



State of Illinois
Office of the Board of Directors
Comprehensive Health Insurance Plan

320 W. Washington Street, Suite 700, Springfield, IL 62701-1150
Telephone: 217/782-6333 (Voice) TTY: 800/545-2455
217/782-6468 (Fax) 800/962-8384 (Consumer Information)
www.chip.state.il.us

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Honorable Frank J. Mautino
Assistant Majority Leader
State Representative – 76th District
261-S Stratton Building
Springfield, Illinois 62706

Dear Representative Mautino:

Senate Bill 1555 (Public Act 97-0142) authorizes the establishment of an Illinois Health Benefits Exchange (SB1555) (“the Exchange”) pursuant to the federal Patient Protection and Affordable Care Act (ACA), and requires the Exchange to meet the core functions identified in statute and subsequent federal guidance. SB 1555 does not establish a specific governance structure for the Exchange, nor does it specify a particular financing mechanism for the Exchange. Instead, SB 1555 creates a Legislative Study Committee (“Committee”) to examine and make recommendations on governance and other mandatory aspects associated with the establishment and implementation of an Exchange in Illinois. The Committee, in its examination of Exchange governance and structure, financial sustainability, and stakeholder engagement, could consider models for similar entities that exist in Illinois today.

In your letter to me (copy attached) you note that many states have taken steps towards the creation of these exchanges. You further note that in creating an exchange, many states have taken steps to utilize their high risk pools. You then ask us “to research what steps could be necessary to do this within the state of Illinois.” This letter offers our response to that request.

Illinois’ high risk pool, the Comprehensive Health Insurance Plan (CHIP), has been one of the most successful of its kind in the nation. This letter focuses on existing models for governance of the Exchange and, in particular, whether CHIP can provide an appropriate legal structure for an Illinois Exchange.

- **Structure and Governance:** Federal law authorizes states to create an Exchange to assist consumers in finding appropriate health care coverage. Discussed below are key legal, governance and operational features of an Exchange required by federal law, together with existing CHIP capabilities in each of these areas and suggestions for possible statutory changes for the General Assembly’s consideration.
- **Structure of the Entity:** Federal law provides that an Exchange “shall be a governmental agency or a nonprofit entity that is established by the State.” CHIP is a governmental entity (“a body corporate and politic”) and accordingly provides a time-tested corporate structure consistent with both federal and state law.

- **Governance of the Exchange:** Federal law requires that the Exchange have a governing board. The board must have a majority of members with relevant experience in health benefits administration, health care finance, health plan purchasing, health care delivery system administration, public health, or health policy issues related to the exchange’s target market of individuals and small groups. The Exchange board cannot have a majority of members with conflicts of interest, like health insurance issuers, brokers, agents, or producers. 45 CFR § 155.110.

The CHIP board historically and currently is comprised of appointed public members, legislators, the Attorney General, and state agencies. The Chip Act requires that at least two of the public members be individuals “reasonably expected to qualify for coverage” or close relations of such individuals. 215 ILCS105/3(b). This diverse membership has served the program well over the past two decades. While the precise composition of the Exchange board will be established by the General Assembly, the basic structure outlined in federal law is consistent with Illinois’ historical approach as reflected in the current CHIP Act.

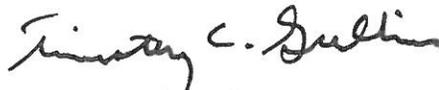
Exchange Operations: The *specific* operations of CHIP would need to change to accommodate an Exchange. However, CHIP’s corporate governance is a model that provides adequate direction, support, and flexibility for CHIP operations in a manner that is similar in many respects to an Exchange. The listing below is meant to illustrate how CHIP’s governance model – a model unique as compared to other existing state and quasi-governmental entities - supports Exchange-like operations.

- **Functions:** In general, the function of the Exchange is to create an organized marketplace for health insurance by offering a choice of plans, setting forth common rules governing the content and pricing of those plans, and providing consumers information about the various plans. In contrast, the General Assembly established CHIP for the purpose of providing health insurance coverage to uninsurable individuals and to “federally eligible individuals” as defined by federal law. Because CHIP’s current function of providing health insurance plans is distinctly different from the Exchange’s function of creating an organized health insurance marketplace, the General Assembly may consider appropriate amendments to reflect this change in functions.
- **Coverages:** The Exchange is required to make statutorily-defined qualified health plans (QHPs) available to Illinois consumers. Historical and current CHIP structure contemplates the issuance of major medical insurance policies to Illinois consumers. Since QHP’s must satisfy certain statutory requirements not found in the current CHIP law, the CHIP Act will need to be amended accordingly. However, CHIP’s historical practice of certifying health plans to ensure those plans meet standards set forth in federal and state law is one the CHIP organization has successfully managed over time.
- **Eligibility and Application:** The Exchange must utilize uniform enrollment forms and applications. CHIP has in place standard applications available in electronic and paper format and is experienced in receiving on-line applications in a secure environment. While the standards for such forms will be different for an Exchange, CHIP’s nimble decision-making structure enables it to adapt quickly to the expectations of consumers for electronic technology while maintaining the requirements of secure systems in accordance with federal and state standards.

- Financing: Federal law requires that the Exchange be financially self-sustaining beginning in January 2015. The funding stream can be generated by assessments on insurers, by user fees, or other financing mechanisms as the General Assembly may determine. The current CHIP Act establishes an insurer assessment methodology and related collection powers. In light of the nature of the Exchange and the number of participating insurers, the structure and purpose of the Exchange differs fundamentally from CHIP. As a result, amendments to the financing and assessment provisions of the current CHIP Act will be required. CHIP has considerable experience, however, in the assessment of the insurance industry and in the collection of those assessments, including managing appeals filed by insurers challenging those assessments.
- Coordination with State Agencies: In addition to its other functions, the Exchange must manage and coordinate enrollment shifts occurring between Medicaid and (subsidized) private coverage for people with low and changing incomes. Because the CHIP Act generally precludes simultaneous participation in CHIP and other insurance, including public insurance programs, the program historically has coordinated routinely with the Medicaid and Medicare programs. While the details of that coordination will change significantly, the existing business and electronic platforms built to manage eligibility and enrollment coordination between these agencies can promote a smooth transition to the Exchange format.
- Coordination with Federal Agencies: An Exchange must also coordinate with the Secretary of the U.S. Department of Health and Human Services (HHS) and the Secretary of the Treasury in a number of areas, including information –sharing and eligibility for a premium tax credit. CHIP is currently required by federal law to cooperate with HHS regarding the use of federal grants to high risk pools, and with the Treasury regarding eligibility for the premium tax credit known as the Health Coverage Tax Credit.

CONCLUSION: The health insurance Exchange is entirely new in its legal structure, function and operational requirements. Like CHIP, it is purely a creature of statute, and like CHIP, its core function in the broadest sense is to make available to Illinois consumers health insurance coverages in accordance with statutorily-defined criteria. Because the Exchange in both structure and operation is different from the traditional CHIP program, the existing CHIP Act must be changed (either by amendment or by repeal and re-enactment) in substantial and fundamental ways. Such required changes notwithstanding, however, it is the CHIP Board and staff's view that CHIP provides a legal and governance structure that is time-tested and successful, and should the General Assembly so decide, can provide a basic architecture for the establishment of an Illinois insurance Exchange.

Sincerely,



Timothy Sullivan
Executive Director