

My name is Paul Howard, and I am director and senior fellow at the Manhattan Institute's Center for Medical Progress. I am also the author of the April 2011 Manhattan Institute report, "Building a Market-Based Health-Insurance Exchange in New York."

I'd like to thank the New York State Department of Insurance and Governor Cuomo for sponsoring this forum, and for encouraging public input on this important public-policy issue.

State-based insurance exchanges are the linchpin of President Obama's landmark health-care law, the Affordable Care Act (ACA). Starting in 2014, each state must offer an electronic marketplace where the uninsured and small businesses can shop for insurance coverage. Families and individuals that make up to 400 percent of the Federal Poverty Level will be eligible for federal premium tax credits to help make plans more affordable. The ACA also contains a mandate requiring every American citizen to have "qualified" health insurance or pay a modest penalty.

The ACA isn't perfect, but it does give New York policymakers the opportunity to create an exchange that revives the state's crumbling "direct pay" individual-insurance market, and offer small businesses and their employees more affordable coverage options.

Individual insurance in the state has been in sharp decline for years. As recently as 2001, more than 128,000 individuals were enrolled in HMOs in the direct-pay market. By 2010, enrollment had plummeted to just 31,000. Premiums approximately tripled during this period. As the *New York Times* noted last April, "premiums for individual and small group policies have risen so high that state officials and patients' advocates say that New York's extensive insurance safety net...is falling apart."

A successful exchange should offer a much wider range of affordable health plans than are currently available to New York's uninsured. If only a handful of very expensive, comprehensive plans are available – the same plans that can cost \$1,000 or more a month today – many "budget conscious" uninsured may opt to stay uninsured and pay the penalty required under ACA. Without a diverse "risk pool" of healthy enrollees, prices will climb even higher, leading to the eventual collapse of the exchange.

New York's costly insurance market is largely the result of well-meaning regulations enacted in the 1990s. In 1992, the state enacted the Community Rating/Open Enrollment law. The law imposes "guaranteed issue" provisions that require insurers to offer coverage to all applicants, including those who are already sick. And it employs "pure community rating" regulations that require plans to offer the same price to all applicants regardless of age or health status. These regulations sharply raised prices for younger and healthier applicants.

Additional regulations under the 1995 Point of Service (POS) law restricted the types of plans available in New York and required insurers to offer a generous (and expensive)

package of minimum benefits and services, along with limits on maximum co-pays and deductibles

The ACA requires “guaranteed issue” for all exchange plans, but allows insurers to vary premiums by up to 3-1 based on age (by contrast, New York doesn’t allow any variation for age). The ACA’s minimum benefits package is also less extensive than New York law currently requires.

New York policymakers should use the basic framework of the ACA and allow insurers to offer any plan that meets the federal standards on the state’s exchange. Albany should also reform insurance regulations based on the 1995 POS law (as needed) to allow greater variation in co-pays and deductibles—including allowing more affordable Health Savings Accounts and other high-deductible plans to be sold inside and outside the exchange (today, HSAs aren’t available in the “direct-pay” market).

To attract the maximum number of carriers offering innovative and affordable plans, and to make the exchange sustainable for the long term for taxpayers, as well as individuals and small businesses seeking health coverage, I recommend that New York take the following steps:

- **Encourage competition among all qualifying health plans.** The exchange should primarily be a clearinghouse for insurance competition based on the ACA's minimum actuarial standards.
- **Offer flexibility in insurance design.** New York should allow insurers to experiment with a wide range of co-payment and deductible designs, including Health Savings Accounts and other high-deductible plans.
- **Create affordable insurance options for younger and healthier enrollees.** New York should expand the state's age-banding rules to the ACA allowed 3-1 premium ratio (a reform that would require legislative action).
- **Establish political independence.** The exchange should be chartered as a quasi-independent public authority or chartered nonprofit rather than housed in an existing state agency, such as the Department of Insurance or Health.
- **Include defined contribution plans for small businesses.** The state's small business exchange should include a defined contribution option for small businesses, combined with a premium-aggregator function to help many more small businesses and their employees find affordable health-insurance options.

There are obviously many other issues to consider, but I believe that an exchange formed around these core principles has the best option for making the exchange sustainable and affordable for New York’s uninsured, small businesses, and taxpayers in 2014 and beyond.

Thank you.