



## Report: The Health Benefit Exchange Act of 2011

### *Maryland Sets the Pace on Implementation of the Affordable Care Act*

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#### **Executive Summary**

The O'Malley administration and Maryland's General Assembly got it right with the **Health Benefit Exchange Act of 2011**. A critical component of the Affordable Care Act (ACA), this law establishes only the governance structure and goals for the health insurance marketplace for individuals and small businesses in Maryland. The Exchange will ensure that hundreds of thousands of Maryland's presently uninsured will have access to affordable and high-quality health care.

**Background:** Congressman Elijah Cummings (D-MD) said on the occasion of the first birthday of the **Patient Protection and Affordable Care Act (ACA)** that this was the "**most important piece of legislation I have worked on in my years in Congress.**" Not only will it greatly increase the number of Americans with access to high-quality, affordable health care, but it also ensures that consumers will have greater control over their health care decisions.

**Implementing the ACA – A Roadmap:** In Maryland, Governor O'Malley took immediate steps to realize the promise of this landmark law. He established the Health Care Reform Coordinating Council (HCRCC), which created an open, transparent and inclusive process. This allowed stakeholder groups from all sectors, including consumer advocates, to provide essential expertise and recommendations on all elements of implementation.

**The Health Benefit Exchange Act of 2011.** The primary elements of the 2011 Act establish:

- The Exchange as a "public corporation and a unit of state government" with specific purposes including reducing the number of uninsured in the state, facilitating the purchase of qualified health plans and assisting qualified employers to enroll their employees
- A nine member Exchange Board that includes three *Ex Officio* positions - the Secretary of Health and Mental Hygiene, the Maryland Insurance Commissioner, and the Executive Director of the Maryland Health Care Commission. Six other members, with rotating terms, will be appointed by the Governor with the advice and consent of the Maryland Senate. These include:
  - Three members who "represent the interests of employers and individual consumers of products offered in the Exchange and who may have public health research expertise."

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- Three more members who have knowledge and expertise in at least two of seven areas that include administration of public or private health care delivery systems, health finance and “public health and public health research, including knowledge about the health needs and health disparities among the state’s diverse communities.”
- Administrative rules within the framework of state regulations
- A series of studies that include: (1) Selective contracting; (2) Multistate or regional contracting; (3) The design of benefit packages sold inside and outside the Exchange; (4) The design of the Navigator Program; (5) The design of the Shop Exchange; (6) Financing of the Exchange.

**Women’s Coalition Amendments:** The Women’s Coalition worked with the administrator and, its members and partners and other stakeholders to create a set of “consensus amendments” that strengthened the administration’s original legislation. The most significant of the Women’s Coalition amendments was to include **expertise in the area of public health on the Exchange Board**. This proposal was based upon an understanding that an individual with expertise in public health and a knowledge of, and an ability to make use of, relevant research would be invaluable as the Board analyzes a broad range of options related to benefit design, affordability and access. Specific areas that a public health researcher could address include:

- The demographics, health needs, and roots of health disparities of the Exchange population
- The role of prevention, including early detection and interventions, to improve the health of individuals, the well being of communities, and the reduction of health care costs
- An understanding of Maryland’s public health infrastructure and the potential to integrate the work of local health departments, FQHCs and community-based safety-net providers to ensure access to quality care.

Those supporting the amendment included: policy makers, including those at the Department of Health and Mental Hygiene (DHMH), key legislators, as well as the American Cancer Society, the League of Women Voters, Advocates for Children and Youth, the Maryland Nurses Association, Alzheimer’s Association, Maryland PIRG, and the Maryland Citizens’ Health Initiative, among others.

**Additional Amendments:** Other important amendments proposed by the Women’s Coalition and incorporated into the final legislation include:

- Advisory Committees that include 12 areas of expertise and stakeholder groups. These include consumers and consumer advocates, as well as public health researchers and other academic experts with knowledge and background relevant to the functions and goals of the exchange.
- A requirement that the Exchange Board consult with the Advisory Committees.
- The inclusion of gender and geographic location as data sets to identify disparities as part of an annual reporting process.
- Greater separation between the governor’s office and the position of Director of the Exchange to address concerns over excessive political influence.

**Next Steps:** Marylanders want and need a consumer-oriented Exchange where they can access high-quality affordable health care. To achieve that, it will be necessary to define the specific functions of the Exchange, which will require further legislation in 2012. That will be based upon the outcomes of the studies cited above and the recommendations of the Exchange Board. The Women's Coalition and its health care reform partners across the state will actively monitor the work of the Exchange Board to ensure that Maryland's Health Benefit Exchange enables the transformation of our health care landscape. At the same time, we must continue to educate the public on the immediate patient protections of the ACA as well as its long-term promise. Ultimately the Women's Coalition envisions a state where access to health care is universal. The Health Benefit Exchange Act of 2011 is the first step to achieve that.

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