

SMALL
EMPLOYER
TECHNICAL
WORKGROUP
REPORT

Report to the Exchange Advisory Task Force

November 20, 2012

Reported by Manny Munson-Regala

Executive Summary

The SETWG recommends that in making policy and operational decisions for the SHOP exchange, particular attention should be focused on reducing costs for small employers and their employees, reducing the administrative complexity of providing insurance and increasing the number of choices open to those participants.

The SETWG recommends additional study be done on: the role of brokers in the SHOP exchange, additional market research targeted at employers, review of both size of markets and merger of markets and creation of an advisory group if and when the SETWG concludes its work.

Background- On March 23, 2010, President Obama signed the Patient Protection and Affordable Care Act (PPACA). Among the various provisions in the PPACA was a requirement that either states or the federal government create “Health Insurance Exchanges” in each state. Those exchanges are intended to be a marketplace where individuals can compare policies and premiums and buy insurance.

In October of 2011, Governor Mark Dayton issued Executive Order 11-30 which, among other initiatives, directed the Minnesota Department of Commerce to design and develop a Minnesota Health insurance exchange.

In order to inform this work, Commissioner Mike Rothman appointed an Exchange Advisory Task Force to provide him with input on a number of issues related to that design and development.

Assisting the work of the Task Force was a number technical work group, including the Small Employer Technical Workgroup (SETWG). This report summarizes the work of the SETWG through this date.

Members of the SETWG included:

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Peter Obermeyer, Arbeider, Inc.

Ed Oliver, insurance agent/former legislator

Susan Olsen, the Minneapolis Foundation

Steve Overholser, Great Clips Inc.

John Pratt, Minnesota Council of Nonprofits

Shirley Spraguer, Insurance Advisors, Inc.

Rick Varco, SEIU

The SETWG had a total of 9 meetings prior to the issuance of this report. Meetings covered:

- federal requirements pertaining to SHOP,
- the state of the current small group market,
- results of the market research on employers and employees,
- discussion over what decisional tools should be provided to small employers and employees in a SHOP exchange,
- how best to leverage tax advantaged vehicles in SHOP and
- The beginning of dialogue around defined contribution.
- The SETWG also identified additional issues that it believes are worthy of further conversation.

Applicable Law- Section 1311 of the Affordable Care Act (ACA) directs each State that chooses to operate an Exchange to establish insurance options for small businesses through a Small Business Health Options Program (SHOP). Under the ACA, policymakers had certain factors to consider in setting up their SHOP exchanges:

1. States could choose to combine administrative functions for their individual and SHOP exchange.

2. States could choose to combine their risk pools.
3. States could choose to limit eligibility for SHOP exchanges to 50 or less until 2016 (when they must be expanded to 100).
4. States have the option to open SHOP exchanges to groups over 100 after 2017.
5. Small employers will have access to a tax credit in SHOP exchanges.

In addition to those statutory provisions, additional guidance about SHOP exchanges was provided in the final exchange regulations. Some notable requirements or guidance included:

1. The ability for a SHOP exchange to decide whether to include a participation rule.
2. Allow employers to select a level at which all QHPs will be available, select only one plan or allow choice across all the metal levels.
3. Absent merger of the markets, employees may only enroll in small group market plans.
4. SHOP exchanges must offer premium aggregation. SHOP exchanges shall bill employers and remit payments to QHP issuers (the direct payment option available for individuals is not available in the SHOP).
5. SHOP must limit QHP rate changes to a uniform timeline.
6. SHOP exchanges must offer premium calculators.

Current Minnesota Market- Minnesota state law currently defines the small group market as group insurance sold to groups 50 or smaller (therefore, absent legislative action to the contrary, only employers meeting that definition will be eligible to participate in a Minnesota SHOP Exchange). Out of a state population of 5.3 million, roughly 360,000 or 6.8% individuals obtain their insurance through this small group market. This percentage reflects a downward trend in the number of small employers offering insurance (from roughly 10% in 2000). Three insurers, BCBS, Medica and HealthPartners, have the bulk of the market share with Preferred One and Federated Mutual Ins. Co. filing out the balance of the market. For more information on the status of the small group market please see the Minnesota Health Care Access Survey at <https://pqc.health.state.mn.us/mnha/PublicQuery.action>

A number of existing MN small group laws that may or will be modified by the ACA includes:

- Rate bands
- Medical Underwriting
- Gender Underwriting
- Age Underwriting
- SIC Code Underwriting

- Minimum Actuarial Values
- Essential Health Benefits

We would recommend that implementation of those changes be done in such a way as to minimize disruption of the market.

Market Research- Minnesota has conducted two recent studies pertaining to the exchange, the ACA and the small group market.

The first report was conducted by Jon Gorman and Bella Gruber. See,

<http://mn.gov/commerce/insurance/images/ExchGruberGormanFinalReport4-12.pdf>

They were hired by the Minnesota Department of Commerce to assess the impact of the ACA on the state; in particular the impact on insurance coverage, pricing and budgets.

Some relevant small group findings include:

- Number of uninsured is expected to decrease by 290,000, with 78,300 of those uninsured being covered by employer-sponsored insurance (ESI).
- Bulk of the coverage change will occur in the individual market with little change in ESI.
- Projected enrollment in the Exchange is 1.2 million Minnesotans (though this assumes expansion of the SHOP exchange to 100). Projected SHOP enrollment in firms up to 50 employees is 160,000 with another 30,000 if SHOP was set at 100.
- Projected impact on small group premiums from the ACA or Exchange appears flat, though the authors suggest that managed competition effects may have some moderating impact. The authors did not study the impact of the small employer tax credit on overall cost.

An updated analysis by Gruber-Gorman should be coming out soon. One caveat about Gruber-Gorman: a number of the members of the small employer work group expressed reservations about the methodology and data and indicated they will be expressing those observations separately.

The other relevant market study policymakers may wish to review is the “Minnesota Exchange Communications: Full Market Research Findings” report issued in August 2012.

See, <http://mn.gov/commerce/insurance/images/ExchReportPubEducation-Outreach8-12.pdf>

The research firm of Salter-Mitchell was hired to conduct market research to help inform communication, public awareness and engagement strategies for the exchange. Some key findings:

- The majority of businesses offering health insurance to employees rely on a broker for assistance. Of those companies, the majority has held relationships with their broker for 5 years or more. Some relevant broker results:
 - When asked if they trusted brokers to select an appropriate plan, 55% of employer “strongly” agreed with another 34% “somewhat” agreeing.
 - When asked if they still trusted brokers despite the commission compensation structure, 46% strongly agreed with another 42% somewhat agreeing.
 - When asked would they be willing to pay brokers if commissions were eliminated, 17% said they strongly supported that structure with 40% expressing some interest.
- With the emotion of family and health removed, cost may be an even bigger factor for businesses than consumers. Affordability is clearly the main reason insurance isn’t offered. The cost uncertainty of rising premiums and the instability of such a small pool of individuals (under 10 for most) make it difficult for employers to be able to project costs when making decisions.
- Less than 20% of small businesses are aware of a site that allows for insurance comparison and purchase. However, there is interest in using such a site, even among those using brokers.
- Only a quarter of small businesses were interested in providing contribution amounts for employees to apply themselves or a system where employees choose from a list of approved plans.
- Just over half of businesses would need to know 75% of insurance plans on the market were featured in the exchange. Nearly a quarter would need 100% to be represented.
- The majority of small businesses believe that at least half of similar businesses offer health insurance to employees

Recommendations on Decisional Support- as noted above, a SHOP exchange must provide employers with a premium calculator. The SETWG provided recommendations to the Task Force on May 2012 on the elements that employers would find helpful in such a calculator. In addition, the SETWG also identified additional decisional tools employers and employees may find helpful. While more detail can be found in the report the Task Force, some highlights from those recommendations included:

- Base level education on insurance was needed, including a glossary.
- Calculators/plan selectors should be flexible (i.e. either use a total cost as a decisional tool or the product features as a starting point).
- Calculators and plan selectors should be interactive (i.e. impact on price on plan choices and vice versa should be available).
- Comparison to current state should be available, particularly at renewal.

For more detail on the SETWG's advice, please go to this link.

<http://mn.gov/commerce/insurance/images/ExchATFEmployerReport5-18-12.pdf>

Recommendations on Tax Advantaged Elements- given the importance of cost to small employers, the SETWG reviewed and discussed the importance of the SHOP exchange's facilitating the ability to lower cost by allowing employers and employees to take advantage of various tax savings. See, the presentation by Professors Amy Monahan and Daniel Schwartz at

<http://mn.gov/commerce/insurance/images/ExchSmEmpSHOPpresentation6-6-12.pdf>

Those dialogues lead to the following recommendation:

- The Exchange should include information about potential tax savings, tax credit programs or direct employers to such information in its outreach, education and marketing work. In addition, the Exchange should seek to embed in both its operations and technology platforms mechanisms to make it easier for small employers to fully participate in tax-preferred vehicles, such as:
 - A cafeteria plan
 - Identify resources that have expertise in the ways of lowering costs via tax savings
 - Facilitate enrollment in the new federal two-year tax-credit programs that start 1/1/14.

Defined Contribution- as noted above, the ACA includes elements that support a model where employers can provide employees with a fixed dollar amount to purchase insurance. Combined with the requirements that a SHOP exchange facilitate enrollment and provide billing services (including premium aggregation), a SHOP exchange will have a number of the infrastructure elements to facilitate transition from a defined benefit model to a defined contribution model. The SETWG had an initial discussion around the transition to defined contribution that

included discussion around the statutes and regulations affecting that transition (e.g. the recent IRS guidance on how to offer defined contribution and still be eligible for tax advantaged treatment and be eligible for the small employer tax credit.

The SETWG did not reach consensus on whether a defined contribution model would be attractive to small employers. While the members of the group representing small employers expressed interest, other members of the group representing plans and agents expressed concern about the technical challenges of implementing such an approach. All members agreed that continued dialogue on defined contribution should continue, given the elements in the ACA encouraging the transition to an employee choice model and given the evidence in the marketplace of that transition in private exchanges. See, “Private Health Insurance Exchanges and Defined Contribution Health Plans: Is It Déjà Vu All Over Again?” By Paul Fronstin, Ph.D., Employee Benefit Research Institute. http://www.ebri.org/pdf/briefspdf/EBRI_IB_07-2012_No373_Exchgs1.pdf

The SETWG suggests that such dialogue pay particular attention to:

- Potential impacts on adverse selection
- Impact on portability
- Implications on employer and employee outreach and education
- Role of the broker in a defined contribution environment
- Impacts on carriers administrative process

With the potential transition of the Task Force and its work groups to new duties, the SETWG awaits direction on next steps.

Additional Recommendations- the SETWG has the following recommendations for follow- up action:

- Continued dialogue around the implications of a defined contribution model on the operations of the SHOP exchange, the impact on employers and employees and the impact on the external marketplace.
- Additional market research for small employers should be conducted, particularly on the offering of defined contribution and the impact of the small employer tax credit.
- Review of the Massachusetts experience will be particularly helpful to policymakers and we would urge review of the findings contained in the paper referenced in the resources section. See, “Employers' Use of Health Insurance Exchanges: Lessons from Massachusetts” by Mark A. Hall, Wake Forest University.

https://www.phs.wfubmc.edu/public/pub_insurance/Mass%20employers%20report%20final.pdf

- Given the importance of integrating agents and brokers in the SHOP exchange, additional research and/or outreach should be conducted on the needs, fears and hopes of agents and brokers.
- Additional analysis on the impact of merger of markets on Exchange sustainability, adverse selection, portability, premiums and marketplace disruption should be conducted. Similar analysis should also be conducted on expanding eligibility in the Exchange to 100.
- The Exchange should continue to solicit the feedback and input from small employers. Whether or not that should be conducted in the current form (i.e. through the SETWG) is up to the Exchange, but we believe that the Exchange needs to continue hearing from this key market.

Conclusion- The goals of the SHOP exchange are to help employers and employees lower their health insurance costs, increase plan choices, improve employees and their families' access to affordable health insurance and reduce administrative complexity. This report lays out some suggested strategies to meet these goals and outlines additional work that may help in meeting those objectives.

The SETWG appreciates the opportunity to provide input on this important initiative and looks forward to further direction from the Task Force in working towards these goals.

ADDITIONAL RESOURCES

“Saving Small Employer Health Insurance” by Amy Monahan and Daniel Schwarcz, University of Minnesota Law School. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2138200

“What does state and national data tell us about planning for a small employer health insurance exchange?” a presentation by Nate Hierlmaier, Minnesota Department of Health.

<http://mn.gov/commerce/insurance/images/ExchSmEmpMDHpresentation10-23-12.pdf>