Comments on “Pennsylvania Health Insurance Exchange Draft Strategic Goals and Guiding Principles for Discussion with the Exchange Subcommittee” – Presented at 11/17/10 meeting

The following comments are submitted on behalf of insurance carrier representatives to the Governor’s Health Care Reform Implementation Advisory Committee pursuant to discussion at the October 15, 2010 Health Insurance Exchange Subgroup meeting of the Governor’s Health Care Reform Implementation Advisory Committee:

Guiding principles:
3. The exchange should be guided by a governing board and a strong executive team.
4. The exchange should be established as an independent public agency (or public corporation) such as a board or commission or an authority.

Comments: A specific recommendation as to the governance of the Exchange continues to be premature for the following reasons:

- Governance of a Pennsylvania health insurance exchange should be fully discussed/debated and examined by the new Administration and new legislature in 2011. Due to high rate of turnover in Administration officials and legislators, there will be a need to educate many new policymakers on this issue in particular. Part of the educational process should be a full examination of different governance options.

- A very limited number of states have enacted exchanges. While other states may be viewed as potential models, a Pennsylvania exchange must be based on a number of factors unique to our state including, but not limited to: the specific dynamics in our individual and small group market; anticipated take-up rate of products offered in the Exchange; IT capabilities and estimated costs; and, the state’s financial capacity to, in part, help fund and coordinate functions of the Exchange due in part to the requirement that public programs like Medicaid and CHIP interface with the Exchange.

- The ongoing work of the Pennsylvania Insurance Department under the $1 million federal exchange grant is an essential component to this discussion. Incoming Administration officials and lawmakers should have the benefit of the work product produced by this grant prior to making a determination of Exchange structure and governance.

Guiding Principle:
5. One exchange should service the entire state.

Comments: We do not disagree with the recommendation that there be a single point of entry for those accessing the Exchange – whether it is an individual consumer or a small business. A single point of entry is preferred in order to simplify consumer access to the Exchange. However, we would not agree that the individual and small group markets should be combined into a single risk pool. The purchasers in these markets are vastly different from both an actuarial and risk standpoint and the behaviors and needs of these distinct populations make it imperative that they not be combined into a single risk pool. For ease of administration, accurate risk pooling and maximizing the number of plans participating, separate exchanges for the individual and small group markets should be established in the state.
Guiding Principle:
6. Individuals and small business consumers eligible to buy insurance through the exchanges should not also be allowed to buy insurance outside of the exchange.

Comments: We believe strongly that a market outside of the Exchange is not only beneficial for consumers but in fact is intentionally preserved by PPACA and that Pennsylvania should maintain this market for the following reasons:

- PPACA explicitly preserves the ability of individuals and small employers to purchase coverage outside of the Exchange. The Act itself speaks to “Continued operation of market outside exchanges” (Section 1312(d)) and makes clear that individuals and employers are not required to purchase coverage through the Exchange (Section 1312(d)(3) – Voluntary Nature of an Exchange)
- A number of PPACA provisions (disclosure requirements, essential benefits, actuarial values, premiums, cost-sharing pooling and risk adjustments) apply to non-Exchange as well as Exchange products and seek to ensure that both are subject to comparable regulation and mitigate any potential for adverse selection against the Exchange or the outside market.

Guiding Principle:
8. The exchange should serve as a negotiator with insurance plans to promote low pricing and high quality for individuals and small employers purchasing through the exchange.

Comments: One of the guiding principles of the Exchange is that it be a market facilitator and not usurp or duplicate existing regulatory authority. Rate review is and should continue to be under the authority of the state Insurance Department because the Department’s staff possesses the requisite professional experience and actuarial expertise to review rates. Allowing yet another level of rate review at the Exchange level will add new administrative burdens and costs to carriers, jeopardize the financial position of health plans by divorcing rates from plan solvency, and create a potential for conflicts between premiums of products in and out of the Exchange. We do not support the Exchange having a regulatory or “negotiator” role when it comes to rate review/approval. Exchanges should leverage the rate review expertise of the Insurance Department in certifying qualified health plans.

Guiding Principle:
10. The exchange should consider whether to utilize insurance agents and brokers to assist small employer groups in obtaining health insurance coverage through the exchange.

Comments: As discussed during the October 15 meeting, there has not been sufficient information or discussion about the actual role of brokers in the current health insurance market. It would benefit the Advisory Council and Exchange subgroup to have a representative of brokers or actual brokers in to speak about how they assist small employers in particular. It would also be beneficial to hear from small businesses that utilize brokers regarding the benefits of broker involvement in the sales/enrollment process.