

ASSEMBLY BILL

No. 369

Introduced by Assembly Member Pan

February 14, 2013

An act to amend Section 100503 of the Government Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 369, as introduced, Pan. California Health Benefit Exchange: report.

Under the federal Patient Protection and Affordable Care Act (PPACA), each state is required, by January 1, 2014, to establish an American Health Benefit Exchange that makes available qualified health plans to qualified individuals and small employers. Existing state law establishes the California Health Benefit Exchange (Exchange) within state government, specifies the powers and duties of the board governing the Exchange, and requires the board to facilitate the purchase of qualified health plans through the Exchange by qualified individuals and small employers by January 1, 2014. Existing law requires the board to report, or contract with an independent entity to report, to the Legislature by December 1, 2018, on whether to adopt the option under the PPACA to merge the individual and small employer insurance markets.

This bill would instead require the board or the independent entity to make this report to the Legislature by March 1, 2019.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 100503 of the Government Code is
2 amended to read:

3 100503. In addition to meeting the minimum requirements of
4 Section 1311 of the federal act, the board shall do all of the
5 following:

6 (a) Determine the criteria and process for eligibility, enrollment,
7 and disenrollment of enrollees and potential enrollees in the
8 Exchange and coordinate that process with the state and local
9 government entities administering other health care coverage
10 programs, including the State Department of Health Care Services,
11 the Managed Risk Medical Insurance Board, and California
12 counties, in order to ensure consistent eligibility and enrollment
13 processes and seamless transitions between coverage.

14 (b) Develop processes to coordinate with the county entities
15 that administer eligibility for the Medi-Cal program and the entity
16 that determines eligibility for the Healthy Families Program,
17 including, but not limited to, processes for case transfer, referral,
18 and enrollment in the Exchange of individuals applying for
19 assistance to those entities, if allowed or required by federal law.

20 (c) Determine the minimum requirements a carrier must meet
21 to be considered for participation in the Exchange, and the
22 standards and criteria for selecting qualified health plans to be
23 offered through the Exchange that are in the best interests of
24 qualified individuals and qualified small employers. The board
25 shall consistently and uniformly apply these requirements,
26 standards, and criteria to all carriers. In the course of selectively
27 contracting for health care coverage offered to qualified individuals
28 and qualified small employers through the Exchange, the board
29 shall seek to contract with carriers so as to provide health care
30 coverage choices that offer the optimal combination of choice,
31 value, quality, and service.

32 (d) Provide, in each region of the state, a choice of qualified
33 health plans at each of the five levels of coverage contained in
34 subdivisions (d) and (e) of Section 1302 of the federal act.

35 (e) Require, as a condition of participation in the Exchange,
36 carriers to fairly and affirmatively offer, market, and sell in the
37 Exchange at least one product within each of the five levels of
38 coverage contained in subdivisions (d) and (e) of Section 1302 of

1 the federal act. The board may require carriers to offer additional
2 products within each of those five levels of coverage. This
3 subdivision shall not apply to a carrier that solely offers
4 supplemental coverage in the Exchange under paragraph (10) of
5 subdivision (a) of Section 100504.

6 (f) (1) Require, as a condition of participation in the Exchange,
7 carriers that sell any products outside the Exchange to do both of
8 the following:

9 (A) Fairly and affirmatively offer, market, and sell all products
10 made available to individuals in the Exchange to individuals
11 purchasing coverage outside the Exchange.

12 (B) Fairly and affirmatively offer, market, and sell all products
13 made available to small employers in the Exchange to small
14 employers purchasing coverage outside the Exchange.

15 (2) For purposes of this subdivision, “product” does not include
16 contracts entered into pursuant to Part 6.2 (commencing with
17 Section 12693) of Division 2 of the Insurance Code between the
18 Managed Risk Medical Insurance Board and carriers for enrolled
19 Healthy Families beneficiaries or contracts entered into pursuant
20 to Chapter 7 (commencing with Section 14000) of, or Chapter 8
21 (commencing with Section 14200) of, Part 3 of Division 9 of the
22 Welfare and Institutions Code between the State Department of
23 Health Care Services and carriers for enrolled Medi-Cal
24 beneficiaries.

25 (g) Determine when an enrollee’s coverage commences and the
26 extent and scope of coverage.

27 (h) Provide for the processing of applications and the enrollment
28 and disenrollment of enrollees.

29 (i) Determine and approve cost-sharing provisions for qualified
30 health plans.

31 (j) Establish uniform billing and payment policies for qualified
32 health plans offered in the Exchange to ensure consistent
33 enrollment and disenrollment activities for individuals enrolled in
34 the Exchange.

35 (k) Undertake activities necessary to market and publicize the
36 availability of health care coverage and federal subsidies through
37 the Exchange. The board shall also undertake outreach and
38 enrollment activities that seek to assist enrollees and potential
39 enrollees with enrolling and reenrolling in the Exchange in the
40 least burdensome manner, including populations that may

1 experience barriers to enrollment, such as the disabled and those
2 with limited English language proficiency.

3 (l) Select and set performance standards and compensation for
4 navigators selected under subdivision (l) of Section 100502.

5 (m) Employ necessary staff.

6 (1) The board shall hire a chief fiscal officer, a chief operations
7 officer, a director for the SHOP Exchange, a director of Health
8 Plan Contracting, a chief technology and information officer, a
9 general counsel, and other key executive positions, as determined
10 by the board, who shall be exempt from civil service.

11 (2) (A) The board shall set the salaries for the exempt positions
12 described in paragraph (1) and subdivision (i) of Section 100500
13 in amounts that are reasonably necessary to attract and retain
14 individuals of superior qualifications. The salaries shall be
15 published by the board in the board’s annual budget. The board’s
16 annual budget shall be posted on the Internet Web site of the
17 Exchange. To determine the compensation for these positions, the
18 board shall cause to be conducted, through the use of independent
19 outside advisors, salary surveys of both of the following:

20 (i) Other state and federal health insurance exchanges that are
21 most comparable to the Exchange.

22 (ii) Other relevant labor pools.

23 (B) The salaries established by the board under subparagraph
24 (A) shall not exceed the highest comparable salary for a position
25 of that type, as determined by the surveys conducted pursuant to
26 subparagraph (A).

27 (C) The Department of Human Resources shall review the
28 methodology used in the surveys conducted pursuant to
29 subparagraph (A).

30 (3) The positions described in paragraph (1) and subdivision (i)
31 of Section 100500 shall not be subject to otherwise applicable
32 provisions of the Government Code or the Public Contract Code
33 and, for those purposes, the Exchange shall not be considered a
34 state agency or public entity.

35 (n) Assess a charge on the qualified health plans offered by
36 carriers that is reasonable and necessary to support the
37 development, operations, and prudent cash management of the
38 Exchange. This charge shall not affect the requirement under
39 Section 1301 of the federal act that carriers charge the same

1 premium rate for each qualified health plan whether offered inside
2 or outside the Exchange.

3 (o) Authorize expenditures, as necessary, from the California
4 Health Trust Fund to pay program expenses to administer the
5 Exchange.

6 (p) Keep an accurate accounting of all activities, receipts, and
7 expenditures, and annually submit to the United States Secretary
8 of Health and Human Services a report concerning that accounting.
9 Commencing January 1, 2016, the board shall conduct an annual
10 audit.

11 (q) (1) Annually prepare a written report on the implementation
12 and performance of the Exchange functions during the preceding
13 fiscal year, including, at a minimum, the manner in which funds
14 were expended and the progress toward, and the achievement of,
15 the requirements of this title. This report shall be transmitted to
16 the Legislature and the Governor and shall be made available to
17 the public on the Internet Web site of the Exchange. A report made
18 to the Legislature pursuant to this subdivision shall be submitted
19 pursuant to Section 9795.

20 (2) In addition to the report described in paragraph (1), the board
21 shall be responsive to requests for additional information from the
22 Legislature, including providing testimony and commenting on
23 proposed state legislation or policy issues. The Legislature finds
24 and declares that activities including, but not limited to, responding
25 to legislative or executive inquiries, tracking and commenting on
26 legislation and regulatory activities, and preparing reports on the
27 implementation of this title and the performance of the Exchange,
28 are necessary state requirements and are distinct from the
29 promotion of legislative or regulatory modifications referred to in
30 subdivision (d) of Section 100520.

31 (r) Maintain enrollment and expenditures to ensure that
32 expenditures do not exceed the amount of revenue in the fund, and
33 if sufficient revenue is not available to pay estimated expenditures,
34 institute appropriate measures to ensure fiscal solvency.

35 (s) Exercise all powers reasonably necessary to carry out and
36 comply with the duties, responsibilities, and requirements of this
37 act *title* and the federal act.

38 (t) Consult with stakeholders relevant to carrying out the
39 activities under this title, including, but not limited to, all of the
40 following:

- 1 (1) Health care consumers who are enrolled in health plans.
- 2 (2) Individuals and entities with experience in facilitating
- 3 enrollment in health plans.
- 4 (3) Representatives of small businesses and self-employed
- 5 individuals.
- 6 (4) The State Medi-Cal Director.
- 7 (5) Advocates for enrolling hard-to-reach populations.
- 8 (u) Facilitate the purchase of qualified health plans in the
- 9 Exchange by qualified individuals and qualified small employers
- 10 no later than January 1, 2014.
- 11 (v) Report, or contract with an independent entity to report, to
- 12 the Legislature by ~~December 1, 2018~~, *March 1, 2019*, on whether
- 13 to adopt the option in paragraph (3) of subdivision (c) of Section
- 14 1312 of the federal act to merge the individual and small employer
- 15 markets. In its report, the board shall provide information, based
- 16 on at least two years of data from the Exchange, on the potential
- 17 impact on rates paid by individuals and by small employers in a
- 18 merged individual and small employer market, as compared to the
- 19 rates paid by individuals and small employers if a separate
- 20 individual and small employer market is maintained. A report
- 21 made pursuant to this subdivision shall be submitted pursuant to
- 22 Section 9795.
- 23 (w) With respect to the SHOP Program, collect premiums and
- 24 administer all other necessary and related tasks, including, but not
- 25 limited to, enrollment and plan payment, in order to make the
- 26 offering of employee plan choice as simple as possible for qualified
- 27 small employers.
- 28 (x) Require carriers participating in the Exchange to immediately
- 29 notify the Exchange, under the terms and conditions established
- 30 by the board, when an individual is or will be enrolled in or
- 31 disenrolled from any qualified health plan offered by the carrier.
- 32 (y) Ensure that the Exchange provides oral interpretation
- 33 services in any language for individuals seeking coverage through
- 34 the Exchange and makes available a toll-free telephone number
- 35 for the hearing and speech impaired. The board shall ensure that
- 36 written information made available by the Exchange is presented
- 37 in a plainly worded, easily understandable format and made
- 38 available in prevalent languages.

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