

PPACA Primer: Impetus and Rationale for a State Health Insurance Exchange

**Presented to the
Mississippi Insurance Exchange Advisory Board
January 31, 2012
Jackson, MS**

AGENDA

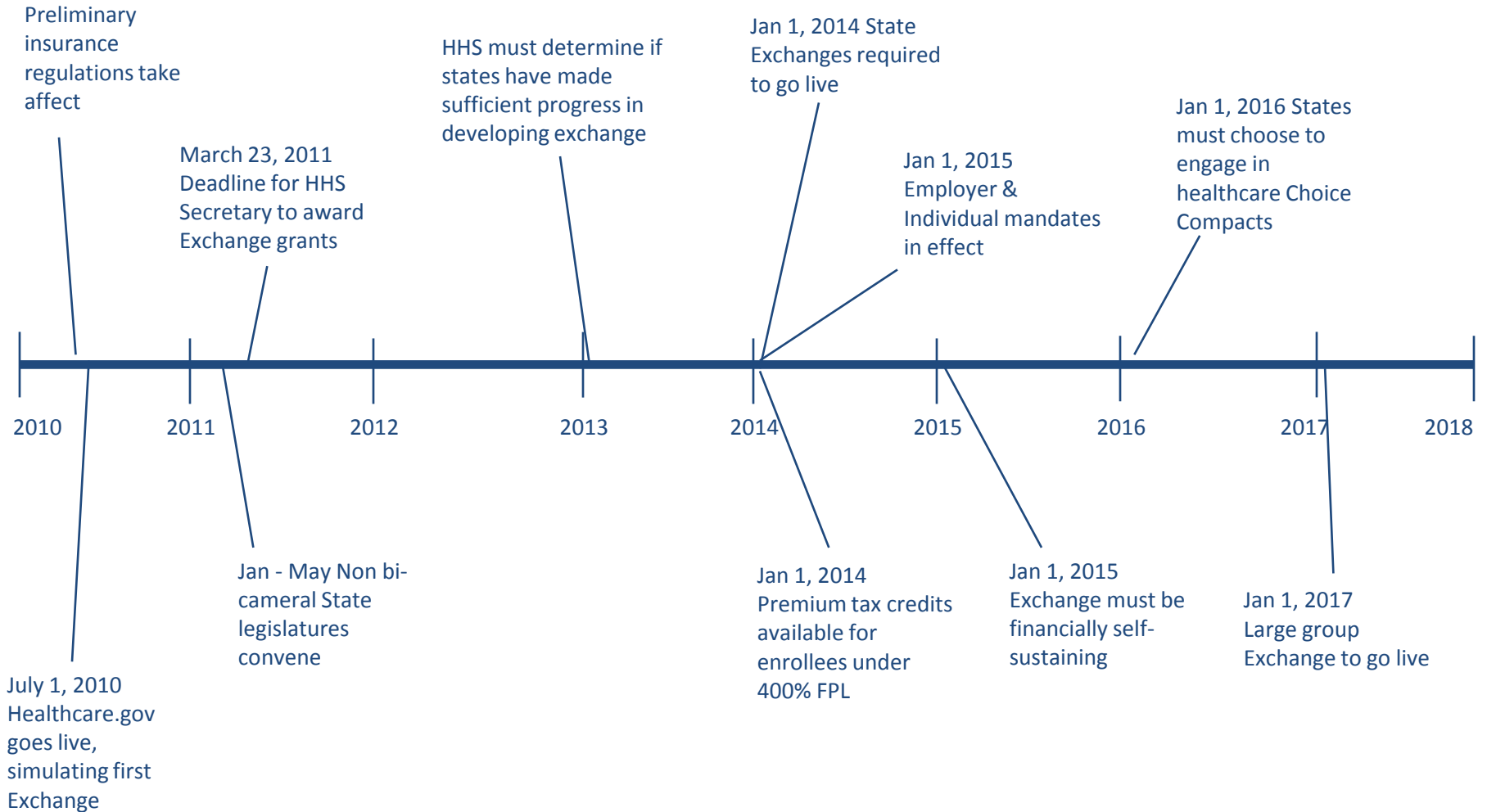
1. Brief Overview of PPACA
2. Drill Down on Exchanges
3. Reading the Tea Leaves
4. Imperatives for States
5. State Association Advocacy Efforts

Brief Overview of PPACA

Patient Protection and Affordable Care Act

- Medicaid Expansion
 - Up to 133% FPL (138%)
 - Average state Medicaid population increase is 30%
 - Massachusetts (8.7%); Nevada (65.6%)
 - Cost \$400-\$500 Billion 2014-2020
- Insurance Market Reforms
 - Medical Loss Ratio (MLR)
 - Essential Health Benefits (EHB)
 - Individual and Employer Mandates
 - Guarantee Issue and Community Rating
 - Federal premium subsidies up to 400% FPL
 - Health Insurance Exchanges

PPACA Timelines



What is an Insurance Exchange?

- Online marketplace—A tool that enables individuals to shop, compare, and enroll in a health insurance plan
- Definition—Varies by intended role of the exchange
 - Massachusetts—Intended to address access
 - Utah—Intended to address costs
- State-established versus Federally-established

State models are still in development...

Two Types of Exchanges

American Health Benefit Exchange (AHBE)

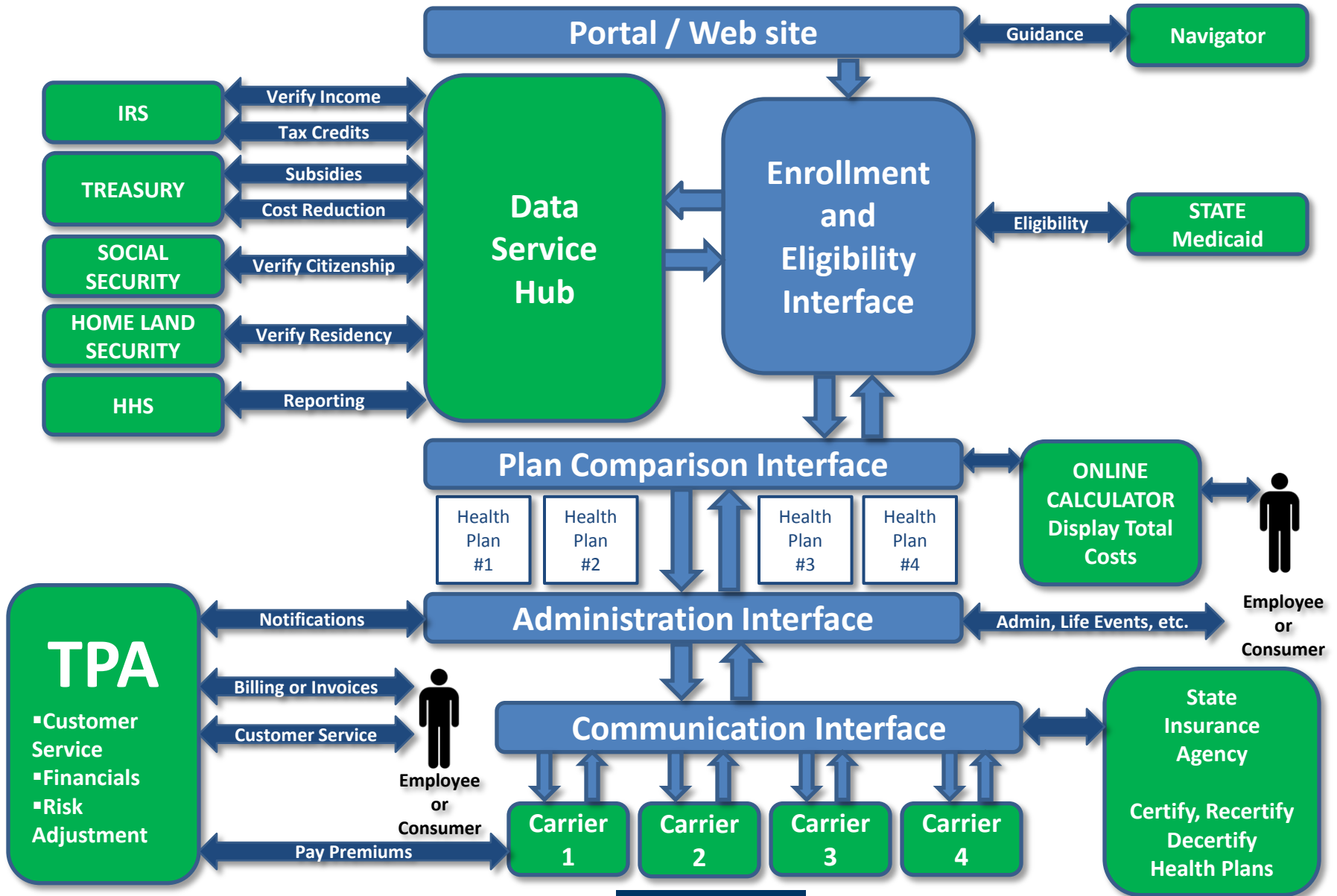
- Individuals and families may purchase qualified coverage through Qualified Health Plans
- Purchaser may be eligible for premium subsidies—based on income level

Small Business Health Options Program (SHOP)

- Small businesses with up to 100 employees may purchase qualified coverage
- Premium subsidies are not available through the SHOP exchange (tax credits available for qualified employers)

States may choose to operate two separate exchanges or combine into a single mechanism

Mandated State Exchange Functions



Barriers to Implementation

- Overall lack of certainty
 - 2012 Elections
 - Constitutional challenges
- Lack of timely guidance from HHS
 - 1968 new or expanded powers given to the Secretary of HHS
- Heavy Technology Lift
 - Systems development
 - Strained public/private sector resources
- Tough statutory timelines
 - Agreement among state officials
 - Stakeholder buy-in

The Future of the Law: Budget

- Exchange administrative costs
 - Federal funding opportunities for exchange establishment through 2014
 - On-going operational costs are the responsibility of the state
- Exchange premium subsidies
- Medicaid expansion

The Future of the Law: SCOTUS

Four Questions, Five Primary Issues

1) Commerce Clause

- *Does Congress have the authority to require individuals to purchase health insurance?*

2) 10th Amendment

- *Is it unconstitutional for Congress to require states to expand (and pay for) Medicaid*

3) Taxation

- *Is the “penalty” really a “tax”?*

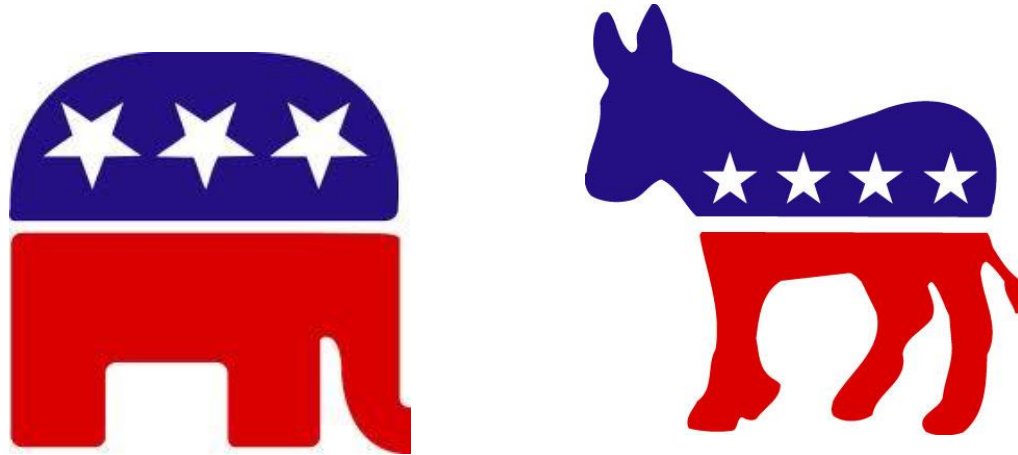
4) Anti-Injunction Act

- *If the “penalty” really is a “tax”, is it premature to even address the first three questions?*

5) Severability

- *If the Supreme Court decides that the individual mandate is unconstitutional, can the rest of the law stand?*

The Future of the Law: 2012 Elections



- Who will occupy the White House?
 - Is “effective” repeal by Executive Order possible?
- Who controls the House and Senate and to what degree?
 - Is actual repeal possible?
 - Will statutory timelines remain?

What's Trending?

- Lack of federal guidance means many state reform efforts will largely be focused on the small group market
- Exchanges will be used as tools to reform Medicaid
- Fully functioning, PPACA compliant state exchanges by 2014 is questionable
 - Majority of states indicate insufficient lead time on PPACA implementation
 - Political and practical barriers abound
- Federally Facilitated Exchange will be ready

Likely State Scenarios in 2014

3 Primary Buckets

- States making significant progress (5-10)
 - Will be certified as “approved”
 - Will likely still rely on federal processes for some functionality
- States making some progress (30-35)
 - Will be certified as “conditionally approved”
 - Will be considered state-federal “hybrid”
- States making little or no progress (5-10)
 - Will have a federally-facilitated exchange
 - May continue to work toward a state-facilitated exchange

Strategic Imperatives for States

- Define the state's vision; identify long- and short-term strategies
- Perform environmental assessment
- Develop a blueprint
- Proactively engage all stakeholders
- Act NOW
 - Be thoughtful, deliberative, and decisive in planning and implementation efforts
 - Understand the implications of actions or lack thereof
 - Be creative in finding unique solutions that work for the state's unique circumstance

State Association Advocacy Efforts

- State-established vs. Federally-established
 - Transparency
 - Competition
 - Plan payment structure
- Essential Health Benefits (EHB)
 - Affordability for states and for patients
- Expanded patient base
 - Sufficient provider base
 - Provider fees for private and public coverage
- Dentists as small employers—access to group health coverage

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