

New York Health Benefit Exchange

Detailed Design Review Summary for 1.0 Legal Authority and Governance October 9-10, 2012

<u>Item Number</u>	<u>Topic</u>
1.1	Enabling Authority

On April 12, 2012, Governor Cuomo today issued an Executive Order to establish the New York Health Benefit Exchange. The Executive Order is copied below.

E X E C U T I V E O R D E R

ESTABLISHING THE NEW YORK HEALTH BENEFIT EXCHANGE

WHEREAS, the implementation of a Health Benefit Exchange and other reforms in New York will: (1) result in lower premiums for individuals and small businesses; (2) allow individuals and small businesses purchasing coverage through such Exchange to receive \$2.6 billion in federal tax credits and cost sharing subsidies; and (3) provide one million additional New Yorkers access to affordable, comprehensive health insurance, reducing the percentage of New Yorkers who are without health insurance;

WHEREAS, a state that chooses to operate its own Exchange must demonstrate to the federal government, by January 1, 2013, that its Exchange will be able to begin accepting applications by October 1, 2013, and will be operational by January 1, 2014, and if the state does not demonstrate operational readiness of its own Exchange, its residents will be required to participate in a federal Exchange;

WHEREAS, the State of New York is best positioned to: (1) understand the ramifications of operating an Exchange within New York's commercial insurance market; (2) consider the unique regional and economic needs of the State's individual and small business health insurance markets; (3) account for the diversity of its population, with its ethnic, cultural and language differences; and (4) decide what benefits will be provided to enrollees in the Exchange, which health plans can participate in the Exchange, what rules should apply to the marketing of products by health plans, and how to operate the Small Business Health Option Program ("SHOP...#157;) for small businesses;

WHEREAS, the Affordable Care Act requires an Exchange to evaluate the eligibility of individuals for Medicaid and other public health coverage and enroll them if eligible, meaning that it will be essential to coordinate the operations of the Exchange with the State's administration of these programs;

WHEREAS, the taxpayers of this State subsidize the costs associated with care for the 2.7 million New Yorkers without health insurance, who frequently forego preventive care and other needed treatment, putting them at risk of being sicker throughout their lives and dying sooner than those who have health insurance, which diverts funds from other public uses and costs state and county taxpayers more than \$600 million annually just to pay for a portion of the services rendered by hospitals to people without insurance;

WHEREAS, New York's uninsured working families often earn too much to qualify for public health insurance, but not enough to purchase coverage that costs, on average, over \$1,200 per month for an individual and \$3,450 per month for a family of four;

WHEREAS, small businesses, without assistance, cannot afford to purchase health insurance coverage for their workers, nearly 800,000 of whom have lost employer-sponsored coverage over the last decade, and thus face a major competitive disadvantage that inhibits their ability to grow, create jobs and otherwise support the State's economic development;

WHEREAS, the costs associated with care for the uninsured are shifted through increased premiums to those individuals and groups that purchase health insurance coverage, causing working families with health insurance to pay \$800 more in premiums on average each year;

WHEREAS, the development and operation of an Exchange in New York will impose no cost on the State, but will be funded entirely with federal funds until January 1, 2015, at which time the Exchange will be wholly self-funded, meaning that no State or county taxpayer dollars will be used for such purposes; and

WHEREAS, it is therefore critical that the State of New York establish and operate its own Exchange, and that it do so expeditiously;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby order as follows:

1. There is hereby established within the Department of Health, in conformity with the Affordable Care Act, the New York Health Benefit Exchange (the "Exchange...#157;). The Department of Health, in conjunction with the Department of Financial Services and other state agencies, shall take all necessary steps to effectuate the Exchange, and expedite its ability to perform those functions necessary to carry out the requirements and serve the goals of the Affordable Care Act.
2. The Exchange shall, among other things, facilitate enrollment in health coverage and the purchase and sale of qualified health plans in the individual market in this state, and enroll individuals in health coverage for which they are eligible in accordance with federal law.
3. The Exchange shall, among other things, take such actions necessary to enable eligible individuals to receive premium tax credits and cost-sharing reductions and to enable eligible small businesses to receive tax credits, in compliance with all applicable federal and state laws and regulations.
4. The Exchange shall, among other things, enter into agreements with appropriate entities, including but not limited to federal, state and local agencies, to the extent necessary to carry out its duties and

responsibilities, provided that such agreements incorporate adequate protections with respect to the confidentiality of any information to be shared.

5. The Exchange shall, among other things, convene regional advisory committees, consisting of consumer advocates, small business consumer representatives, health care providers, agents, brokers, insurers, labor organizations, and any other appropriate stakeholders, to provide advice and make recommendations on the establishment and operation of the Exchange, including recommendations about relevant regional factors, and shall provide opportunities for public input on such matters.
6. The Exchange shall, among other things, become financially self-sustaining by January 1, 2015, as required by the Affordable Care Act.
7. Nothing in this Order shall be construed to duplicate, preempt, supersede, limit or otherwise restrict the statutory authority, duties and functions of the Department of Health, the Department of Financial Services or any other agency of this State.

G I V E N under my hand and the Privy Seal of the State in the City of Albany this twelfth day of April in the year two thousand twelve.

BY THE GOVERNOR

Secretary to the Governor

