

Introduced by Senator TorresFebruary 18, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1052, as introduced, Torres. California Health Benefit Exchange: annual report.

Existing law establishes the California Health Benefit 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. Existing law requires the board to undertake activities necessary to market and publicize the availability of health care coverage and federal subsidies through the Exchange and to undertake outreach and enrollment activities that seek to assist with enrolling in the Exchange in the least burdensome manner. Existing law also requires the board of the Exchange to annually prepare a written report on the implementation and performance of the Exchange functions during the preceding fiscal year, as specified, and requires that this report be submitted to the Legislature and the Governor and be made available to the public on the Internet Web site of the Exchange.

This bill, in addition, would require the report to include the total number of uninsured Californians as a percentage of the state population and an independent evaluation of the marketing and outreach and enrollment activities undertaken by the Exchange.

Vote: majority. Appropriation: no. Fiscal committee: yes.
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, as
2 amended by Section 4 of Chapter 5 of the 1st Extraordinary Session
3 of the Statutes of 2013, is amended to read:

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

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

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

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

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

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

1 coverage contained in subsections (d) and (e) of Section 1302 of
2 the federal act. The board may require carriers to offer additional
3 products within each of those five levels of coverage. This
4 subdivision shall not apply to a carrier that solely offers
5 supplemental coverage in the Exchange under paragraph (10) of
6 subdivision (a) of Section 100504.

7 (f) (1) Except as otherwise provided in this section and Section
8 100504.5, require, as a condition of participation in the Exchange,
9 carriers that sell any products outside the Exchange to do both of
10 the following:

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

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

17 (2) For purposes of this subdivision, “product” does not include
18 contracts entered into pursuant to Part 6.2 (commencing with
19 Section 12693) of Division 2 of the Insurance Code between the
20 Managed Risk Medical Insurance Board and carriers for enrolled
21 Healthy Families beneficiaries or contracts entered into pursuant
22 to Chapter 7 (commencing with Section 14000) of, or Chapter 8
23 (commencing with Section 14200) of, Part 3 of Division 9 of the
24 Welfare and Institutions Code between the State Department of
25 Health Care Services and carriers for enrolled Medi-Cal
26 beneficiaries. “Product” also does not include a bridge plan product
27 offered pursuant to Section 100504.5.

28 (3) Except as required by Section 1301(a)(1)(C)(ii) of the federal
29 act, a carrier offering a bridge plan product in the Exchange may
30 limit the products it offers in the Exchange solely to a bridge plan
31 product contract.

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

34 (h) Provide for the processing of applications and the enrollment
35 and disenrollment of enrollees.

36 (i) Determine and approve cost-sharing provisions for qualified
37 health plans.

38 (j) Establish uniform billing and payment policies for qualified
39 health plans offered in the Exchange to ensure consistent

1 enrollment and disenrollment activities for individuals enrolled in
2 the Exchange.

3 (k) Undertake activities necessary to market and publicize the
4 availability of health care coverage and federal subsidies through
5 the Exchange. The board shall also undertake outreach and
6 enrollment activities that seek to assist enrollees and potential
7 enrollees with enrolling and reenrolling in the Exchange in the
8 least burdensome manner, including populations that may
9 experience barriers to enrollment, such as the disabled and those
10 with limited English language proficiency.

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

13 (m) Employ necessary staff.

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

19 (2) (A) The board shall set the salaries for the exempt positions
20 described in paragraph (1) and subdivision (i) of Section 100500
21 in amounts that are reasonably necessary to attract and retain
22 individuals of superior qualifications. The salaries shall be
23 published by the board in the board's annual budget. The board's
24 annual budget shall be posted on the Internet Web site of the
25 Exchange. To determine the compensation for these positions, the
26 board shall cause to be conducted, through the use of independent
27 outside advisors, salary surveys of both of the following:

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

30 (ii) Other relevant labor pools.

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

35 (C) The Department of Human Resources shall review the
36 methodology used in the surveys conducted pursuant to
37 subparagraph (A).

38 (3) The positions described in paragraph (1) and subdivision (i)
39 of Section 100500 shall not be subject to otherwise applicable
40 provisions of the Government Code or the Public Contract Code

1 and, for those purposes, the Exchange shall not be considered a
2 state agency or public entity.

3 (n) Assess a charge on the qualified health plans offered by
4 carriers that is reasonable and necessary to support the
5 development, operations, and prudent cash management of the
6 Exchange. This charge shall not affect the requirement under
7 Section 1301 of the federal act that carriers charge the same
8 premium rate for each qualified health plan whether offered inside
9 or outside the Exchange.

10 (o) Authorize expenditures, as necessary, from the California
11 Health Trust Fund to pay program expenses to administer the
12 Exchange.

13 (p) Keep an accurate accounting of all activities, receipts, and
14 expenditures, and annually submit to the United States Secretary
15 of Health and Human Services a report concerning that accounting.
16 Commencing January 1, 2016, the board shall conduct an annual
17 audit.

18 (q) (1) (A) Annually prepare a written report on the
19 implementation and performance of the Exchange functions during
20 the preceding fiscal year, including, at a minimum, ~~the~~ *all of the*
21 *following*:

22 (i) *The manner in which funds were expended and the progress*
23 *toward, and the achievement of, the requirements of this title.* ~~The~~
24 ~~report shall also include data~~

25 (ii) *Data provided by health care service plans and health*
26 *insurers offering bridge plan products regarding the extent of health*
27 *care provider and health facility overlap in their Medi-Cal networks*
28 *as compared to the health care provider and health facility networks*
29 *contracting with the plan or insurer in their bridge plan contracts.*
30 ~~This~~

31 (iii) *The total number of uninsured Californians as a percentage*
32 *of the state population.*

33 (iv) *An evaluation of the effectiveness of the activities undertaken*
34 *pursuant to subdivision (k). This evaluation shall be conducted by*
35 *an independent entity selected by the board.*

36 (B) *The report required by this paragraph shall be transmitted*
37 *to the Legislature and the Governor and shall be made available*
38 *to the public on the Internet Web site of the Exchange. A report*
39 *made to the Legislature pursuant to this ~~subdivision~~ paragraph*
40 *shall be submitted pursuant to Section 9795.*

1 (2) The Exchange shall prepare, or contract for the preparation
2 of, an evaluation of the bridge plan program using the first three
3 years of experience with the program. The evaluation shall be
4 provided to the health policy and fiscal committees of the
5 Legislature in the fourth year following federal approval of the
6 bridge plan option. The evaluation shall include, but not be limited
7 to, all of the following:

8 (A) The number of individuals eligible to participate in the
9 bridge plan program each year by category of eligibility.

10 (B) The number of eligible individuals who elect a bridge plan
11 option each year by category of eligibility.

12 (C) The average length of time, by region and statewide, that
13 individuals remain in the bridge plan option each year by category
14 of eligibility.

15 (D) The regions of the state with a bridge plan option, and the
16 carriers in each region that offer a bridge plan, by year.

17 (E) The premium difference each year, by region, between the
18 bridge plan and the first and second lowest cost plan for individuals
19 in the Exchange who are not eligible for the bridge plan.

20 (F) The effect of the bridge plan on the premium subsidy amount
21 for bridge plan eligible individuals each year by each region.

22 (G) Based on a survey of individuals enrolled in the bridge plan:

23 (i) Whether individuals enrolling in the bridge plan product are
24 able to keep their existing health care providers.

25 (ii) Whether individuals would want to retain their bridge plan
26 product, buy a different Exchange product, or decline to purchase
27 health insurance if there was no bridge plan product available. The
28 Exchange may include questions designed to elicit the information
29 in this subparagraph as part of an existing survey of individuals
30 receiving coverage in the Exchange.

31 (3) In addition to the evaluation required by paragraph (2), the
32 Exchange shall post the items in subparagraphs (A) to (F),
33 inclusive, on its Internet Web site each year.

34 (4) In addition to the report described in paragraph (1), the board
35 shall be responsive to requests for additional information from the
36 Legislature, including providing testimony and commenting on
37 proposed state legislation or policy issues. The Legislature finds
38 and declares that activities including, but not limited to, responding
39 to legislative or executive inquiries, tracking and commenting on
40 legislation and regulatory activities, and preparing reports on the

1 implementation of this title and the performance of the Exchange,
2 are necessary state requirements and are distinct from the
3 promotion of legislative or regulatory modifications referred to in
4 subdivision (d) of Section 100520.

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

9 (s) Exercise all powers reasonably necessary to carry out and
10 comply with the duties, responsibilities, and requirements of this
11 act and the federal act.

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

15 (1) Health care consumers who are enrolled in health plans.

16 (2) Individuals and entities with experience in facilitating
17 enrollment in health plans.

18 (3) Representatives of small businesses and self-employed
19 individuals.

20 (4) The State Medi-Cal Director.

21 (5) Advocates for enrolling hard-to-reach populations.

22 (u) Facilitate the purchase of qualified health plans in the
23 Exchange by qualified individuals and qualified small employers
24 no later than January 1, 2014.

25 (v) Report, or contract with an independent entity to report, to
26 the Legislature by December 1, 2018, on whether to adopt the
27 option in Section 1312(c)(3) of the federal act to merge the
28 individual and small employer markets. In its report, the board
29 shall provide information, based on at least two years of data from
30 the Exchange, on the potential impact on rates paid by individuals
31 and by small employers in a merged individual and small employer
32 market, as compared to the rates paid by individuals and small
33 employers if a separate individual and small employer market is
34 maintained. A report made pursuant to this subdivision shall be
35 submitted pursuant to Section 9795.

36 (w) With respect to the SHOP Program, collect premiums and
37 administer all other necessary and related tasks, including, but not
38 limited to, enrollment and plan payment, in order to make the
39 offering of employee plan choice as simple as possible for qualified
40 small employers.

1 (x) Require carriers participating in the Exchange to immediately
2 notify the Exchange, under the terms and conditions established
3 by the board when an individual is or will be enrolled in or
4 disenrolled from any qualified health plan offered by the carrier.

5 (y) Ensure that the Exchange provides oral interpretation
6 services in any language for individuals seeking coverage through
7 the Exchange and makes available a toll-free telephone number
8 for the hearing and speech impaired. The board shall ensure that
9 written information made available by the Exchange is presented
10 in a plainly worded, easily understandable format and made
11 available in prevalent languages.

12 (z) This section shall become inoperative on the October 1 that
13 is five years after the date that federal approval of the bridge plan
14 option occurs, and, as of the second January 1 thereafter, is
15 repealed, unless a later enacted statute that is enacted before that
16 date deletes or extends the dates on which it becomes inoperative
17 and is repealed.

18 SEC. 2. Section 100503 of the Government Code, as added by
19 Section 5 of Chapter 5 of the 1st Extraordinary Session of the
20 Statutes of 2013, is amended to read:

21 100503. In addition to meeting the minimum requirements of
22 Section 1311 of the federal act, the board shall do all of the
23 following:

24 (a) Determine the criteria and process for eligibility, enrollment,
25 and disenrollment of enrollees and potential enrollees in the
26 Exchange and coordinate that process with the state and local
27 government entities administering other health care coverage
28 programs, including the State Department of Health Care Services,
29 the Managed Risk Medical Insurance Board, and California
30 counties, in order to ensure consistent eligibility and enrollment
31 processes and seamless transitions between coverage.

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

38 (c) Determine the minimum requirements a carrier must meet
39 to be considered for participation in the Exchange, and the
40 standards and criteria for selecting qualified health plans to be

1 offered through the Exchange that are in the best interests of
2 qualified individuals and qualified small employers. The board
3 shall consistently and uniformly apply these requirements,
4 standards, and criteria to all carriers. In the course of selectively
5 contracting for health care coverage offered to qualified individuals
6 and qualified small employers through the Exchange, the board
7 shall seek to contract with carriers so as to provide health care
8 coverage choices that offer the optimal combination of choice,
9 value, quality, and service.

10 (d) Provide, in each region of the state, a choice of qualified
11 health plans at each of the five levels of coverage contained in
12 subsections (d) and (e) of Section 1302 of the federal act.

13 (e) Require, as a condition of participation in the Exchange,
14 carriers to fairly and affirmatively offer, market, and sell in the
15 Exchange at least one product within each of the five levels of
16 coverage contained in subsections (d) and (e) of Section 1302 of
17 the federal act. The board may require carriers to offer additional
18 products within each of those five levels of coverage. This
19 subdivision shall not apply to a carrier that solely offers
20 supplemental coverage in the Exchange under paragraph (10) of
21 subdivision (a) of Section 100504.

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

25 (A) Fairly and affirmatively offer, market, and sell all products
26 made available to individuals in the Exchange to individuals
27 purchasing coverage outside the Exchange.

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

31 (2) For purposes of this subdivision, “product” does not include
32 contracts entered into pursuant to Part 6.2 (commencing with
33 Section 12693) of Division 2 of the Insurance Code between the
34 Managed Risk Medical Insurance Board and carriers for enrolled
35 Healthy Families beneficiaries or contracts entered into pursuant
36 to Chapter 7 (commencing with Section 14000) of, or Chapter 8
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39 Health Care Services and carriers for enrolled Medi-Cal
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2 extent and scope of coverage.
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4 and disenrollment of enrollees.
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6 health plans.
- 7 (j) Establish uniform billing and payment policies for qualified
8 health plans offered in the Exchange to ensure consistent
9 enrollment and disenrollment activities for individuals enrolled in
10 the Exchange.
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12 availability of health care coverage and federal subsidies through
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15 enrollees with enrolling and reenrolling in the Exchange in the
16 least burdensome manner, including populations that may
17 experience barriers to enrollment, such as the disabled and those
18 with limited English language proficiency.
- 19 (l) Select and set performance standards and compensation for
20 navigators selected under subdivision (l) of Section 100502.
- 21 (m) Employ necessary staff.
- 22 (1) The board shall hire a chief fiscal officer, a chief operations
23 officer, a director for the SHOP Exchange, a director of Health
24 Plan Contracting, a chief technology and information officer, a
25 general counsel, and other key executive positions, as determined
26 by the board, who shall be exempt from civil service.
- 27 (2) (A) The board shall set the salaries for the exempt positions
28 described in paragraph (1) and subdivision (i) of Section 100500
29 in amounts that are reasonably necessary to attract and retain
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31 published by the board in the board's annual budget. The board's
32 annual budget shall be posted on the Internet Web site of the
33 Exchange. To determine the compensation for these positions, the
34 board shall cause to be conducted, through the use of independent
35 outside advisors, salary surveys of both of the following:
- 36 (i) Other state and federal health insurance exchanges that are
37 most comparable to the Exchange.
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- 39 (B) The salaries established by the board under subparagraph
40 (A) shall not exceed the highest comparable salary for a position

1 of that type, as determined by the surveys conducted pursuant to
2 subparagraph (A).

3 (C) The Department of Human Resources shall review the
4 methodology used in the surveys conducted pursuant to
5 subparagraph (A).

6 (3) The positions described in paragraph (1) and subdivision (i)
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13 development, operations, and prudent cash management of the
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16 premium rate for each qualified health plan whether offered inside
17 or outside the Exchange.

18 (o) Authorize expenditures, as necessary, from the California
19 Health Trust Fund to pay program expenses to administer the
20 Exchange.

21 (p) Keep an accurate accounting of all activities, receipts, and
22 expenditures, and annually submit to the United States Secretary
23 of Health and Human Services a report concerning that accounting.
24 Commencing January 1, 2016, the board shall conduct an annual
25 audit.

26 (q) (1) (A) Annually prepare a written report on the
27 implementation and performance of the Exchange functions during
28 the preceding fiscal year, including, at a minimum, ~~the~~ *all of the*
29 *following*:

30 (i) *The manner in which funds were expended and the progress*
31 *toward, and the achievement of, the requirements of this title.* ~~This~~

32 (ii) *The total number of uninsured Californians as a percentage*
33 *of the state population.*

34 (iii) *An evaluation of the effectiveness of the activities*
35 *undertaken pursuant to subdivision (k). This evaluation shall be*
36 *conducted by an independent entity selected by the board.*

37 (B) *The report required by this paragraph shall be transmitted*
38 *to the Legislature and the Governor and shall be made available*
39 *to the public on the Internet Web site of the Exchange. A report*

1 made to the Legislature pursuant to this ~~subdivision~~ *paragraph*
2 shall be submitted pursuant to Section 9795.

3 (2) In addition to the report described in paragraph (1), the board
4 shall be responsive to requests for additional information from the
5 Legislature, including providing testimony and commenting on
6 proposed state legislation or policy issues. The Legislature finds
7 and declares that activities including, but not limited to, responding
8 to legislative or executive inquiries, tracking and commenting on
9 legislation and regulatory activities, and preparing reports on the
10 implementation of this title and the performance of the Exchange,
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12 promotion of legislative or regulatory modifications referred to in
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15 expenditures do not exceed the amount of revenue in the fund, and
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19 comply with the duties, responsibilities, and requirements of this
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23 following:

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15 services in any language for individuals seeking coverage through
16 the Exchange and makes available a toll-free telephone number
17 for the hearing and speech impaired. The board shall ensure that
18 written information made available by the Exchange is presented
19 in a plainly worded, easily understandable format and made
20 available in prevalent languages.

21 (z) This section shall become operative only if Section 4 of the
22 act that added this section becomes inoperative pursuant to
23 subdivision (z) of that Section 4.

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