, is appointed by elected officials, and is accountable for its actions. The board should include representatives from consumers, the employer community, health plan companies, and other interested stakeholders.
- The governing statute should create a technical advisory group to make recommendations about implementation of the Exchanges.
- Exchanges must have the authority to contract with other entities for administrative services.
- The Exchanges should have rigorous conflict of interest policies. The governance structure for the Exchanges should be objective and third-party with respect to health plan companies and not an entity that regulates them.

***Rationale:*** The Exchanges will perform an important public function. While cogent reasons exist for placing the Exchanges in a quasi-public entity or a private non-profit entity, appropriate oversight and accountability for its activities is critical. Also, the Exchanges will be providing information about a competitive market. Therefore, they cannot be perceived to be biased toward any of the health plan companies participating within the Exchange.

#### ***Regulatory Authority***

We believe the market role and the regulatory role should be separate. Exchanges should not duplicate the regulatory authority of the Division of Insurance (DOI) over health plan companies (except for the authority under PPACA to select participating health plan companies).

- Separate roles for Exchanges and the DOI. The DOI should have exclusive authority to exercise its traditional regulatory functions (e.g. solvency, governance, consumer protection, and marketing practices).

***Rationale:*** The Colorado Division of Insurance is an effective state agency with resources and expertise to regulate health plan companies. Conferring regulatory authority on the Exchanges would incur unnecessary expense and could lead to inconsistent or conflicting regulations between the Exchanges and the DOI.

#### ***Geographic Scope***

Colorado should establish state-wide Exchanges with geographic rating areas.

The Exchanges should have authority to participate in multi-state Exchanges in the future, only after ensuring that the needs of the consumers in Colorado will be enhanced through such a mechanism.

***Rationale:*** Economies of scale, both for the start-up costs and costs of the operation of the Exchanges dictate Exchanges with statewide coverage for Colorado. Exchanges with state-wide coverage will have sufficient enrollees to constitute an adequate risk pool and a sufficient share of the commercial market to encourage health plan participation.

## **Health Insurance Exchange Stakeholder Perspectives on Structure and Governance**

### **Employer Size and Merger of SHOP and standard Exchanges**

Consistent with a phased in approach, Colorado should consider exercising the option under PPACA to define a small employer as 1 to 50 for plan years before 2017.

**Rationale:** Colorado has a guaranteed-issue, highly regulated small employer group market. It currently has 287,000 enrollees according to the Division of Insurance. The rating and market rules for the small group market are significantly different in the group market over 50. It is generally thought that purchasers of large group policies are more sophisticated purchasers of insurance and may have the ability to hire consultants to assist with the process. Large groups can use their size to negotiate, so employer-sponsored plans typically are able to include a wide range of plan options. In the over 50 employee market, rate may reflect more of each group's specific experience and are, therefore, more appropriate to the risk. Employers appreciate that aspect of the rating process and can negotiate their rates with health plan companies. The 50 to 100 employee large groups would lose that flexibility if they were combined with the existing small group guaranteed issue market.

Also, consistent with a phased in approach, Colorado should not merge the SHOP and individual Exchanges until such time, if any, that premium differentials between the two become minimal.

**Rationale:** The employer and individual health insurance markets are very different in both the reasons insurance is purchased and the nature of the risk insured. Because of the different insurance underwriting rules and marketing requirements, the characteristics of the individual and small employer market have historically been dramatically different. As a result, premiums in the current small group market are typically double those in the individual market. Not only should the SHOP and individual Exchanges remain separate due to the dynamics of the current individual and small group markets, but also for the changes likely to occur with the advent of Exchanges.

The individual Exchanges will include persons who were previously unable to obtain coverage due to medical conditions. Thus, the risk pool in the individual market may be more expensive than the employer pool. Small employers who continue to provide insurance for their employees should not bear any additional increased expense and premium that could result from the merging of the Exchanges.

Additionally, merging the two Exchanges initially will eliminate all differences between the two and may encourage employers to stop providing health insurance and have their employees seek individual coverage through the Exchanges. Given the heavily subsidized nature of employer based health insurance (often 80 percent of cost), the elimination of the employer plan may also discourage a portion of the more affluent young population, currently insured through their employer's plan, from purchasing insurance in the individual market, since they will not qualify for a Federal subsidy and may find it more economical to pay the penalty instead of the individual health premium.

### **National Association of Health Underwriters submitted by Jim Sugden, Colorado's Exchange Coordinator**

National Association of Health Underwriters (NAHU) recognizes that some state-level

## **Health Insurance Exchange Stakeholder Perspectives on Structure and Governance**

policymakers may have philosophical, political and or financial objections to PPACA generally, and/or the state-level exchange requirements specifically. However, NAHU firmly believes that any such objections should not preclude the state from establishing its own exchange. State-based exchanges are the only way for state policymakers to ensure that they unique interests of their constituents are being met and that unprecedented state-level policy control is not ceded to the federal government.

To save costs, increase efficiency and preserve the long-term health of the state’s private insurance markets, NAHU recommends the creation of one public exchange where both individuals and small-business owners can access coverage options, but with separate underlying infrastructures and risk pools. In addition, to increase competition and consumer choice, we feel each state should strongly consider allowing multiple competing private-market exchanges, along with any public exchange.

As for the possibility of regional exchanges, NAHU believes states need to be cautious because, due to variations in state laws and needs, a regional exchange could wind up actually being more costly and difficult to administer than separate state-based exchanges.

With regard to exchange design, NAHU feels that states should strive for the simplest administrative structure possible. Each state should utilize both its existing regulatory authorities and the current private health insurance marketplace structure, which provides thousands of jobs in each and every state, with as little disruption as possible.

### **The Colorado Health Foundation**

**Establish a Transparent, Multi-Stakeholder Governance Structure.** The State may elect to operate the Exchange within the State government or establish a non-profit entity to perform this function. Under either scenario, however, the implementation and ongoing operation of Exchange governance must be performed in a completely transparent manner that invites and considers input from all stakeholders, especially consumers. The Exchange should maintain an ombudsman position and commit sufficient resources to a consumer inquiry and complaint response mechanism.

**- Maintain Colorado Focus.** While partnership with other states may be considered if the benefits of scale outweigh the costs of joint administration, the State should attempt to maintain local control to ensure that the unique needs and preferences of Coloradans are met.

### **UnitedHealth Group**

Exchanges should be established at the state level as independent transparent entities with governing boards comprised of a broad range of stakeholders, including health plans, consumer representatives, employers and providers. The Exchange governance structure should limit politicized decision making, and Exchange administration should be transparent to the public. Efforts should be made to avoid duplicative regulatory oversight.

As governing boards consider the financial plan for an Exchange, user fees should be assessed on all health care industry participants, not just on those health plans participating in the Exchange.

## **Health Insurance Exchange Stakeholder Perspectives on Structure and Governance**

State decisions on whether to utilize separate or combined individual and SHOP Exchanges are likely to be based on the characteristics of the existing markets for individual and small group coverage and the inherent differences in covering these populations. PPACA includes provisions that have the potential to help individuals obtain and afford coverage, which may lessen or negate pre-reform policy arguments for merging the markets. We believe it would be prudent to allow these health care market reforms to take effect and be studied before additional changes are implemented in the marketplace.

Existing state rules have created different market dynamics for small group and individual coverage. Small group plans are already required to be guarantee-issue, and most states have rate bands or other rate limitations that have been in place for an extended period of time. Except in a limited number of states, individual plans are generally allowed to use medical underwriting, and there are fewer rating restrictions other than minimum medical loss ratio requirements. Small group and individual plans have different risk profiles, and there is greater potential for adverse risk selection in the individual market. Also, there are inherently higher administrative costs for individual coverage compared to small groups. Small groups have different eligibility, enrollment and general administration needs, and employers with more than 20 employees generally require a different type of customer service support.

Combining the two markets would likely result in rates that are higher for small groups and could destabilize the small group market. Furthermore, separate pools have the potential to encourage a full spectrum of participating plans that have core competencies with various Exchange populations.”

### **WellPoint**

#### **States Should Operate State-Based Exchanges**

- WellPoint believes that each state should design and operate their own exchange so that they best meet the needs of their own unique marketplaces.
  
- In creating its own exchange, a state will be able to take advantage of state flexibility provided under federal law to thoughtfully create an exchange that will work with the needs of its individuals and small businesses and allows states to adapt as market conditions in the state change.
  
- A competitive exchange that works in tandem with appropriate state agencies will facilitate access and promote plan choice, thereby helping individuals and small employers find a plan that meets their health care needs.

#### **Individual and Small Group Markets Should Remain Independent to Better Serve Distinct Markets**

- WellPoint believes it is important for states to maintain separate and distinct markets for individuals and small groups, regardless of whether or not a state decides to consolidate exchanges administratively to gain efficiencies. These separate markets would include separate risk pools, as combining risk pools for the individual and small group markets is likely to lead to higher rates for small groups due to adverse selection.

## **Health Insurance Exchange Stakeholder Perspectives on Structure and Governance**

- Maintaining separate markets will also allow health insurers to tailor benefit designs to meet the needs of each market, and thus better serve individuals and small employers.
- Additionally, WellPoint feels strongly that states should permit plans to decide whether or not to sell coverage to either or both of the markets– inside or outside of the exchange. Carrier choice in this regard will increase plan participation, encouraging competition and resulting in higher quality plans.
- Further, health plans should be able to continue to offer different products to the different markets to best serve the needs of consumers.

### **Exchange Governance Must Ensure Protection from Undue Influence, Knowledge of Insurance Markets, and Fiduciary Accountability**

- WellPoint believes that regardless of the governance structure, any state-based exchange should leverage existing state capabilities and efficiencies and include formal, ongoing consultation with key stakeholders relevant to carrying out the activities the exchange is required to conduct under federal law so that the exchange runs efficiently and is able to fulfill its key duties. Such stakeholders should include, at minimum, the following:
  - Consumers;
  - Health plan enrollment experts;
  - Department of Insurance representative(s);
  - State Medicaid office representative(s);
  - Consumer advocates who can assist in involving hard-to-reach populations;
  - Providers;
  - Small business owners and self-employed persons; and
  - Health insurers and HMOs marketing within the state.
- Further, WellPoint believes that it is imperative that the exchange have reporting and fiduciary accountability to appropriate state authorities, such as the department of insurance, state legislature or Governor’s Office.
- There must also be requirements that the governing body’s work be done in a transparent way and that there be a formal redress process in case issues should arise.
  - The governing entity of the exchange should not be an elected position as exchanges should be free from overt political influence concerning the plan choices available to individuals or small employers.
- Exchanges should develop governing documents that explicitly incorporate ethics standards, accountability to members, freedom from undue influence, transparency requirements and fiduciary standards.

### **Funding for Health Insurance Exchanges Should be Broad-Based**

- WellPoint believes that funding for health insurance exchanges should be broad-based so that the exchange is financially sustainable.

## **Health Insurance Exchange Stakeholder Perspectives on Structure and Governance**

- Health insurance exchanges should evaluate all available funding sources to support continuing administrative and operational expenses, including grants, fees, assessments and taxes — including tobacco taxes.
- If administrative and operational expenses of a health insurance exchange are to be supported by the insurance industry, such assessments should extend to the entire industry (not just those plans participating in the exchange) and should not exceed two dollars per member per month (PMPM). If such an assessment is levied on plans participating in the exchange, pricing within the exchange should allow for a pass through of this additional cost of doing business.
- Furthermore, all exchange assessments should be separated from general funds and used solely for the operation of the exchange.
- In addition, all assessments should be excluded from the calculation for Minimum Loss Ratio purposes, consistent with other state insurance assessments.
- Lastly, the governing body of the exchange should be accountable to the appropriate state entity with respect to the amount and use of the assessment.

### **Multi-state Exchanges Could Jeopardize Key Consumer Protections and Create Regulatory Confusion**

- WellPoint opposes the development of multistate or regional exchanges due to difficulties related to governing laws, enforcing consumer protections, and regulator jurisdiction.
- Achieving affordable, quality health care requires adequate rules to protect consumers and maintain confidence in the private health insurance market's ability to drive additional value and affordability—rules which multi-state exchanges put at risk.
- WellPoint embraces a competitive insurance environment; however, all competitors offering coverage to a given individual must be subject to the same rules and regulations.
- If the formation of multi-state exchanges is permitted to lower administrative costs among neighboring states, WellPoint urges the federal government to clarify that state insurance markets must remain separate and distinct.