

1 HB245
2 141004-4
3 By Representative Wren
4 RFD: Health
5 First Read: 09-FEB-12

1 a Small Employer Insurance Marketplace to assist qualified
2 small employers in this state in facilitating the enrollment
3 of their employees in qualified health plans offered in the
4 small group market. The intent of this act is to reduce the
5 number of uninsured, provide a transparent consumer driven
6 marketplace, and assist individuals with access to programs,
7 premium assistance tax credits, and cost-sharing reductions.

8 Section 3. For purposes of this act, the following
9 terms have the following meanings:

10 (1) BOARD. The Board of Directors for the Alabama
11 Health Insurance Marketplace.

12 (2) EDUCATED HEALTH CARE CONSUMER. An individual who
13 is knowledgeable about the health care system, and has
14 background or experience in making informed decisions
15 regarding health, medical, and scientific matters.

16 (3) EXCHANGE. The Alabama Health Insurance
17 Marketplace established pursuant to Section 4.

18 (4) FEDERAL ACT. The federal Patient Protection and
19 Affordable Care Act (Public Law 111-148), as amended by the
20 federal Health Care and Education Reconciliation Act of 2010
21 (Public Law 111-152), and any amendments thereto, or
22 regulations or guidance issued under those acts.

23 (5)a. HEALTH BENEFIT PLAN. A policy, contract,
24 certificate, or agreement offered or issued by a health
25 carrier to provide, deliver, arrange for, pay for, or
26 reimburse any of the costs of health care services.

1 b. Health benefit plan does not include any of the
2 following:

3 1. Coverage only for accident or disability income
4 insurance, or any combination thereof.

5 2. Coverage issued as a supplement to liability
6 insurance.

7 3. Liability insurance, including general liability
8 insurance and automobile liability.

9 4. Workers' compensation or similar insurance.

10 5. Automobile medical payment insurance.

11 6. Credit-only insurance.

12 7. Coverage for on-site medical clinics.

13 8. Other similar insurance coverage, specified in
14 federal regulations issued pursuant to Pub. L. No. 104-191,
15 under which benefits for health care services are secondary or
16 incidental to other insurance benefits.

17 c. A health benefit plan does not include the
18 following benefits if they are provided under a separate
19 policy, certificate, or contract of insurance or are otherwise
20 not an integral part of the plan:

21 1. Limited scope dental or vision benefits.

22 2. Benefits for long-term care, nursing home care,
23 home health care, community-based care, or any combination
24 thereof.

25 3. Other similar, limited benefits specified in
26 federal regulations issued pursuant to Pub. L. No. 104-191.

1 d. A health benefit plan does not include the
2 following benefits if the benefits are provided under a
3 separate policy, certificate, or contract of insurance, there
4 is no coordination between the provision of the benefits and
5 any exclusion of benefits under any group health plan
6 maintained by the same plan sponsor, and the benefits are paid
7 with respect to an event without regard to whether benefits
8 are provided with respect to such an event under any group
9 health plan maintained by the same plan sponsor:

10 1. Coverage only for a specified disease or illness.

11 2. Hospital indemnity or other fixed indemnity
12 insurance.

13 e. A health benefit plan does not include the
14 following if offered as a separate policy, certificate, or
15 contract of insurance:

16 1. Medicare supplemental health insurance as defined
17 under Section 1882(g) (1) of the Social Security Act.

18 2. Coverage supplemental to the coverage provided
19 under Chapter 55 of Title 10, United States Code (Civilian
20 Health and Medical Program of the Uniformed Services
21 (CHAMPUS)).

22 3. Similar supplemental coverage provided to
23 coverage under a group health plan.

24 f. The Alabama Health Benefit Marketplace shall
25 require that each health plan, as a condition of participation
26 in such exchange, shall 1. include an offer to each provider
27 that receives funding under Section 330 of the federal Public

1 Health Service Act or that meets all of the requirements to
2 receive funding under Section 330 of that act and that
3 provides services in the geographic area served by the plan,
4 to contract with such plan to provide to the plan's enrollees
5 all ambulatory services covered by the plan that the provider
6 offers; and 2. reimburse each such provider for such services
7 as provided in Section 1302(g) of the Patient Protection and
8 Affordable Care Act (Publ. L. 111-148) as added by Section
9 10104(b)(2) of that act. The scope of the essential health
10 benefits would incorporate any service limitations applicable
11 to Section 330 services under Alabama state law.

12 (6) HEALTH CARRIER or CARRIER. An entity subject to
13 the insurance laws of this state and the rules of the
14 Department of Insurance that maintains a valid license from
15 the department, is subject to the jurisdiction of the
16 department, and contracts or offers to contract to provide,
17 deliver, arrange for, pay for, or reimburse any of the costs
18 of health care services, including, but not limited to, a
19 sickness and accident insurance company, a health maintenance
20 organization, a nonprofit hospital and health service
21 corporation, an entity organized pursuant to Article 6,
22 Chapter 20 of Title 10A to provide a health care services
23 plan, or any other entity providing a plan of health
24 insurance, health benefits, or health services.

25 (7) QUALIFIED DENTAL PLAN. A limited scope dental
26 plan that has been certified in accordance with state law.

1 (8) QUALIFIED EMPLOYER. A small employer that elects
2 to make its full-time employees eligible for one or more
3 qualified health plans offered through the Small Employer
4 Insurance Marketplace, and at the option of the employer, some
5 or all of its part-time employees, provided that the employer
6 meets either of the following requirements:

7 a. Has its principal place of business or
8 headquarters in the State of Alabama and elects to provide
9 coverage through the Small Employer Insurance Marketplace to
10 all of its eligible employees, wherever employed.

11 b. Elects to provide coverage through the Small
12 Employer Insurance Marketplace to all of its eligible
13 employees who are principally employed in this state.

14 (9) QUALIFIED HEALTH PLAN. A health benefit plan
15 that has in effect a certification that the plan meets the
16 criteria for certification set by state law and rules of the
17 Department of Insurance and includes an essential benefit
18 package as defined and approved by the United States
19 Department of Health and Human Services and has a valid
20 license with the State Department of Insurance.

21 (10) QUALIFIED INDIVIDUAL. An individual, including
22 a minor, who meets all of the following requirements:

23 a. Is seeking to enroll in a qualified health plan
24 or qualified dental plan offered to individuals through the
25 exchange.

26 b. Resides or works in the State of Alabama.

1 c. At the time of enrollment, is not incarcerated,
2 other than incarceration pending the disposition of charges.

3 d. Is, and is reasonably expected to be, for the
4 entire period for which enrollment is sought, a citizen or
5 national of the United States or an alien lawfully present in
6 the United States.

7 (11) SECRETARY. The Secretary of the federal
8 Department of Health and Human Services.

9 (12) SMALL EMPLOYER. a. An employer that employed an
10 average of not more than 50 employees during the preceding
11 calendar year.

12 b. Beginning on January 1, 2016, small employer
13 means an employer that employed an average of not more than
14 100 employees during the preceding calendar year.

15 c. For purposes of this subdivision:

16 1. All persons treated as a single employer under
17 subsection (b), (c), (m), or (o) of Section 414 of the
18 Internal Revenue Code of 1986 shall be treated as a single
19 employer.

20 2. An employer and any predecessor employer shall be
21 treated as a single employer.

22 3. All employees shall be counted, including
23 part-time employees and employees who are not eligible for
24 coverage through the employer.

25 4. If an employer was not in existence throughout
26 the preceding calendar year, the determination of whether that
27 employer is a small employer shall be based on the average

1 number of employees that is reasonably expected that employer
2 will employ on business days in the current calendar year.

3 5. An employer that makes enrollment in qualified
4 health plans available to its employees through the Small
5 Employer Insurance Marketplace, and would cease to be a small
6 employer by reason of an increase in the number of its
7 employees, shall continue to be treated as a small employer
8 for purposes of this act as long as the number of its
9 employees does not exceed twice the maximum number of
10 employees allowed to meet the definition of a small employer
11 and it continuously makes enrollment through the Small
12 Employer Insurance Marketplace available to its employees.

13 Section 4. (a) There is established the Alabama
14 Health Insurance Marketplace as a quasi-public corporation of
15 the State of Alabama, created to effectuate the public
16 purposes provided for in this act.

17 (b) The exchange shall operate subject to the
18 supervision and approval of a board of directors which shall
19 be comprised of the following members:

20 (1) The Alabama Commissioner of Insurance, or his or
21 her designee who is an employee of the Department of
22 Insurance.

23 (2) The Commissioner of the Alabama Medicaid Agency,
24 or his or her designee who is an employee of that agency.

25 (3) The State Health Officer, or his or her designee
26 who is an employee of the Department of Public Health.

1 (4) The chair of the House Insurance Committee, or
2 his or her designee who is a member of that committee.

3 (5) The chair of the Senate Banking and Insurance
4 Committee, or his or her designee who is a member of that
5 committee.

6 (6) The chair of the House Health Committee, or his
7 or her designee who is a member of that committee.

8 (7) The chair of the Senate Health Committee, or his
9 or her designee who is a member of that committee.

10 (8) One member of the House of Representatives
11 appointed by the Speaker.

12 (9) One member of the Senate appointed by the
13 President Pro Tempore.

14 (10) Two representatives of insurance companies that
15 are licensed by the Department of Insurance, specialize in
16 health insurance, and are participating in the Alabama Health
17 Insurance Marketplace and Small Employer Insurance
18 Marketplace, one of whom shall be a not-for-profit company
19 organized pursuant to Chapter 3 of Title 10A of the Code of
20 Alabama 1975, to be appointed by the Speaker of the House of
21 Representatives and one of which shall be a for-profit company
22 to be appointed by the President Pro Tempore of the Senate
23 from a list of three names submitted by the Alabama
24 Association of Health Plans.

25 (11) One member who is an insurance agent or broker
26 who is duly licensed in accordance with Chapter 7 of Title 27
27 of the Code of Alabama 1975, and who has experience in the

1 health insurance industry appointed by the Lieutenant Governor
2 from a list of up to three names recommended by the
3 Independent Insurance Agents of Alabama.

4 (12) One member who is an insurance agent or broker
5 and who is an independent health and life agent licensed in
6 the state and not affiliated with any health carrier or entity
7 that delivers health care services appointed by the Lieutenant
8 Governor from a list of up to three names recommended by the
9 Alabama Health Underwriters Association.

10 (13) Two members appointed by the Governor, who
11 shall be members of a consumer advocacy organization.

12 (14) One health care provider appointed by the
13 Speaker of the House of Representatives from a list of up to
14 three names recommended by the Medical Association of the
15 State of Alabama.

16 (15) One member appointed by the President Pro
17 Tempore of the Senate from a list of up to three names
18 recommended by the Alabama Hospital Association.

19 (16) One health care provider appointed by the
20 Speaker of the House of Representatives from a list of up to
21 three names recommended by the Alabama Pharmacy Association.

22 (17) One health care provider appointed by the
23 President Pro Tempore of the Senate from a list of up to three
24 names recommended by the Alabama Dental Association.

25 (18) One health care provider appointed by the
26 Speaker of the House of Representatives from a list of up to
27 three names recommended by the Alabama Optometric Association.

1 (19) One health care provider appointed by the
2 President Pro Tempore of the Senate from a list of up to three
3 names recommended by the Alabama Nursing Home Association.

4 (20) One member who is not a health care provider
5 appointed by the Speaker of the House of Representatives from
6 a list of up to three names recommended by the Business
7 Council of Alabama.

8 (c) The terms of legislative members of the board
9 shall run concurrent with the legislative quadrennium. The
10 remaining members of the board shall serve no more than two
11 four-year terms at the pleasure of their appointing
12 authorities and until a successor is named and qualified.

13 (d) The membership of the board shall be inclusive
14 and reflect the racial, gender, geographic, urban/rural, and
15 economic diversity of the state.

16 (e) All board members acting within their official
17 capacity under the provisions of the act shall be immune from
18 civil liability to the same extent as state employees.

19 (f) Board members may be reimbursed from funds of
20 the exchange for actual expenses and shall receive the same
21 per diem as provided to state employees but shall not
22 otherwise be compensated for their services.

23 (g) The board shall elect from its membership a
24 chair and vice chair who shall serve as the presiding officers
25 of the board. The chair, vice chair, and any other officer of
26 the board shall not serve in the same officer position for
27 more than four years.

1 (h) The board shall adopt rules governing times and
2 places for meetings and the manner of conducting its business.
3 The board shall not meet less frequently than once each
4 quarter and at such other times as determined to be necessary.
5 The first meeting of the initial members of the board shall be
6 called by the Speaker of the House of Representatives within
7 60 days of the effective date of this act.

8 (i) The board shall adopt articles, bylaws, and
9 operating rules within 90 days after the appointment of the
10 board.

11 (j) The board, pursuant to the Administrative
12 Procedure Act, may promulgate rules necessary for the
13 implementation and operation of the exchange, including a
14 conflict of interest policy and public disclosure requirement
15 for all exchange board members, employees, and vendors, and
16 shall have the authority to enforce any and all state and
17 federal laws and rules concerning the exchange.

18 (k) The board may apply for and expend any state,
19 federal, or private grant funds available to assist with the
20 implementation and operation of the exchange. The board may
21 elect to allow the exchange to apply for and expend federal
22 grant funds on its behalf and the board may apply for and
23 expend the funds on behalf of the exchange.

24 (l) The board may contract with any and all vendors
25 necessary to assist with the implementation and operation of
26 the exchange.

1 (m) (1) The board may appoint an executive director
2 who shall:

3 a. Be an unclassified employee of the exchange.

4 b. Administer all of the activities and contracts of
5 the exchange.

6 c. Supervise the staff of the exchange.

7 d. Advise the board on all matters related to the
8 exchange.

9 e. Serve at the will and pleasure of the board.

10 (2) The board shall determine the appropriate
11 compensation to be paid to the executive director.

12 (3) The executive director may hire additional
13 employees necessary to operate the exchange.

14 (n) The exchange shall:

15 (1) In cooperation with the Department of Insurance
16 and the Medicaid Agency, create and maintain an Internet
17 website through which enrollees and prospective enrollees of
18 qualified health plans and qualified dental plans may obtain
19 standardized comparative information on such plans and enroll
20 in such plans.

21 (2) Use a standardized format for presenting health
22 benefit options in the exchange.

23 (3) Facilitate the purchase and sale of qualified
24 health plans in each county of the state, and allow health
25 carriers to offer qualified health plans to qualified
26 individuals and qualified employers ~~in designated rating or~~
27 ~~service area on a county-by-county basis~~ with all health plans

1 offering at least one silver and one gold qualified health
2 plan in every county.

3 (4) Establish a Small Employer Insurance Marketplace
4 through which qualified employers may access coverage for
5 their employees and an Individual Health Insurance Marketplace
6 which qualified individuals may buy health insurance coverage.

7 (5) As deemed necessary by the board, create
8 advisory committees to the board consisting of stakeholders
9 relevant to carrying out the activities required under this
10 act.

11 (6) Minimize adverse selection by establishing:

12 a. limited initial, annual, and special enrollment
13 periods.

14 b. limitations on shifting to richer benefit plans
15 during annual and special enrollment periods.

16 (7) Establish adequate provider network standards
17 for exchange products.

18 (8) Establish a consumer assistance function,
19 including a navigator program, consistent under PPACA §155.210
20 through which the exchange will award grants to eligible
21 public or private entities to carry out outreach and
22 enrollment duties.

23 (o) The exchange may do both of the following:

24 (1) Contract with an eligible entity to perform any
25 of its functions described in this act. An eligible entity
26 includes, but is not limited to, an entity that has experience
27 in individual and small group health insurance, benefit

1 administration, or other experience relevant to the
2 responsibilities to be assumed by the entity.

3 (2) Enter into information-sharing agreements with
4 state agencies to carry out its responsibilities under this
5 act provided such agreements include adequate protections with
6 respect to the confidentiality of the information to be shared
7 and comply with all state and federal laws, rules, and
8 regulations.

9 (p) The exchange shall not do the following:

10 (1) Regulate health insurers, health insurance
11 plans, or health insurance producers. Regulation of health
12 insurers, health insurance plans, or health insurance
13 producers shall continue to be the responsibility of the
14 Department of Insurance.

15 (2) Act as an appeals entity for resolving disputes
16 between a health insurer and an insured.

17 (3) Require a health carrier or health benefit plan
18 to obtain accreditation by the National Committee for Quality
19 Assurance, or any other third-party accrediting organization,
20 or beyond what is required in the federal act, in order to
21 offer or sell qualified benefit plans to qualified employer or
22 qualified individual through the exchange.

23 ~~(4) Require that qualified health plans be made~~
24 ~~available on a statewide basis, in all counties in the State~~
25 ~~of Alabama, in order to be offered or sold through the~~
26 ~~exchange by a health carrier.~~

1 (4) Combine individual and small group markets,
2 including the combining of products offerings, risk pooling,
3 or ratings.

4 (5) Control and administer the risk adjustment
5 process.

6 (6) Determine qualified health plan actuarial
7 levels.

8 (7) Perform rate review functions.

9 (8) Prevent insurers from offering plans off the
10 exchange that are not offered on the exchange.

11 (9) Prevent consumers eligible for Medicaid from
12 purchasing health plans off the exchange.

13 (10) Prohibit a qualified employer from determining
14 the number of qualified health plans available to its
15 employees.

16 (q) The exchange shall meet the following financial
17 integrity requirements:

18 (1) Keep an accurate accounting of all activities,
19 receipts, and expenditures and annually submit to the
20 Governor, the commissioner, and the Legislature a complete
21 written report set of financial statements in accordance with
22 recognized accounting standards by December 1 of each year.

23 (2) In carrying out its activities under this act,
24 not use any funds intended for the administrative and
25 operational expenses of the exchange for staff retreats,
26 promotional giveaways, excessive executive compensation, or
27 promotion of state legislative and regulatory modifications.

1 (3) Fully cooperate with any investigation conducted
2 by the Secretary of the Health and Human Services pursuant to
3 the secretary's authority under the federal act and allow the
4 secretary, in coordination with the Inspector General of the
5 United States Department of Health and Human Services do all
6 of following:

7 a. Investigate the affairs of the exchange.

8 b. Examine the properties and records of the
9 exchange.

10 c. Require periodic reports in relation to the
11 activities undertaken by the exchange.

12 (r) The exchange shall be audited by the Department
13 of Examiners of Public Accounts.

14 (s) The exchange shall comply with the Alabama Open
15 Meetings Act at Chapter 25A of Title 36, Code of Alabama 1975.

16 Section 5. (a) The exchange shall make qualified
17 health plans available to qualified individuals and qualified
18 employers beginning with effective dates on or before January
19 1, 2014.

20 (b) (1) The exchange shall not make available any
21 health benefit plan that is not a qualified health plan.

22 (2) The exchange may allow a health carrier to offer
23 a plan that provides limited scope dental benefits meeting the
24 requirements of Section 9832(c) (2) (A) of the Internal Revenue
25 Code of 1986 through the exchange, either separately as a
26 policy rider or in conjunction with a qualified health plan,

1 if the plan provides pediatric dental benefits meeting the
2 requirements of state law and rules of the department.

3 (3) In order to ensure that exchange navigators
4 avoid conflicts of interest and provide fair and impartial
5 information concerning Qualified Health Plan enrollment,
6 navigators shall not receive any compensation from any
7 insurers, including for off-exchange health insurance
8 enrollment, and act as health insurance agents or brokers for
9 12 months post-cessation of navigator status.

10 (c) The health care insurer may jointly offer a
11 comprehensive health benefit plan through the exchange in
12 which the dental benefits are provided by a health care
13 insurer through a qualified dental plan and the other benefits
14 are provided by a health care insurer through a qualified
15 health benefit plan if the plans are priced separately and are
16 also made available for purchase separately at the same price
17 for each plan.

18 ~~(c)~~ (d) A qualified health plan is not required to
19 provide essential benefits that duplicate the minimum benefits
20 of qualified dental plans as required by Public Law 111-148,
21 as amended, and state law if both of the following
22 requirements are met:

23 (1) The exchange has determined that at least one
24 qualified dental plan is available to supplement the plan's
25 coverage.

26 (2) The carrier makes prominent disclosure at the
27 time it offers the plan, in a form approved by the exchange,

1 that the plan does not provide the full range of essential
2 pediatric benefits, and that qualified dental plans are
3 offered through the exchange.

4 (d) Neither the exchange nor a carrier offering
5 health benefit plans through the exchange may charge an
6 individual a fee or penalty for termination of coverage.

7 Section 6. (a) The exchange may receive
8 appropriations from the Legislature, federal or state grant
9 moneys, or other contributions from any source to fund the
10 establishment and operation of the exchange.

11 ~~(b) The exchange may charge assessments or user fees~~
12 ~~to health insurance carriers, agents, or brokers offering~~
13 ~~qualified health plans or qualified dental plans, or otherwise~~
14 ~~may generate funding necessary to support its operations~~
15 ~~provided under this act.~~

16 (b) The exchange may charge assessments or user fees
17 to health insurance carriers, agents, or brokers offering
18 qualified health plans or qualified dental plans sold only
19 through the exchange.

20 (c) The exchange shall be self-sustaining by January
21 1, 2015.

22 Section 7. Nothing in this act, and no action taken
23 by the exchange pursuant to this act, shall be construed to
24 preempt or supersede the authority of the Commissioner of
25 Insurance to regulate the business of insurance within this
26 state. Except as expressly provided to the contrary in this
27 act, all health insurance carriers offering qualified health

1 plans in this state shall comply fully with all applicable
2 health insurance laws of this state and rules adopted and
3 orders issued by the department.

4 Section 8. The data, research, and assets of any
5 existing entity created by executive order of the Governor or
6 by an agency of the state operating a health insurance
7 exchange on the effective date of the act shall be transferred
8 to the Alabama Health Insurance Marketplace.

9 Section 9. If the Patient Protection and Affordable
10 Care Act (Public Law 111-148), or any part thereof requiring
11 the operation of the exchange provided in this act, is
12 repealed or declared unconstitutional by the United States
13 Supreme Court, this act shall be repealed.

14 Section 10. This act shall become effective
15 immediately following its passage and approval by the
16 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-ferred to the House of Representatives committee on Health 09-FEB-12

Read for the second time and placed on the calendar with 1 substitute and 2 amendments..... 19-APR-12

Read for the third time and passed as amended..... 26-APR-12

Yeas 92, Nays 0, Abstains 0

Greg Pappas
Clerk