



**Report to the  
Colorado General Assembly**

**Legislative Health Benefit  
Exchange Implementation  
Review Committee**

*Prepared by*

*The Colorado Legislative Council  
Research Publication No. 633  
December 2013*

# **Legislative Health Benefit Exchange Implementation Review Committee**

## **Members of the Committee**

Representative Irene Aguilar, Chair  
Senator Beth McCann, Vice-Chair

Representative Bob Gardner  
Representative Dianne Primavera  
Representative Amy Stephens  
Representative Max Tyler

Senator Kevin Lundberg  
Senator Jeanne Nicholson  
Senator Ellen Roberts  
Senator Jessie Ulibarri

## **Legislative Council Staff**

Amanda King, Research Analyst  
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## **Office of Legislative Legal Services**

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Kristen Forrestal, Senior Attorney

*December 2013*

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*This report is also available on line at:*

*<http://www.Colorado.gov/LCS/ExchangeReviewComm>*

## Committee Charge

In March 2010, federal health care legislation, also known as the Patient Protection and Affordable Care Act (PPACA), was adopted by the U.S. Congress and signed by the President. PPACA is intended to expand health care coverage by increasing access to private health insurance and public health programs through state-based health insurance exchanges. Health insurance exchanges are regulated marketplaces in which individuals and small businesses can shop for health insurance.

Under PPACA, state health insurance exchanges must be fully operational by January 1, 2014. States that did not take action to establish an exchange by January 1, 2013, are served by an exchange created by the federal government. In 2011, Colorado passed Senate Bill 11-200, which created a process for the implementation of the Colorado Health Benefit Exchange (exchange) by establishing the exchange's governance structure. The bill established the exchange as a nonprofit public entity with a board of directors responsible for its operation. The exchange now operates under the name Connect for Health Colorado.

Senate Bill 11-200 also established the Legislative Health Benefit Exchange Implementation Review Committee (committee) to guide the implementation of the exchange. State law authorizes the committee to:

- meet at least two times, but not more than five times, per calendar year;
- approve the appointment of the executive director of the exchange by the Colorado Health Benefit Exchange board of directors (board);
- review and approve the board's initial financial and operational plans;
- review annual financial and operational plans of the exchange;
- review and approve any grants for which the board wishes to apply; and
- recommend up to five bills for consideration by the General Assembly each year.

## Committee Activities

The committee held three meetings during the 2013 calendar year. At the meetings, the committee listened to presentations from the exchange board chair and the executive director of the exchange, as well as from the Department of Health Care Policy and Financing and the Colorado Division of Insurance. Topics discussed included:

- a federal grant application;
- an update on the implementation progress of the exchange; and
- health insurance issues under federal health care reform.

### **Approval of Federal Grant Application**

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Senate Bill 11-200 requires the exchange board to apply for planning and establishment grants made available to the exchange pursuant to the PPACA and gives it the authority to apply for, receive, and expend other gifts, grants, and donations. Each grant application is subject to review by the committee and must be approved, either: (1) by a majority vote of the committee; or



(2) by unanimous approval of the application by the board chair and the chair and vice-chair of the committee prior to the submission of the application.

At the meeting on May 7, 2013, Patty Fontneau, executive director of the exchange, and Gretchen Hammer, chair of the exchange board, presented the exchange's Level 2 Exchange Implementation Grant application to be submitted to the federal government. The Level 2 grant represented the last round of federal funding available to the exchange under PPACA to fund its implementation costs and first year of operations through the end of 2014. The grant application was approved for submission by the chair and vice chair of the committee on May 14, 2013. The federal government awarded the exchange \$116 million in Level 2 grant funding in July 2013.

### **Implementation Progress of the Colorado Health Benefit Exchange**

Connect for Health Colorado opened to the public on October 1, 2013, with consumers able to shop for health insurance coverage taking effect on January 1, 2014. At the meeting on September 5, 2013, the committee received a final status update from Ms. Fontneau and Ms. Hammer prior to the opening of the exchange. The open enrollment period for individuals to purchase insurance coverage through the exchange for 2014 runs from October 1, 2013, to March 31, 2014.

The committee also met on November 22, 2013, to receive a status update on the exchange's first month of operations. Ms. Fontneau reported that more than 6,000 people had selected a health plan as of mid-November. The committee received an update on technical problems with the exchange website in the initial weeks of operation and heard about the exchange's plans for dealing with the expected increase in the number of consumers shopping for health insurance as the end of the open enrollment period approaches. Representatives from the Department of Health Care Policy and Financing also discussed the process for consumers to complete a Medicaid application when seeking financial assistance to purchase health insurance through the exchange.

### **Health Insurance Issues Under Federal Health Care Reform**

At the meeting on November 22, 2013, the committee also heard about and discussed other issues that have arisen in Colorado and the nation during the implementation of the PPACA. The two main issues were: (1) the cancellation of health insurance policies that did not meet the minimum requirements of PPACA; and (2) the high costs of health insurance in mountain resort communities in Colorado. Colorado Insurance Commissioner Marguerite Salazar testified before the committee on these issues. She stated that Colorado is moving forward with implementation of the exchange and the health insurance policies created to be sold in that marketplace; no changes are anticipated to allow the renewal of cancelled plans. Concerning the high cost of insurance in mountain communities, the commissioner described the insurance rating process and stated that changes for the 2014 rates were not possible. She indicated that the Division of Insurance will consider changes for 2015 rating areas.



## Summary of Recommendations

The committee did not discuss or recommend any legislation for consideration by the General Assembly during the 2014 legislative session. The committee approved one grant application submission by the exchange (Attachment A) and issued a letter concerning federal rules on eligibility for premium tax credits to persons purchasing health insurance through a state health care exchange (Attachment B.) These documents are attached at the end of the report.

## Resource Materials

Meeting summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of committee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

<http://www.colorado.gov/cs/Satellite/CGA-LegislativeCouncil/CLC/1251623020674>

## Meeting Date and Topics Discussed

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May 7, 2013

- ◆ Exchange federal grant application

September 5, 2013

- ◆ Mental health benefits under the PPACA
- ◆ Update on implementation of the health benefit exchange

November 22, 2013

- ◆ Update on exchange operations
- ◆ Medicaid applications for persons purchasing insurance through the exchange
- ◆ Health insurance policy cancellations and high-cost rating areas

COLORADO GENERAL ASSEMBLY

Senate Members  
Sen. Irene Aguilar, Chairman  
Sen. Kevin Lundberg  
Sen. Jeanne Nicholson  
Sen. Ellen Roberts  
Sen. Jessie Ulibarri



House Members  
Rep. Beth McCann, Vice-chair  
Rep. Bob Gardner  
Rep. Dianne Primavera  
Rep. Amy Stephens  
Rep. Max Tyler

**Legislative Health Benefit Exchange Implementation Review Committee**

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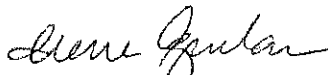
May 14, 2013

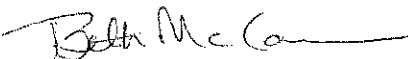
Ms. Gretchen Hammer  
Chair, Board of Directors  
Colorado Health Benefit Exchange  
3773 Cherry Creek North Drive, Suite 1025  
Denver, Colorado 80209

Dear Ms. Hammer:

This letter is to inform the Board that the Chair and Vice-Chair of the Legislative Health Benefit Exchange Implementation Review Committee, pursuant to Section 10-22-106 (1)(c), C.R.S., hereby approve the Level Two Exchange Establishment Grant application to be submitted to the federal government on or before May 15, 2013.

Sincerely,

  
\_\_\_\_\_  
Senator Irene Aguilar, Chair

  
\_\_\_\_\_  
Representative Beth McCann, Vice-Chair

cc: Patty Fontneau

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 Sen. Jessie Ulibarri



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### Legislative Health Benefit Exchange Implementation Review Committee

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October 18, 2013

The Honorable Jacob L. Lew  
 Secretary, U.S. Department of the Treasury  
 1500 Pennsylvania Avenue, NW  
 Washington, D.C. 20220

Dear Mr. Lew:

We are writing to you on behalf of the Colorado Health Benefit Exchange Implementation Review Committee (Committee) concerning eligibility for a health insurance premium tax credit under the Patient Protection and Affordable Care Act (ACA) (26 C.F.R. 1.36B-2). We are concerned that the final rule creates a situation where an employee will have access to affordable health insurance, but the employee's family may not be able to access affordable health insurance or premium tax credit subsidies.

The final rule states that if the cost of self-only coverage for an employee does not exceed 9.5 percent of the taxpayer's household income, then coverage would be considered affordable for the employee's family, regardless of the cost of family coverage. Dependent children and spouses would then be denied access to premium tax credit subsidies under the Exchange and be potentially left without any affordable health care coverage. In light of this concern, we ask you to consider amending the rule to establish an affordability threshold for the cost of family coverage in addition to the existing threshold for self-only coverage.

Colorado has been working since 2011 to establish the Colorado Health Benefit Exchange (Exchange). The Exchange is a nonprofit public entity that is governed by a Board of Directors with oversight by the Committee. The Committee consists of members of the legislature who are charged with overseeing the financial and operational plans of the Exchange.



The Honorable Jacob L. Lew  
October 18, 2013  
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Please let us know if you will be able to amend the rule to establish an affordability threshold for the cost of family coverage in addition to the existing threshold for self-only coverage.

Sincerely,



Senator Irene Aguilar, Chair



Representative Beth McCann, Vice-Chair

c:     Senator Kevin Lundberg     Representative Bob Gardner  
       Senator Jeanne Nicholson    Representative Dianne Primavera  
       Senator Ellen Roberts       Representative Amy Stephens  
       Senator Jessie Ulibarri     Representative Max Tyler

Colorado Health Benefit Exchange Board of Directors

Mark J. Mazur, Assistant Secretary (Tax Policy), U.S. Department of the Treasury  
Daniel I. Werfel, Acting Commissioner, U.S. Internal Revenue Service  
Kathleen Sebelius, Secretary, U.S. Department of Health and Human Services