

New Mexico Health Insurance Exchange Board Meeting



January 9, 2015



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Agenda

- 1. Welcome, roll call, confirmation of quorum and approval of agenda – Chairman J.R. Damron, M.D.**
- 2. Chairman’s Remarks & Aim of Today’s Meeting – Chairman J.R. Damron, M.D.**
- 3. Update on Enrollment and Grant Funding 2015 – Amy Dowd, CEO**
- 4. Review Today’s Agenda – Jon Kingsdale, PhD, Wakely Consulting**
- 5. Review of Progress against Goals for 2014/15 – Jon Kingsdale, PhD, Amy Dowd**
- 6. Proposed Goals for 2015/16 – Jon Kingsdale, PhD**
- 7. Options for path forward – Jon Kingsdale, PhD**
- 8. Wrap-up on guidance for CEO in negotiating with vendors & CMS – Jon Kingsdale, PhD, Amy Dowd, Chairman J.R. Damron, M.D.**
- 9. Matters from the Finance Committee – Director Patsy Romero, Chair & Treasurer**
- 10. Matter from the Operations Committee – Director Gabe Parra, Chair**
- 11. Adjournment**

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Chairman's Remarks

Chairman J.R. Damron, M.D.

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Update on Enrollment and Grant Funding for 2015

Amy Dowd, CEO

Enrollment Update

- **17,556** New Mexicans selected a health plan through New Mexico's health insurance exchange between November 15 and December 15, 2014.
- **59 percent**, or approximately 10,000 individuals, are customers new to BeWellNM.
- **41 percent**, or approximately 7,200 individuals, who selected a plan are renewal customers that made change in their household or plan selection prior to December 15, 2014. (Those renewal customers that didn't make a change in their plan selection before December 15 will still be automatically reenrolled for January 1.)
- **73 percent** have received financial assistance to reduce the cost of their coverage.

Note: CMS does not collect previous uninsured/uninsured status, so we do not know whether these individuals were uninsured or not. CMS has not provided carrier selections, metal levels, gender or age.

Recap of Events Leading to Today's Discussion

Jun 1 -
Nov 1

Nov 1 –
Dec 17

Dec 18
– Jan 8

Today

- CMS indicated verbal approval of **no-wrong door system** during June design review
- Board decision to delay go-live
- Implementation timeline for existing design updated with 2015 go-live
- Design and development progresses
- Design submitted for formal approval
- CMS indicated need for further discussion on design
- CMS notified NMHIX of need for system course-correction to a **single-door** application system and greater integration
- Updates made to design and corresponding grant application
- Grant submitted
- Team progresses on fine-tuning design
- Grant application denied
- Swiftly developed options for board consideration on technology solutions
- 2015 budget reviewed and potential cost savings identified
- NMHIX needs to align on preferred path that supports mission and goals

Review of Grant Application

The Grant Application Review Process

- Three reviewers that independently score several section of the application
- All grant applications stand alone – reviewers may not know of previous grant applications
- A minimum of 70 points from reviewers required to receive any money
- Budget negotiations are not intended to change the score of the application
- Notice of decision is issued following budget negotiations

Review of Grant Application

Application strengths:

- **Governance structure very good**
- **Time-frames outlined were reasonable**
- **Background elements were very strong**

CMS feedback on application:

- **In general, some sections were more detailed than others; needed more detailed narrative on IT workplan and cost allocation (i.e., specifics on hourly rates on contractors was not provided)**
- **Wanted to see more 'verbose and glowing' description of progress – didn't provide enough detail on accomplishments**
- **Letters attached to the application indicated state was questioning the benefit of the changes that were required and stated that CMS has already approved with which CMS disagrees**

Overall Context of Application Cycle:

- **CMS leadership has less appetite to continue to invest in IT – but strong appetite for SBEs.**
- **Less money available overall – only funded one new technology project (Arkansas), most states received less than requested, unknown if any other state received zero**
- **CMS believes that NM has had 1.5 years to work on this detail – and compared to other states NM wasn't as far along**
- **CMS looked at where a state should be in their build after this time and amount spent to-date and believed that NM should have been further along**

Denial of grant application DOES NOT indicate lack of CMS support for NMHIX as a SBE

Path Forward Options for Discussion Today

Option 1

- A. Seek CMS approval for a **Single-Door** system design using existing federal funds and develop plan to close delta between available funds and cost.
- B. Seek CMS approval for a new, updated **No-Wrong Door** design (modeling after Idaho) using existing federal funds and develop plan to close delta between available funds and cost.

Option 2

Seek CMS approval for a **Federal Platform Lease** arrangement re-allocating some existing federal funds for other activities (outreach, broker support, etc.) and update financial sustainability plan to pay for lease.



Review of Today's Agenda

Jon Kingsdale, PhD, Wakely Consulting

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Review of Progress Against Goals for 2014/15

Jon Kingsdale, PhD and Amy Dowd

Mission & Goals for 2014/15

Mission: to enroll all qualified New Mexicans in the New Mexico Health Insurance Exchange thereby improving the collective health and well-being of New Mexicans by facilitating better access to competitive, affordable, high-quality, timely medical care through greater healthcare coverage.

- **Goal #1:** Stand up and develop the NMHIX (individual non group and SHOP) with continued refinement to ensure optimum functionality and marketplace effectiveness.
- **Goal #2:** Enroll eligible New Mexicans in the NMHIX
- **Goal #3:** Stand-up the Individual Exchange
- **Goal #4:** Ensure a financially viable and sustainable NMHIX

Goals for 2014/15

- Goal #1: Stand up and develop the NMHIX (individual non group and SHOP) with continued refinement to ensure optimum functionality and marketplace effectiveness.
 - Objectives
 1. Stand up the non-group Exchange and operate both exchanges soundly;
 2. Support the “No Wrong Door” concept;
 3. Perform the basic functions as close to flawlessly and seamlessly as possible;
 - a) Portal to coverage (in person, on the phone and on-line)
 - b) Enroll people
 - c) Ensure coverage is in effect
 - d) Collections
 - e) Payments to insurers
 - f) Continual improvement to each

Goals for 2014/15

- Goal #1: Objectives (cont.)
 4. Promote adequately trained, certified and supported Healthcare Guides and commissioned brokers and agents to educate and enroll all qualified individuals and employers;
 5. Support a rapid “real-time” accurate eligibility and verification IT system;
 6. Promote an effective, seamless, and efficient IT system;
 7. Endorse a continuous flow from initial application to enrollment, billing and collections in a selected QHP;
 8. Provide a “fast lane” for unsubsidized shoppers to move to the issuer’s website and enroll directly;
 9. Develop and deploy a self-evaluation and process improvement tools;
 10. Recruit, train and retain a professional, efficient and caring staff.

Goals for 2014/15

- Goal #2: Enroll eligible New Mexicans in the NMHIX
 - Objectives
 1. Enrollment:
 - a) Support consumers in selecting wisely among the health plans available to them through education and simplifying the process and options, so they can confidently and readily shop for coverage and enroll.
 - b) Promote the NMHIX to be accessible to walk-ins, telephone and internet.
 - c) Ensure there are well-trained supported Healthcare Guides, customer service representatives, brokers and agents.
 - d) Ensure a “No Wrong Door” enrollment strategy is employed.

Goals for 2014/15

- Goal #2: Objectives (cont.)
 2. Outreach:
 - b) Perform aggressive and effective outreach to make eligible residents of New Mexico aware of the Exchange, the need for coverage and the availability of subsidies;
 - c) Motivate eligible New Mexicans to explore and sign up for health insurance coverage – making the uninsured the primary target for outreach.

Goals for 2014/15

- Goal #3: Stand-up the Individual Exchange
- Goal #4: Ensure a financially viable and sustainable NMHIX



Proposed Goals for 2015/16

Jon Kingsdale, PhD

Proposed Goals for 2015/16

- Square the budget for 2015 while maintaining financial sustainability
- Maintain well-functioning NMHIX
- Enroll many New Mexicans
- Targeted outreach to the uninsured and Hispanic population
- Inform consumers to shop effectively for health plans

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Morning Break

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Options for Path Forward

Jon Kingsdale, PhD

Options for Discussion

Option 1

- A. Seek CMS approval for a **Single-Door** system design using existing federal funds and develop plan to close delta between available funds and cost.
- B. Seek CMS approval for a new, updated **No-Wrong Door** design (modeling after Idaho) using existing federal funds and develop plan to close delta between available funds and cost.

Option 2

Seek CMS approval for a **Federal Platform Lease** arrangement re-allocating some existing federal funds for other activities (outreach, broker support, etc.) and update financial sustainability plan to pay for lease.

Option 1A: Single-Door

Option 1A

Seek CMS approval for a **Single-Door** system design using existing federal funds and develop plan to close delta between available funds and cost.

- Pros:
 - CMS approval likely
 - Independent Exchange
 - Customized consumer experience
 - Access to data
- Cons:
 - Timeline needed to implement
 - Some unknowns remain around cost
 - Reduced funding for other areas of Exchange (Marketing, Outreach, Enrollment, Call Center)
 - No auto-renewal due to budget constraints
- Additional Technology Implementation Cost: \$29.5M (down from \$32M in grant application)
- Impact to 2015 Budget: Taking into account significant cuts in other budget areas what is needed to cover this option would be \$13M - \$16M

Option 1B: Modified No-Wrong Door

Option 1B

Seek CMS approval for a new, updated **No-Wrong Door** design (modeling after Idaho) using existing federal funds and develop plan to close delta between available funds and cost.

- Pros
 - Independent Exchange
 - Customized consumer experience, but experience may not be as good as other options
 - Time to implement less compared to 1A
- Cons
 - CMS approval needed and unlikely
 - Some unknowns remain around cost
 - Mixed families and Medicaid/NMHIX transfers can be confusing for consumer
 - Reduced funding for other areas of Exchange (Marketing, Outreach, Enrollment, Call Center)
 - No auto-renewal
 - No room for error – no contingency
- Additional Technology Implementation Cost: \$10.75M
- Impact to 2015 budget: Taking into account significant cuts in other budget areas, the delta needed to cover this option would be \$0M - \$2M

What Changes will BeWellNM Need to Make Options 1A or 1B Work?

- Technology – Raj
- Low-cost, basic call center functionality – Michael
- Reduced Outreach, Enrollment and Marketing – Linda
- MOU with OSI – Amy

Technology Changes to Make Options 1A or 1B Work

- Simple exchange design, no possibility of enhancements (i.e., provider directory, prescription search, etc.)
- Change in vendor payment arrangement (deferred payments/PMPM with increased M&O, etc.)
- No auto-renewal/data migration
- HSD identified cost-savings

Call Center Changes to Make Options 1A or 1B Work

Cost Category for Call Center Implementation and Integration

	<i>Integration/Configuration</i>	<i>Training</i>	<i>Call Center Vendor PMO</i>	<i>Facility Build Out Costs</i>
Business function included in the initial scope of work	Integrate vendor and NMHIX systems including configuration, testing and documentation. Cost does include collaboration with HSD.	Training on integrated system as well as development of Broker, Assistor and CSR training.	Overall Call Center implementation of approved vendor work plan and project plan.	Cost for vendor to co-locate in the ABQ metro area. This cost includes building out facility with furniture and hardware.
Cost Estimates – initial scope of work	\$3,500,000	\$400,000	\$225,000	\$1,300,000
Recommended adj. scope of work	No system integration. This will result in minimal need for configuration, testing and documentation costs.	Recommend merge into existing Comm/Outreach budget for training.	Reduced integration and training development will reduce Call Center vendor PMO costs.	Allow Call Center vendor to co-locate center outside of the ABQ metro area.
Cost reduction %	75%	100%	25%	60%
Consumer Experience or Other Impacts	No consumer impact. Loss in efficiency of integrated systems.	No consumer impact. Exchange training to be built off of existing training in Comm/Outreach.	No consumer impact. More Call Center vendor PMO focus on the overall implementation.	No consumer impact. Increased vendor management and travel expenses.

Call Center Changes to Make Options 1A or 1B Work

- **Recommendations to Call Center implementation and configuration**
 - **Initial implementation estimates:** **\$5.4 M**
 - **Adjusted implementation estimates:** **\$2.00 – \$2.50 M**
 - **Estimated Call Center savings:** **\$2.9 - \$3.4 M**

- **Recommendation to Call Center pricing strategy**
 - **Est. 2014 Call Center pricing with PMPM:** **\$4.25 M**
 - **Estimated with Per X pricing:** **\$1.50 – \$2.50 M**
 - **Estimated M&O savings:** **\$1.75 – \$2.75 M**

Marketing, Communications, Outreach, Enrollment Changes to Make Options 1A or 1B work?

This sections reviews and reduced budgets for three programs at BeWellNM:

- Marketing, Communication, Outreach & Enrollment (Tracks 1-4)
- Outreach Partners
- Enrollment Entity Program

Track One: Marketing Changes to Make Option 1A or 1B Work

Existing Agency Scope:

- Strategy
- TV
- Radio
- Print
- Digital
- Billboards
- Enrollment & Outreach Collateral
- Production costs

Cost Savings:

- **OPTION 1 – Reduce 350 TV spots**
- **OPTION 2 – Reduce 750 TV spots**
- **Branded Collateral – we can continue to use well in FY 2016.**
- **Print Ads – same as collateral.**
- **Radio – focus on rural areas, less expensive media buy**

Track Two: Communication Changes to Make Option 1A or 1B Work

Existing Agency Scope:

- Strategy & Management
- Media Relations
- Annual Report
- Media Training
- Testimonial Videos
- Social Media
- NA Media Engagement
- Governance

Cost Savings:

- **Reduce Strategy & Management Cost**
- **Delete Media Training**
- **Delete Testimonial Videos**
- **Delete Native American Media Engagement**
- **Collaborate with carriers to pick up NA media cost**

Track Two: Outreach & Enrollment Program Management Changes to Make Option 1A or 1B Work

Existing Agency Scope:

- Strategy
- Partner & Event Support
- Stakeholder, Agent & Broker Engagement
- Enrollment entity management
- Training development

Cost Savings:

- **Reduce Partner & Event Support**
- **Reduce Stakeholder, Agent & Broker Engagement support**
- **Reduce Enrollment entity management support**
- **Continue training development**

Track Three: Website Changes to Make Option 1A or 1B Work

Existing Scope:

- Web development
- Keep basic upgrade activities as needed
- Web maintenance
- Change to a lower cost vendor

Cost Savings:

- **Remove new web development discovery and strategy**
- **Remove digital marketing design strategy & execution (absorbed by agency)**

Track Four: Research Changes to Make Option 1A or 1B Work

Existing Scope:

- Keep statewide messaging survey (done)
- Keep statewide benchmark survey (done)
- Keep statewide mid-enrollment survey (in process)
- Keep statewide post enrollment survey tracking
- Keep web-based survey (ongoing)

Cost Savings:

- **Delete focus groups**
- **Delete shop post enrollment**
- **Delete enrollment counselors marketing & media survey**
- **Delete uninsured post enrollment survey**
- **Delete survey of recent enrollers**

Track Four: Outreach Partner Changes to Make Option 1A or 1B Work

Cost Savings:

- **Reduce number of Outreach Vendors**
- **Do more statewide coordinated events like “Enrollaplooza”**

Track Four: Enrollment Entities Program Changes to Make Option 1A or 1B Work

Cost Savings:

- **Reduce number of enrollment entities & counselors**
- **Select two vendors to work with entire state**
 - **Native American**
 - **Hispanic/Anglo**
- **Engage brokers through broker management & training support to replace enrollment counselors**

2015-2016 OE Budget

	Original	Changed
Marketing & Comms	\$8,200,000	\$6,699,532*
Enrollment	\$5,375,000	\$3,515,330
Outreach	\$1,287,374	\$1,159,669
TOTAL	\$14,862,374	\$11,374,531
SAVINGS	\$3,487,843	

* Majority of money already expended

Memorandum of Understanding - OSI

The MOU, scheduled to end 12/31/2015, states that “NMHIX shall transfer an amount not to exceed \$1,925,000” for services to “support regulatory and quasi-regulatory activities carried out by NM OSI in support of the NMHIX and New Mexico’s implementation of the Affordable Care Act with funds received by NMHIX.”

The OSI scope of the MOU is as follows:

- Review and monitor QHPs and QDPs and company licensing.
- Maintain and support SERFF activities
- Provide initial and ongoing Enrollment Counselor certification including review of criminal background checks, maintenance of records, information gathering, preparation & distribution of identification cards, and notification of application outcome
- Provide information and notification to licensed producers
- Receive and provide follow-up on consumer complaints

MOU – OSI (continued)

- Develop and utilize capability to evaluate and cost effectiveness of QHPs and QDPs, and report to the public on QHPs and QDP quality, using technologies not limited to All Payer Claims Database (APCD) and Geographic Information Services (GIS).
- Adequately staff these functions within NMOSI so as to provide the services contemplated on a timely basis. (10 positions)

To date, one payment of \$275K has been made to OSI (4/2013). Six additional payments of \$275K were to be made upon receipt of subsequent quarterly invoices from OSI.

- No additional invoices have been received from OSI based on the delay of State approval to post and fill ten (10) positions and acquire office space in Albuquerque.
- OSI is on track to post these positions and acquire the space in 6-8 weeks.

All Payer Claims Database (APCD). Since OSI and HSD will be using funds unrelated to NMHIX for this project, OSI advised that this would warrant an MOU cost reduction. Amount of savings TBD.

Option 2: Federal Platform Lease

Option 2

Propose a Federal Platform Lease arrangement re-allocating some existing federal funds for other activities (outreach, broker support, etc.) and use approved financial sustainability plan to pay for lease.

- **Pros:**

- It already works, consumer experience is good
- Low to no technology implementation cost
- Potentially lower costs for M&O
- Auto-renewal
- Potential increased funding for other areas of Exchange (Marketing, Outreach, Enrollment)

- **Cons:**

- Approval needed – but likely
- Less flexibility on consumer experience / customization
- Unknowns on cost, access to data
- State-Based Exchange designation for SCOTUS at risk?
- Some cost to develop proposal and negotiate terms
- Perception of money already spent

- **Other Pros and Cons?**

What will BeWellNM Need to Make Option 2 work?

- Agreement with CMS of conceptual framework to support BeWellNM as a State-Based Exchange

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Lunch Break

What will BeWellNM needs to make Option 2 work?

Agreement with CMS of conceptual framework to support BeWellNM as a State-Based Exchange that includes a contractual agreement with CMS with key terms such as:

- Pricing Structure
- Division of Responsibilities
- State-Based Exchange designation
- Access to application and enrollment data
- Dedicated NM call center support?
- NMHIX branding on application?
- Other needs?

Other considerations:

- Abandon/revise/defer some goals?
- Others?

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Wrap-Up On Guidance

Jon Kingsdale, PhD and Chairman J.R. Damron, M.D.

Wrap-Up on Guidance

- Alignment on preferred path forward that supports mission goals
- Next Steps
- “Parking Lot” Issues for Follow-Up

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Matters From the Finance Committee

Director Patsy Romero, Chair and Treasurer

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Matters From the Operations Committee

Director Gabe Parra, Chair

Project Management Services Procurement

- **Scope:** The RFP was designed to be a competitive bid for Project Management Services from qualified vendors to manage and oversee the design, development and implementation of an Integrated Eligibility and Enrollment System (Medicaid and Qualified Health Plans).
- **Process:** The Evaluation Committee met on 12/30 to review all five responses and select finalists for oral presentations. The Committee met again on 01/06 and 01/07 to hear oral presentations from the finalists and determine the score for each vendor.
- **Recommendation:**
 - With the uncertainties resulting from the new funding environment, the committee had difficulty balancing the short term unknowns with the RFP's requirement for a fixed cost 11 month contract set forth in the procurement.
 - The committee is recommending the PMO RFP be put on hold at this time and re-bid at such a time when NMHIX is ready to move forward with a path and set up procurement requirements that provide the NMHIX with more flexibility to better meet the demands of the changing circumstances.

King vs. Burwell

Key Considerations for States from Manatt Health Solutions



January 9, 2015



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Foundation and History of the Case

Foundation

- Despite containing a federal fallback provision that allows for the FFM, there is a single instance in ACA that indicates that tax credits are only available to individuals from states with state-based exchanges
- In other parts of the ACA, it appears HHS is intended to stand in the shoes of the state when HHS operate the federal fallback Exchange.
- With this in mind, the IRS issued a regulation that allows all Exchange enrollees to receive tax credits, including to individuals in states that use FFM New Mexicans selected a health plan through New Mexico's health insurance exchange between November 15 and December 15, 2014.

History

- Two types of plaintiffs sued on the grounds that the IRS regulation is not allowed by ACA:
 - Employers in states that did not form a state based exchange who argued that if a state based exchange is not present, and tax credits are not available to individuals, then the employer mandate and associated penalty does not apply in their state
 - Individuals in FFM states who contend that if tax credits are not available in their state then the individual mandate and associated penalties would not apply because there is no access to affordable coverage
- Cases were decided in two Federal appeals courts – the 4th Circuit and the DC Circuit.
- DC ruled against IRS while the 4th upheld the IRS regulation (but DC Circuit decision subsequently vacated)
- The Supreme Court agreed to review decision of 4th Circuit, suggesting that at least four justices believe that the 4th circuit is incorrect.

Four Possible Decisions

1. **Decision upheld, Statute is clear—no change to FFM operations**
2. **Decision upheld, Statute is ambiguous**
 - Court is saying that IRS was reasonable in issuing regulation because of ambiguity in ACA
 - Opens door for new administration, with new IRS commissioner, to overturn regulation, citing ambiguity as identified by Court
3. **Decision vacated, Statute is clear—FFM no longer allowed in present configuration**
4. **Decision vacated, Statute is ambiguous—Court is stating that IRS was not reasonable in issuing regulation based on ambiguity**

If Vacated:

- **Court unlikely to give any other opinion besides vacating the decision and allowing IRS to address it. Unlikely to give instruction regarding when decision must be implemented or if IRS must apply the decision retroactively**
- **IRS will have a short period of time (a few weeks) to determine plan for addressing APTC if regulation vacated. IRS may have some discretion in how it implements**
- **If the Supreme Court rules for the plaintiff, IRS may agree not to enforce employer or individual mandate, to buy it more time before terminating APTCs**

Key Considerations

- **Critical issue is the definition of a state-based. The HHS Secretary has considerable leeway in defining what is a state-based exchange**
- **Variations in definition of state-based Exchange**
 - Three states (NV, NM, OR) are operating as state-based exchanges but are using FFM technology. This establishes a precedent for HHS to define these states as SBMs. HHS is considering whether to call NV and OR something else, but are waiting SCOTUS decision
 - **Future litigation could directly address whether SBMs operating with FFM technology can be considered SBMs under the ACA**
 - Under strictest interpretation, there are currently only 13 state-based exchanges, plus the DC exchange—those operating their own technology
 - Three SBMs (NY, RI, KY) were created by executive order, and operate through state agency, not via an act of the Legislature, which may be a more simple route for states trying to establish a SBM, by eliminating some governance issues and legislative issues, but not every state law will permit this

Key Considerations

Per statute, exchanges had to be created by 2014 and need to be financially self-sustaining by 2015

- Under a strict interpretation, any state that did not establish an SBM by January 1, 2014 cannot be considered an SBM
- States, not the FFM, would be responsible for determining the sustainability approach (exchange user fee or some other mechanism) and for directly collecting exchange user fees if applicable
- In addition, CMS has indicated that the current 3.5% exchange user fee does not cover all FFM costs, which means some taxpayer dollars are subsidizing FFM. **Any SBM using the FFM would likely need to cover ALL FFM costs in order to meet the sustainability requirement**

Potential Administrative Solution to an Adverse Ruling

- Reduce barriers to FFM states becoming a state-based exchanges, with outsourcing of technology to FFM
- Establish contractual arrangement whereby states would “rent” exchange services from FFM
 - Could be delivered as “exchange in a box” with no upfront implementation fee, just a monthly per user fee but all costs must be baked into this fee
- States that have most potential to move quickly will be states that have expanded Medicaid and the partnership states

Challenges

- Some states (Texas, Louisiana, etc.) may resist being classified as SBM
- Fee to rent FFM services may be too high
- States may not be prepared to collect the 3.5% fee exchange user fee
- The FFM provides business services beyond technology (call center, mailroom). States will either need to contract directly from CMS (at full cost), or will need to integrate state-based services with FFM, which would mean FFM would need to be integrated with multiple state-based systems—not likely to be technically feasible in the near term

Timeline

- March 2015—Court hears the case
- June 2015—Court issues ruling
- October 2015—Open enrollment

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Adjournment