

# STATE-RUN HEALTH EXCHANGES: AN NCSL INTERIM PROGRESS REPORT

For the Colorado Legislative Health Benefit Exchange  
Implementation Review Committee

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# NCSL & State Legislative Roles

- NCSL Health Program, based in Denver
- All 7,383 elected legislators & staff are full members.
- Bi-partisan and objective facts.
  - No pro or con positions on state policies.
  - A forum for state policy choices, options, responses and innovations.
- Most popular answer: “What are other states doing...?”

# Topics for Exchange Legislative Oversight

- How other state exchanges are faring
  - What challenges they are facing; how are they responding
- Degree of success in enrolling customers
- Smoothness of IT operation
  - Problems with information input
  - Tax Credit calculations
- Oversight committee(s) Legislative vs. Executive
  - Roles, projects, meetings
  - Selection of leaders/Board/ Legislative oversight
- Federal roles in compliance / intervention
  - Record of violations or penalties
- Integration with Medicaid
- Fiscal sustainability
- Summary / conclusions ...

# Exchange/Marketplace structures continue with variations

- **14** State-based Exchanges/Marketplaces
- **3** Federally-supported Marketplaces  
(Considered State Based [SBE]; negotiated in 2014 for NM, NV, OR)
- **7** State-Partnership Marketplaces
- **27** Federally-facilitated Marketplaces  
(3 of these states run SHOP only: MS, NM, UT)
  
- Source: NCSL research; [www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/state-marketplaces.html](http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/state-marketplaces.html)



# Comparing State-Based Exchanges

- ❑ High enrollment rates: VT, DC, CT, ID
- ❑ Positive reviews: CT, KY, WA
- ❑ High Re-enrollment, 2014 to 2015: CT, KY, **CO**, NM
- ❑ Positive, with Major Challenges: HI, MA, MD, OR
- ❑ IT challenges: MA, VT, MD, NV, OR, NM
- ❑ No single measure of success.

# Enrollment by the Numbers: State-Based

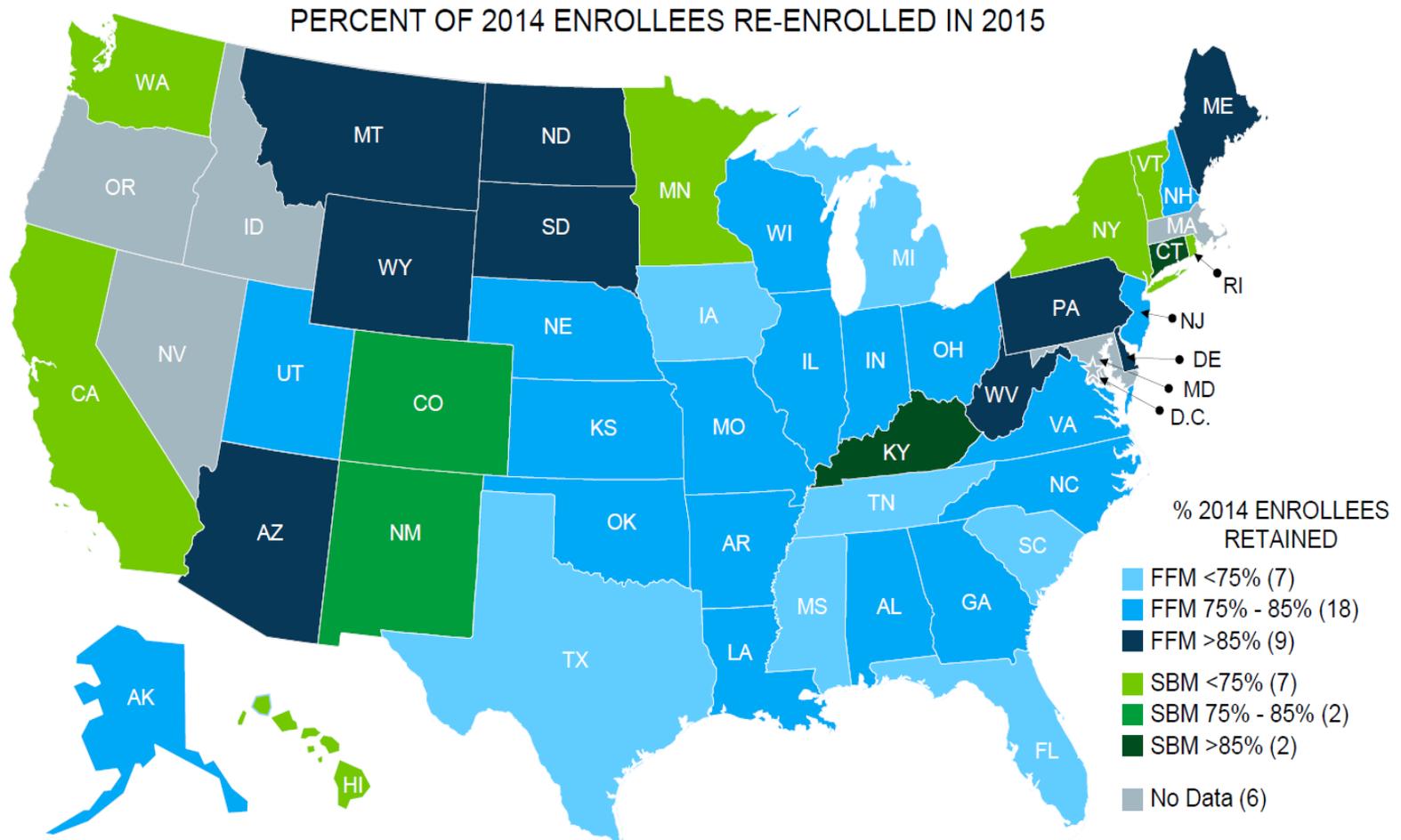
Location	Marketplace Type	Individuals who have Selected a 2015 Marketplace Plan	Estimated # of Potential 2015 Marketplace Enrollees	Percent of Potential Marketplace Population Enrolled
California	State-based Marketplace	1412200	3245000	0.44
Colorado	State-based Marketplace	140327	571000	0.25
Connecticut	State-based Marketplace	109839	224000	0.49
Dist. of Columbia	State-based Marketplace	18465	33000	0.57
Hawaii	State-based Marketplace	12625	55000	0.23
Idaho	State-based Marketplace	97079	217000	0.45
Kentucky	State-based Marketplace	106330	261000	0.41
Maryland	State-based Marketplace	120145	458000	0.26
Massachusetts	State-based Marketplace	140540	385000	0.37
Minnesota	State-based Marketplace	59704	275000	0.22
Nevada	Fed-supported State-based	73596	256000	0.29
New Mexico	Fed-supported State-based	52358	156000	0.34
New York	State-based Marketplace	408841	1246000	0.33
Oregon	Fed-supported State-based	112024	324000	0.35
Rhode Island	State-based Marketplace	31337	73000	0.43
Vermont	State-based Marketplace	31619	45000	0.70
Washington	State-based Marketplace	160732	503000	0.32

Source: Kaiser State Health Facts – unofficial est. of potential enrollees as of 2/11/2015

# Enrollment by the numbers: State-Partnership

Location	State-Partnership Marketplace Type	# of Individuals who have Selected a 2015 Marketplace Plan	Estimated Number of Potential 2015 Marketplace Enrollees	Percent of Potential Marketplace Population Enrolled
Arkansas	State-Partnership Marketplace	65684	254,000	0.26
Delaware	State-Partnership Marketplace	25036	48000	0.53
Illinois	State-Partnership Marketplace	349487	954000	0.37
Iowa	State-Partnership Marketplace	45162	225000	0.20
Michigan	State-Partnership Marketplace	341183	689000	0.49
New Hampshire	State-Partnership Marketplace	53005	104000	0.51
West Virginia	State-Partnership Marketplace	33421	106000	0.32

# Comparing Re-Enrollment Results



# State Exchanges “Must get creative”

- HealthCare.gov: “beating the state-run exchanges in both retention and new enrollment.”
  - Federally facilitated exchange states re-enrolled 78%, between 2014 to 2015, on average.
  - State-based exchanges collectively re-enrolled 69%, between 2014 to 2015.
  - California retained 65% of its enrollees.
  - Kentucky had 94.4% re-enrollment.

- Avalere 4/7/2015, figures as of Feb. enrollment deadline



Example:

# State-Specific Paid Ads (New Mexico)

**beWell nm.com**

## Everyone needs health Insurance.

**Cancel We're OPEN**

**beWell nm**  
CALL 855.996.6449 or visit [beWellnm.com](http://beWellnm.com)

**beWellnm, New Mexico's Health Insurance Exchange, is open for enrollment.**

Now is the time to enroll for health coverage — and we're the place to shop, compare and buy a plan that fits your health and your budget. And we're here to help. Visit us online or call for each step, or to meet with a local agent, personal or independent consultant. We'll take you through the process step-by-step, and our services are completely free. So head on, the shopper will be received through beWellnm.

- Need help getting started? We're here for you.** We have a team of experts to help you understand your options and choose the right plan for you.
- You may qualify for financial assistance.** We can help you determine if you qualify for financial assistance to help pay for your health insurance.
- Your deductible is as low as \$1,200.** We offer a variety of plans with deductibles as low as \$1,200.
- Access to quality providers nationwide.** We offer a variety of plans with access to a network of quality providers nationwide.
- Even small businesses can get great coverage.** We offer a variety of plans with great coverage for small businesses.

**beWell nm.com**  
THE PLACE TO SHOP, COMPARE AND BUY HEALTH INSURANCE. *Affordably.*

nmhix | NEW MEXICO'S HEALTH INSURANCE EXCHANGE | [beWellnm.com](http://beWellnm.com) | 1.855.996.6449

# State Outreach Examples:

## Storefronts; Outdoor events

- **Colorado:** A model for others!
- **Mass.:** On the Field at Fenway Park...
- **Conn.:** Included broadcast  
“advertising in English and Spanish,  
major and ethnic newspapers, billboards, and posters in  
convenience stores, clinics, beauty salons and barber  
shops.”



## Structure Examples:

# Exchanges Reporting to Legislatures

- **Mass.:** Joint Healthcare Financing Comm.
- **Hawaii:** Connector Legislative Oversight Comm.
  - ▣ *2014 Legislation: Act 233*
- **New Mexico:** Interim Health & HS Comm.
  - ▣ Exchange reports at every legislative meeting, 12x year
- **Rhode Island:** monthly reports to legislature
- **Conn.:** Office of Health Reform and Innovation (*created by PA 11-58*)
  - ▣ Must report annually to legislature & others; additional communication
  
- **NCSL Resource:** “**Separation of Powers & Legislative Oversight**”
- **Examples from NCSL – (handouts)**

# Examples: Public disclosure

[311 Online](#) [Agency Directory](#) [Online Services](#) [Accessibility](#)



Search DC.gov



DC.gov  hbx.dc.gov

## Health Benefit Exchange Authority

[HBX Home](#) [Consumers](#) [Carriers](#) [Brokers](#) [Small Businesses](#) [News & Updates](#) [Board & Committees](#) [Assisters](#) [About HBX](#)

SHARE

**FROM OCTOBER 1, 2013 TO MARCH 8, 2015, 89,852 PEOPLE HAVE ENROLLED IN HEALTH INSURANCE COVERAGE THROUGH DC HEALTH LINK IN PRIVATE INSURANCE OR MEDICAID:**

**21,784** People enrolled in a private qualified health plan.

**52,115** People have been determined eligible for Medicaid, and

**15,953** People enrolled through the DC Health Link small business marketplace (includes Congressional enrollment).

### DC Health Link Statistics

The DC Health Benefit Exchange Authority releases new data covering the period of October 1, 2013 - March 8, 2015.

[Learn More](#)

1 2 3 4 5 [DC Health Link Statistics](#)



# Anticipated Changes to State Marketplaces- 2015

States will continue to modify their marketplaces to address state needs and to provide additional functionality to their customers. The following states are planning for major changes to their marketplaces during 2015:

- **Arkansas:** issued a Request for Proposal (RFP) on November 10, 2014 to implement a SHOP marketplace. Arkansas plans to launch a state-based marketplace for individuals in 2017.
- **Massachusetts:** issued an RFP in November 2014 to implement a SHOP marketplace in 2015.
- **New Mexico:** plans to move to a state-based marketplace for 2016 Open Enrollment. NM is currently a federally supported state-based marketplace that operates its own SHOP marketplace.
- In 2014, **Illinois** declared its intention to transition from a state partnership marketplace to a state-based marketplace during 2015, but the bill to enact this change did not pass the Illinois House.



# Integration of Exchanges & Medicaid (Example: **New Mexico**)

## Fundamental Problems with the ACA and Eligibility

- Medicaid Eligibility
  - Utilizes current income information for verification
  - Does not require the use of federal tax information
  - No specified reasonable compatibility standard
- Exchange Eligibility
  - Must use federal tax information
  - Verification is based on IRS reported income
  - Ten percent (10%) reasonable compatibility standard

NEW MEXICO HUMAN SERVICES DEPARTMENT



# Example: IT Progress and Challenges



## Technology Transition Project

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[Overall Transition Project](#)

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[Qualified Health Plan Transition Project](#)

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[MAGI Medicaid Transition Project](#)

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[System Integrator Documents](#)

This page contains documents regarding Cover Oregon's transfer of Medicaid eligibility and enrollment to the Oregon Health Authority and use of the federal technology for private plan eligibility and enrollment.



# The Federal Platform: CMS & [HealthCare.gov](http://HealthCare.gov)

**HealthCare.gov** Individuals & Families Small Businesses Log in Español

Get Coverage Change or Update Your Plan Get Answers - Search SEARCH

## You can still get 2015 health coverage

You may be able to enroll if you owe the fee for not having 2014 coverage, have certain life changes in 2015, or qualify for Medicaid or CHIP

[SEE IF YOU CAN GET COVERAGE](#)

Want a [quick overview](#) first?

**OWE THE FEE FOR NOT HAVING 2014 COVERAGE?** [GET A 2015 PLAN](#)

 <b>FORM 1095-A INFO</b> <a href="#">GET ANSWERS</a>	 <b>TAX QUESTIONS?</b> <a href="#">GET TOOLS &amp; ANSWERS</a>	 <b>GET 2014 EXEMPTIONS</b> <a href="#">FIND EXEMPTIONS</a>	 <b>COVERAGE TO CARE</b> <a href="#">SEE ROADMAP</a>
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**SIGN UP FOR IMPORTANT NEWS & UPDATES**  
Get ready for the next Open Enrollment period. Sign up for email and text updates to get deadline reminders and other important information.  
 [SIGN UP](#)

**HEALTHCARE.GOV BLOG**

**April 17**  
Is your Form 1095-A correct?

**March 20**

APRIL 2015



NATIONAL CONFERENCE of STATE LEGISLATURES

# HHS Regulations, Guidance, HHS Regional Office, State Liaisons, NCSL Resources

- NCSL follows CMS and CCIIO releases and regulations. State-Federal Health Policy staff in NCSL D.C. office
  - Joy Johnson Wilson and Rachel Morgan



# Examples: State Fiscal Sustainability

## State-Based Marketplace Financing Mechanisms for Individual Marketplaces\*

\* This table reflects state-based marketplace decisions for individual marketplaces as of October 15, 2014, for policy or plan years beginning on or after January 1, 2015. Some states are using multiple funding sources.

<sup>1</sup> Oregon and Washington State also have broad-based assessments on insurers selling both inside and outside of the marketplaces. However, Cover Oregon and the Washington Health Benefit Exchange retain the assessment only from the plans sold through the marketplaces.

<sup>2</sup> Kentucky and Maryland applied an existing assessment on insurers throughout the state to marketplace operations. PMPM is per member per month.

Long-Term Revenue Source to Fund Marketplace Operations	States	Additional Info
Assessment only on plans offered through the marketplace <sup>1</sup>	California, Hawaii, Idaho, Massachusetts, Minnesota, Nevada, Oregon, Washington	Washington instituted an additional \$4.19 PMPM assessment on marketplace carriers to supplement its share of the state's existing 2% premium tax.
Broad-based assessment on plans inside and outside of the marketplace <sup>2</sup>	Colorado, Connecticut, District of Columbia, Kentucky, Maryland	Colorado is assessing a \$1.25 PMPM fee on all plans offered inside and outside of the marketplace in addition to a 1.4% assessment only on marketplace plans, as well as using revenue from other sources.
State appropriations only	New York	
Long-term financing mechanism not finalized  <i>Source: Commonwealth Fund Report "</i>	New Mexico, Rhode Island, Vermont	Vermont is temporarily funding its marketplace through June 2015 through its State Healthcare Resources Fund, which is funded through an insurer assessment, employer assessment, and other revenue streams. Rhode Island is using federal grant funds while developing a sustainability plan.

Example:

## Connecticut Exchange: Selling its Model

### Access Health CT

- ❑ Marketing the expertise of its people and the processes it has developed to other states.
- ❑ A separate business, Access Health Exchange Solutions, “in an effort to lessen the cost of development for states seeking to transition from the federally facilitated marketplace, and to help sustain Access Health CT.”
- ❑ Wants to sell vision and oral health policies
- ❑ Maryland – 1<sup>st</sup> customer

*Source: Access Health testimony to Conn, General Assembly, 3/3/2015*

# The Future of Insurance Reform: Emerging Issues and State Flexibility

- **Essential Health Benefits (EHB) benchmark framework**
  - How will states adjust benchmark plans for 2017?
- **Adequacy of provider networks**
  - Fewer levers to affect premiums – network design remains
  - State pushback against “narrow” networks?
- **Transparency**
  - Insurer data is critical to assessing consumer experience
    - E.g., EHB, network adequacy
  - Will States move ahead with implementation of transparency requirements?
- **Nondiscrimination**
  - Will States take further steps to limit discriminatory benefit designs?
- **External events will matter; e.g. King v. Burwell**

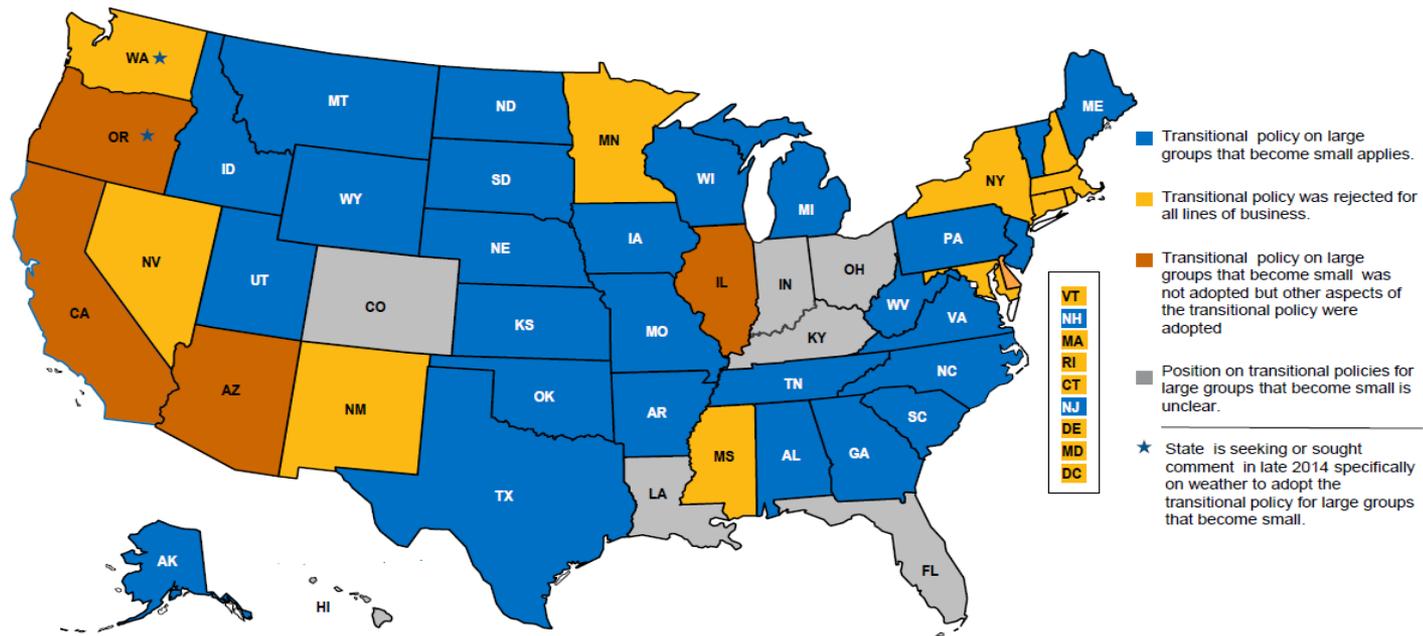
# Roles of Insurance Reform

## State Responses to Transitional Policy for Large Groups that Become Small in 2016

(as of February 2015)



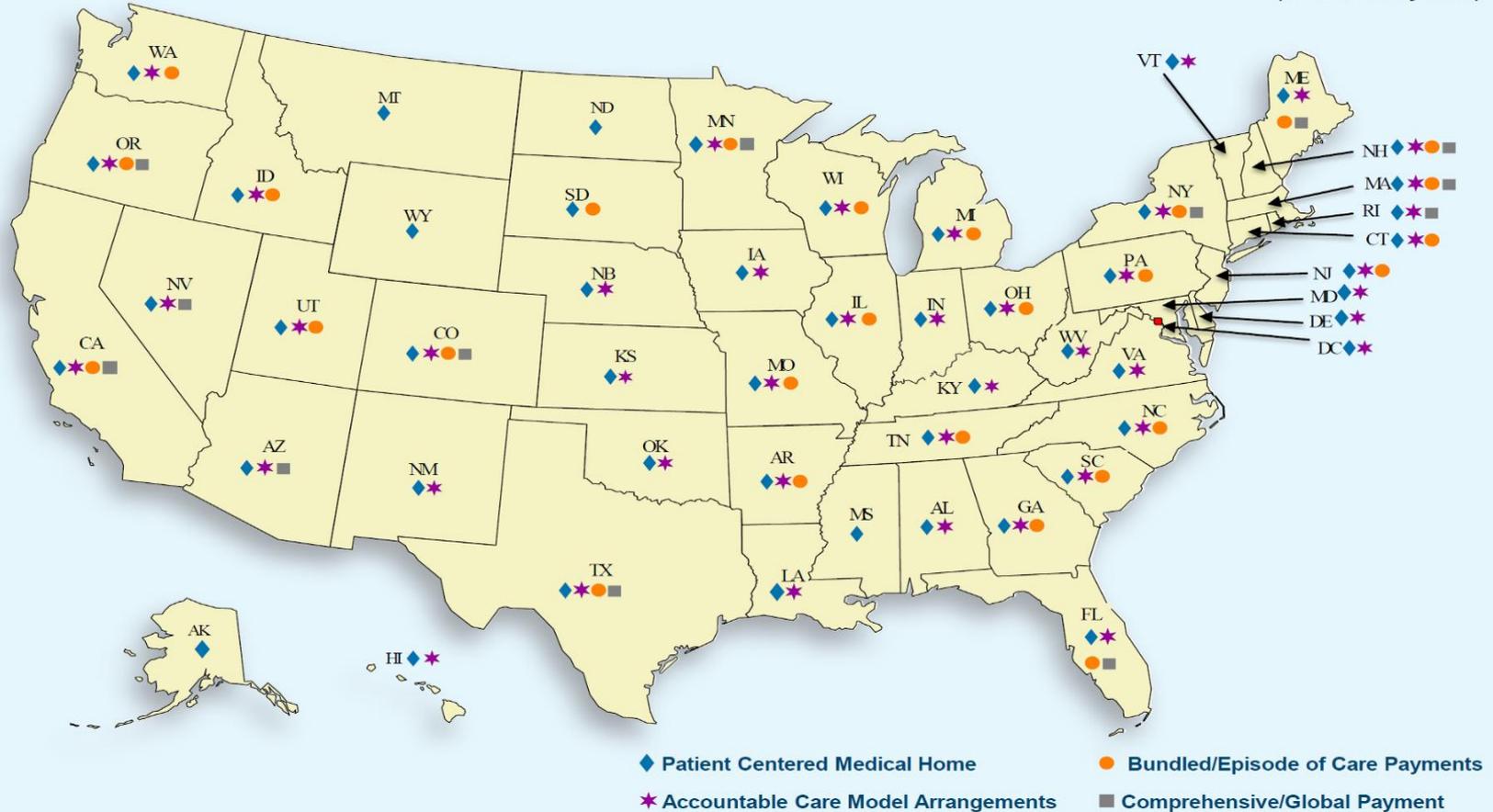
See the [AHIP chart](#) on state responses to the [November 14, 2013](#) and [March 5, 2014](#) transitional policies for more detail on state responses.



# (Health Insurance) Network Innovation

## Delivery and Payment Models—Private Sector Initiatives

(as of January 2015)



NOTE: Icons may represent multiple partnerships within the state

\*The map is current as of January 2015. As new programs are identified the map will be updated accordingly.

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Questions Posed by Members:

**Q) Competing with the “Outside Market” and Private Exchanges.**

There is an indication that some insurers are encouraging people who don't need a subsidy to purchase their insurance outside the exchange (or if they only qualify for a small subsidy)

**A)** Have not heard of this in other states. Only real advantage is if the off-Exchange carrier does not sell on the Exchange. This, theoretically, could lead to a healthier pool, though they then have to deal with the risk adjustment.

-Answer in consultation with NAIC, 4/27/2015

**Q) Are some providers not accepting patients who purchased their plans with a subsidy** out of fear that the patient will not pay the premium and they will be at financial risk. Has this been noted in other states?

**A)** Have not heard this about providers. Not sure most state laws would allow a provider to deny one patient on a plan but accept another.  
“Fair play” rules guarantee equal access at fair prices for all enrollees.

**Q) Are third party payors permitted to make premium payments to health insurance issuers for qualified health plans on behalf of enrolled individuals?**

**A)** “HHS has significant concerns with this practice because it could skew the insurance risk pool and create an unlevel field in the Marketplaces.

HHS discourages this practice and encourages issuers to reject such third party payments. HHS intends to monitor this practice and to take appropriate action, if necessary.”

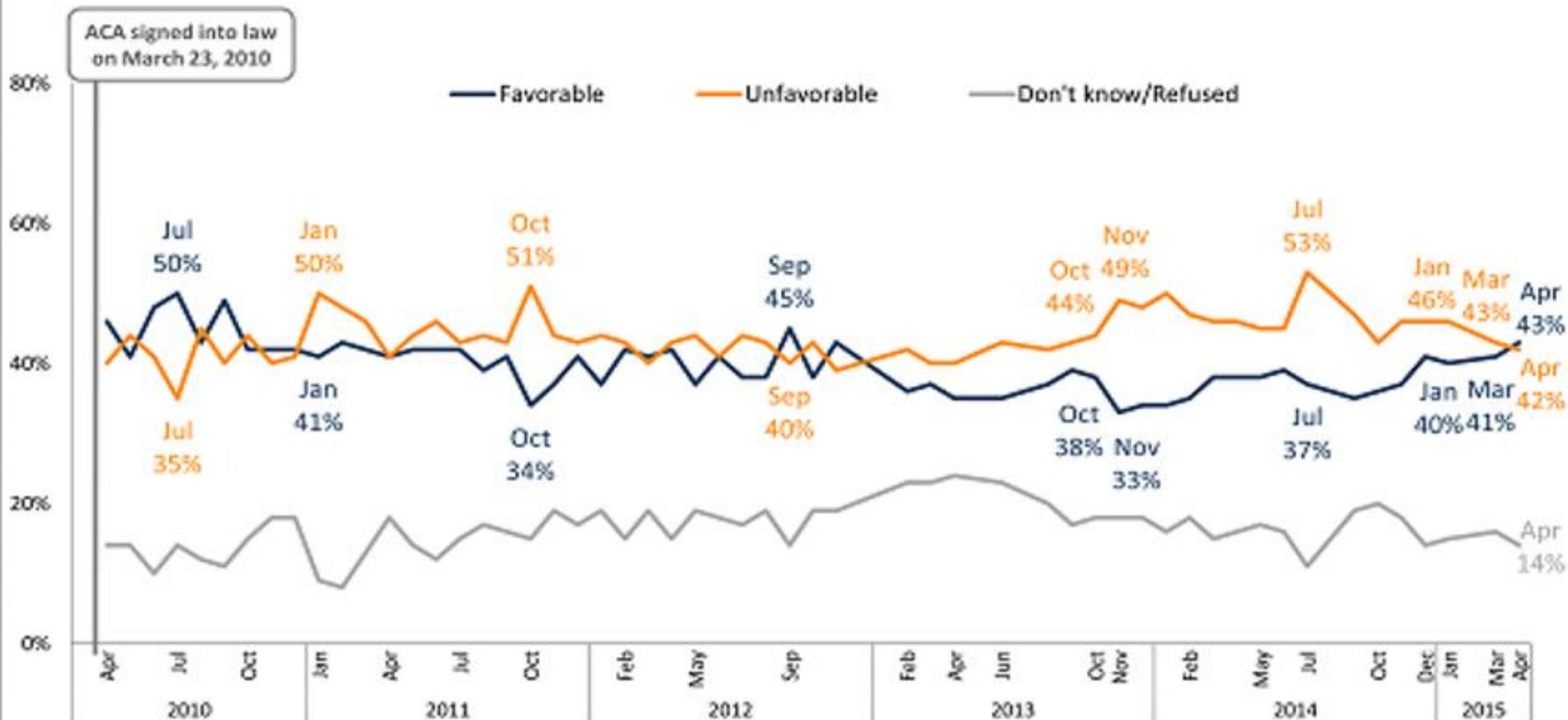
The Department of Health and Human Services (HHS) has broad authority to regulate the Federal and State Marketplaces (e.g., section 1321(a) of the Affordable Care Act). It has been suggested that hospitals, other healthcare providers, and other commercial entities may be considering supporting premium payments and cost-sharing obligations with respect to qualified health plans purchased by patients in the Marketplaces.

*Source: CMS memo of 11/4/2013*



# Public's View Of The Law Remains Divided, But Has Narrowed Recently

As you may know, a health reform bill was signed into law in 2010. Given what you know about the health reform law, do you have a generally favorable or generally unfavorable opinion of it?



NOTE: Data not collected for Dec 2012, Jan 2013, May 2013, Jul 2013, Aug 2014, and Feb 2015.

SOURCE: Kaiser Family Foundation Health Tracking Polls



# The 2015 Supreme Court Case:

- The issue: Is the IRS correct that the following statutory language, **exchanges “established by the state,”** can also include federal exchanges?
- Expected June 2015 decision – can affect more than 8 million enrollees in 30 + states.
- Implications for State Based Exchange state government
  - ▣ No loss of subsidies within Colorado?
  - ▣ Potential disruption of commercial market?

# “1332” Innovation Waivers:

## *An Opportunity for States to Pursue Own Brand of Health Reform*

- In 2017, section 1332 of the ACA invites states to find alternative ways to meet the coverage goals of the law while staying within its fiscal constraints.

### **What May Be Waived?**

States may propose alternatives to “four pillars” of the ACA

- **Benefits and Subsidies.** States may modify the rules governing covered benefits, as well as the subsidies that are available through the marketplaces.
- **Marketplaces and Qualified Health Plans.** States may replace their marketplaces or supplant the plan certification process with alternative ways to provide health plan choice, determine eligibility for subsidies, and enroll consumers in coverage.
- **The Individual Mandate.** States may modify or eliminate the requirement.
- **The Employer Mandate.** States may modify or eliminate the requirement.

# Future “Waiver Guardrails”

State 1332 Innovation Waivers must satisfy four criteria:

- ❑ **Comprehensive Coverage.** States must provide coverage that is “at least as comprehensive” as coverage absent the waiver.
- ❑ **Affordable Coverage.** States must provide “coverage and cost-sharing protections against excessive out-of-pocket spending that are at least as affordable” as coverage absent the waiver.
- ❑ **Scope of Coverage.** States must provide coverage to “at least a comparable number of residents” as would have been covered without the waiver.
- ❑ **Federal Deficit.** The waiver must not increase the federal deficit.



# For more information / questions?

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