United States Government Accountability Office

Report to the Chairman, Committee on Small Business, House of Representatives

June 2013

PATIENT PROTECTION AND AFFORDABLE CARE ACT

Status of Federal and State Efforts to Establish Health Insurance Exchanges for Small Businesses

GAO-13-614

GAO Highlights

Highlights of GAO-13-614, a report to the Chairman, Committee on Small Business, House of Representatives

June 2013

PATIENT PROTECTION AND AFFORDABLE CARE ACT

Status of Federal and State Efforts to Establish Health Insurance Exchanges for Small Businesses

Why GAO Did This Study

The Patient Protection and Affordable Care Act (PPACA) requires SHOPs—exchanges or marketplaces where small employers can shop for health coverage for their employees—to be established in all states. PPACA also requires similar exchanges to be established for individuals. CMS oversees the establishment of the SHOPs, approving states to operate one or establishing and operating one itself in states that will not do so. Enrollment is to begin October 2013, with coverage effective January 2014, although a key requirement related to employee choice was deferred for 1 year. GAO was asked to examine federal and state readiness to establish the SHOPs. In this report, GAO describes (1) the roles of the federal government and states in establishing SHOPs and (2) the status of actions taken and planned by the federal government and states in preparing to establish SHOPs.

GAO reviewed CMS regulations and guidance on the roles of CMS and states in establishing both SHOPs and individual exchanges, as progress establishing the two exchanges is related. GAO reviewed CMS planning documents used to track the progress of key activities to be conducted by CMS to establish FF-SHOPs and FFEs. GAO also reviewed target completion dates for key activities CMS established for states and obtained updates from CMS on state progress. GAO interviewed CMS officials and relied largely on documentation from CMS—including information CMS developed on the basis of its contacts with states—and did not interview states.

View GAO-13-614. For more information, contact John Dicken at (202) 512-7114 or dickenj@gao.gov.

What GAO Found

For 2014, the Department of Health and Human Services' (HHS) Centers for Medicare & Medicaid Services (CMS) granted conditional approval to 18 states to establish state-based Small Business Health Options Programs, or SHOPs, and to 17 states to operate health insurance exchanges for individuals. CMS is required to operate a federally facilitated SHOP (FF-SHOP) and a federally facilitated exchange for individuals (FFE) in the remaining states. Of the 33 states with FF-SHOPs and 34 states with FFEs, 15 states are expected to assist CMS to carry out certain functions of the exchange. However, the activities that CMS plans to complete in these 15 exchanges have evolved, and CMS activities in these and other exchanges may continue to change. For example, CMS approved state roles in SHOPs and individual exchanges on the condition that they ultimately complete key activities for exchange establishment. CMS indicated that it would assume more responsibilities in these exchanges if any state did not adequately progress towards completion of all required activities.

CMS and states have made progress in establishing SHOPs, although many activities remain to be completed and some were behind schedule. CMS issued regulations and guidance necessary to establish SHOPs and took steps to establish processes and data systems necessary to operate the FF-SHOPs. Many activities remain to be completed in the core functional areas of eligibility and enrollment, plan management, and consumer assistance, and while the agency has established timelines for completion of these activities, some were behind schedule. For example, funding awards and development of a training curriculum for a key program that will provide outreach and enrollment assistance to small employers and employees have been delayed by about 2 months. Regarding states, CMS data showed that most had completed preliminary activities such as obtaining the necessary authority to operate an exchange, and many had made progress in each of the core functional areas. Many key activities remained to be completed—some scheduled for near the start of enrollment in October 2013—and, as of May 2013, states were behind schedule in completing some key activities. In particular, about 44 percent of the key activities CMS initially targeted for completion by March 31, 2013, were behind schedule, although CMS reported that it had revised many target dates and other delays were not expected to affect exchange operations.

Much progress has been made, but much remains to be accomplished by CMS and states within a relatively short amount of time. CMS's timelines for the remaining key activities provide a roadmap for completion; however, factors such as the still-evolving scope of CMS's required activities in each state and the many activities yet to be completed—some close to the start of enrollment—could suggest the potential for future challenges. And while missed interim deadlines may not affect implementation, additional missed deadlines could do so. CMS said it is working on strategies in each state to address contingencies. Whether CMS's contingency planning will assure the timely and smooth implementation of the exchanges by October 2013 cannot yet be determined.

In commenting on a draft of this report, HHS emphasized the progress it has made in establishing exchanges, and expressed its confidence that exchanges will be open and functioning in every state by October 1, 2013.

Contents

Letter 1

Background 5
CMS and State Roles and Activities in Establishing SHOPs Vary and May Continue to Evolve 12
CMS and States Have Made Progress Establishing SHOPs and FF-SHOPs, but Many Key Activities Are Yet to Be Completed and Some Were Behind Schedule 17
Concluding Observations 28
Agency Comments 28

Appendix I Comments from the Department of Health and Human Services 30

Appendix II GAO Contact and Staff Acknowledgments 32

Table

Table 1: CMS-Identified Key Activities to Be Completed by Each State-based Small Business Health Options Program (SHOP) and Individual Exchange, as of May 13, 2013 23

Figures

Figure 1: Health Insurance Exchange Arrangements for 2014, as of May 10, 2013 14
Figure 2: Examples of Remaining Key Activities Required for States to Establish Exchanges and the Target Completion Dates, as of April 24, 2013 26

Abbreviations

CMS	Centers for Medicare & Medicaid Services
FFE	federally facilitated exchange
FF-SHOP	federally facilitated Small Business Health Options Program
HCERA	Health Care and Education Reconciliation Act of 2010
HHS	U.S. Department of Health and Human Services
IT	information technology
PPACA	Patient Protection and Affordable Care Act
QHP	qualified health plan
SHOP	Small Business Health Options Program

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.

U.S. GOVERNMENT ACCOUNTABILITY OFFICE

441 G St. N.W.
Washington, DC 20548

June 19, 2013

The Honorable Sam Graves
Chairman
Committee on Small Business
House of Representatives

Dear Mr. Chairman:

The Patient Protection and Affordable Care Act (PPACA),[1] requires the establishment in all states[2] of Small Business Health Options Programs (SHOP)—exchanges, or marketplaces, where small employers can shop for and purchase health coverage for their employees.[3] PPACA also requires the establishment of individual exchanges in each state where eligible individuals can compare and select private insurance coverage from among participating health insurance plans. The SHOPs and individual exchanges are intended to provide single points of access to enroll employees of small businesses and individuals into private health plans.[4] The Department of Health and Human Services' (HHS) Centers for Medicare & Medicaid Services (CMS) is responsible for overseeing the establishment of these exchanges. PPACA requires that enrollment for the exchanges begin on October 1, 2013, and that the exchanges become operational and offer health coverage starting on January 1, 2014.[5] The Congressional Budget Office estimated in May 2013 that

[1]Pub. L. No. 111-148, §§ 1311(b), 1321(c),124 Stat. 119, 173, 186 (Mar. 23, 2010) (hereafter, "PPACA"), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (Mar. 30, 2010) (hereafter, "HCERA"). In this report, references to PPACA include any amendments made by HCERA.

[2]In this report, the term "state" includes the District of Columbia.

[3]Under PPACA, until 2016, states have the option to define "small employers" either as those with 100 or fewer employees or 50 or fewer employees.

[4]Individual exchanges will also be the access point to determine eligibility for income-based premium subsidies and assess eligibility for other health coverage programs, such as Medicaid or the State Children's Health Insurance Program. Medicaid is a joint federal-state program that provides health care coverage for certain low-income individuals. The Children's Health Insurance Program is a federal-state program that provides health care coverage to children 18 years of age and younger living in low-income families whose incomes exceed the eligibility requirements for Medicaid.

[5]PPACA, § 1311(b), 124 Stat. at 173.

about 2 million individuals will enroll in employer-based coverage through SHOPs and 7 million individuals will enroll in individual exchanges by 2014, respectively, increasing to about 4 million and 24 million by 2022, respectively.[6]

PPACA directed states to establish state-based exchanges by January 1, 2014.[7] In states electing not to establish and operate such an exchange, PPACA requires the federal government to establish and operate an exchange in the state, both a federally facilitated SHOP (FF-SHOP) and a federally facilitated exchange (FFE) for individuals.[8] As a result, the federal government's role with respect to an exchange for any given state—and, in particular, whether it will establish an exchange or oversee a state-based exchange in the state—is dependent on state decisions. As directed by PPACA, FF-SHOPs and FFEs must carry out the same functions as exchanges established and operated by a state. The federal government bears responsibility for establishing and operating the FF-SHOP and FFE; however, in establishing the framework within which an FF-SHOP and FFE in a particular state will be established and operated, CMS has invited states to assist with certain FF-SHOP and FFE operations. CMS refers to FF-SHOPs and FFEs in these states as partnership exchanges. States seeking to operate a state-based exchange were required to submit an application to CMS that attests to when the state would complete specific activities CMS deemed essential to operating an exchange. States electing not to establish a state-based exchange, but seeking to participate in a partnership exchange were required to complete an abbreviated version of that application tailored to the particular activities that the state would carry out for the FF-SHOP and FFE. On the basis of this documentation, CMS conditionally approved states to establish a state-based exchange or to participate in a partnership exchange on the basis that they complete key activities by targeted completion dates, and take other steps necessary for the operation of an exchange. States' decisions to operate an exchange generally apply to both the SHOP and individual exchanges—states

[6]Congressional Budget Office, *Effects on Health Insurance and the Federal Budget for the Insurance Coverage Provisions in the Affordable Care Act—May 2013 Baseline* (Washington, D.C.: May 14, 2013).

[7]PPACA, § 1311(b)(1), 124 Stat. at 173.

[8]PPACA, § 1321(c), 124 Stat. at 186.

generally do not operate just one or the other.[9] States electing not to establish a state-based exchange or participate in a partnership exchange were not required to submit any documentation to CMS.

As the October 1, 2013, required start of health plan enrollment draws nearer, an important question is whether the SHOPs will be ready to begin accepting applications on that date and be fully operational by January 1, 2014. You asked that we examine state and federal readiness to establish the SHOPs. In this report, we describe

1. the roles of the federal government and states in establishing SHOPs, and
2. the status of actions taken and planned by the federal government and states in preparing to establish SHOPs.

Our objectives were to focus on the SHOPs, rather than the individual exchanges; however, the progress made in establishing the SHOPs and the individual exchanges is interrelated. Fundamental elements of the exchanges, such as the entities that will operate them, the governance structure, and the IT infrastructure, are largely common to both types of exchanges with limited exceptions, so progress on these exchange elements generally applies to both SHOPs and individual exchanges. Therefore, throughout this report, our discussion of the status of efforts to establish SHOPs generally relates to both the SHOPs and the individual exchanges unless otherwise noted.[10]

To describe the roles of the federal government and states in establishing SHOPs, GAO reviewed HHS regulations, guidance, and other documents

[9]Although PPACA directs states to establish both an individual exchange and a SHOP exchange, the law allows states to operate only one exchange for providing individual and SHOP exchange services. PPACA, § 1311(b)(2), 124 Stat. at 173-4. However, CMS announced a proposed rule that, if finalized, would permit a state to operate a SHOP while CMS operates the individual exchange in the state. This proposed rule was released by CMS on June 14, 2013, and will be published in the Federal Register on June 19, 2013.

[10]GAO reported on actions taken by seven states in establishing their individual exchanges. See GAO, *Health Insurance: Seven States' Actions to Establish Exchanges Under the Patient Protection and Affordable Care Act*, GAO-13-486 (Washington, D.C.: Apr. 30, 2013). GAO is also reporting on the progress made by CMS in developing the FFE. See GAO, *Patient Protection and Affordable Care Act: Status of CMS Efforts to Establish Federally Facilitated Health Insurance Exchanges*, GAO-13-601 (Washington, D.C.: June 19, 2013).

issued by CMS—including an application that CMS required states seeking to establish a state-based exchange or participate in a partnership exchange in 2014 to complete. This application describes the roles of CMS and states in establishing both SHOPs and individual exchanges, as establishment of the two types of exchanges is closely related. We also interviewed CMS officials to clarify these documents and obtain updated information on the evolving decisions related to federal and state responsibilities for specific activities to be performed in each state.

To describe the status of federal actions taken and planned to establish FF-SHOPs, we examined planning documents and timelines used by CMS to track the status of key activities to be conducted by the federal government to establish FF-SHOPs and FFEs. In addition, we developed a data collection instrument for CMS to complete about its key activities underway or planned in establishing the FF-SHOPs and FFEs. The instrument asked CMS to provide information on the activities that it had completed and the completion dates, and a description of key activities remaining to be completed and the expected completion dates. To describe the status of state actions taken and planned towards establishing the SHOPs, we reviewed the conditional approval letters in which CMS highlighted targeted completion dates for key activities for exchange establishment in each of the states conditionally approved by CMS to operate state-based exchanges or participate in partnership exchanges.[11] To determine the extent to which prior targeted completion dates had been met, CMS provided us with updated data on the status of the key activities that were targeted for completion through March 31, 2013. Additionally, we reviewed other publically available information from organizations tracking progress towards exchange establishment, such as the State Refor(u)m[12]—an online network for health reform implementation. We also interviewed CMS officials to better understand the status of the FF-SHOP and state-based SHOPs. To describe both federal and state actions in establishing exchanges, we relied largely on information and documentation provided to us by CMS—including

[11]CMS noted in its letters that these key activities and targeted completion dates would function as a gauge of progress, but did not represent all that the states must do to operate as a state-based exchange.

[12]State Refor(u)m, http://www.statereforum.org, is an initiative of the National Academy for State Health Policy, funded by the Robert Wood Johnson Foundation.

information CMS developed on the basis of its contacts and information exchanges with states—and did not interview or collect information directly from state officials.

We conducted this performance audit from February 2013 through June 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

SHOPs are intended to allow eligible small businesses and their employees to obtain health insurance, and all SHOPs, whether state-based or established and operated by the federal government, will be required to perform certain functions. The federal government's role with respect to a SHOP in any given state is dependent on the decisions of that state.

Overview of SHOPs

PPACA required that SHOPs be established in each state to allow small employers in that state to compare health insurance options available and facilitate the enrollment of their employees in coverage. Once the SHOPs are established, employers and employees will be able to access the SHOPs through a website, toll-free call centers, or in person. The SHOP in a particular state will present the qualified health plans (QHP) approved by the SHOP for the small-employer market and offered in the state by the participating issuers of health coverage.[13] The benefits, cost-sharing features, and premiums of each QHP are to be presented in a manner that facilitates comparison shopping of plans by small employers and their employees. Employers will determine their contribution towards employee coverage and choose which QHP or QHPs will be offered to their employees. Both employers and employees will complete an application—through the SHOP website, over the phone, in person, or by

[13]The QHPs offered through the exchanges are required to meet certain benefit design, consumer protection, and other standards. In addition, all issuers or members of the same issuer group with a market share greater than 20 percent in the state's small group health insurance market must participate in a state's FF-SHOP if they wish to participate in its FFE.

mail—that collects the information necessary to screen the small employer's eligibility and the eligibility of each of its employees to enroll in a QHP.[14] Small employers and employees may receive assistance to compare coverage options and complete an application through an insurance agent, broker, or a Navigator.[15] CMS has noted that brokers will play a vital role in the SHOPs, as they currently do in the small-group health coverage market, providing service at the time of plan selection and enrollment and customer service throughout the plan year.

SHOPs have various options regarding how to allow employers to select coverage for their employees. A SHOP may allow a qualified employer to select a specific level or "tier" of coverage —bronze, silver, gold, or platinum—and allow the employer to make all QHPs within that tier available to the employee.[16] A SHOP may also allow an employer to offer broader employee choices among multiple plans across different tiers. The ability of employees to choose a plan that best meets their needs among multiple plans offered to them by their employer is referred to as

[14]Under PPACA, until 2016, states have the option to define "small employers" either as those having from 1 through 100 full-time equivalent employees or those having from 1 through 50 full-time equivalent employees. Beginning in 2016, small employers will be defined in all states as those with 100 or fewer full-time equivalent employees. Beginning in 2017, states may allow issuers of health insurance coverage in the large group market—issuers offering coverage to groups of 101 or more full-time equivalent employees—to offer QHPs through an exchange and, in turn, may allow large employers to obtain coverage through the exchange. To be eligible for SHOP coverage, a small employer must also offer, at a minimum, all full-time employees coverage in a QHP through a SHOP, and may either offer coverage to all eligible employees through the SHOP serving the area in which the employer has its principal business address or offer coverage to each eligible employee through the SHOP that serves that employee's primary worksite. Sole proprietors are considered individuals and will purchase through the individual exchange, not through a SHOP. To be eligible to enroll in a QHP through a SHOP, an individual must have been offered health insurance coverage by a qualified employer through a SHOP.

[15]Navigators are individuals and entities, such as community and consumer-focused nonprofit groups, to which exchanges award grants to provide information and services in a fair and impartial manner. The duties of a Navigator include providing public education to raise awareness about the exchange, facilitating selection of a QHP, and, as appropriate, referring consumers for assistance with complaints or questions regarding their health coverage.

[16]PPACA sets standards for the percentage of total average costs for covered benefits that most health plans including QHPs offered on an exchange are required to cover. For example, for a bronze plan, on average, an employee would be responsible for 40 percent of the costs of all covered benefits, while for a platinum plan, on average, an employee would be responsible for 10 percent of the costs of all covered benefits.

"employee choice." CMS had noted that employee choice was a fundamental new benefit of SHOPs, in that small employers would now be able to offer multiple plans from more than one issuer of health coverage—much in the way large employers traditionally have, and SHOPs were required to have the capacity to allow employers to provide employee choice beginning in 2014. Under a final rule issued in June 2013, however, SHOPs will not be required to have this capacity until 2015.[17] State-based SHOPs may voluntarily offer this option in 2014, but FF-SHOPs will not make it available until 2015, when all SHOPs will be required to allow a qualified employer to select a single tier of coverage and make all QHPs within that tier available to employees. To make it more administratively efficient for employers to provide their employees a choice of QHP, CMS also required SHOPs to aggregate the QHP premiums for multiple employees enrolling in a particular QHP, provide the relevant qualified employer with a bill identifying the total amount that is due to a particular QHP, and collect the relevant amount from each employer and pay QHP issuers directly.[18] However, like the deferral on employee choice, this requirement was deferred until 2015; state-based SHOPs may voluntarily provide this premium aggregation in 2014, but FF-SHOPs will not.[19]

Some small employers may also be eligible for a small business premium tax credit when they offer health coverage.[20] Through 2013, small employers may be eligible for a credit of up to 35 percent of the employers' share of the employees' premiums. Starting in 2014, the maximum tax credit increases to 50 percent, but is available only to small employers who purchase coverage through the SHOP. Small employers are eligible for this larger tax credit for a maximum of 2 years. Nonprofit employers meeting the eligibility criteria can receive credits for 25 percent

[17]78 Fed. Reg. 33233, 33239 (June 4, 2013).

[18]77 Fed. Reg. 18310, 18464 (Mar. 27, 2012).

[19]78 Fed. Reg. at 33239 (June 4, 2013). In the proposed rule, CMS noted that this delay was in response to concerns expressed by issuers of health coverage that they would not be able to complete enrollment and accounting system changes required to interact with the SHOP enrollment and premium aggregation systems required by employee choice; and whether there would be adequate time to educate employers, employees, and brokers about the employer and employee choices available in the SHOP.

[20]To be eligible, an employer must: (1) have fewer than the equivalent of 25 full-time workers, (2) have an average annual employee wage below $50,000, and (3) cover at least 50 percent of the cost of health insurance coverage for employees.

of the employer's share of premium costs through 2013 and, beginning in 2014, 35 percent of these premium costs for coverage purchased through a SHOP for a maximum of 2 years.

Core Functions of SHOPs

To establish the SHOPs, the federal government and states will be required to perform certain activities, many of which can be grouped into three core exchange functional areas: eligibility and enrollment, plan management, and consumer assistance. These functional areas are the same for the SHOPs and individual exchanges, although some activities may vary.

- *Eligibility and enrollment*: All SHOPs will be required to have the capacity to determine small employer and employee eligibility for QHP enrollment and to enroll employers and their employees into the applicable QHPs. The SHOPs will use a streamlined enrollment-eligibility system to collect information from employer and employee applications and verify that information. To carry out these functions, states and the federal government will need to develop complex information technology (IT) systems that securely facilitate the movement of information between various entities such as small employers, employees, and issuers of health coverage.
- *Plan management*: SHOPs will be required to develop and implement processes and standards to certify health plans for inclusion as QHPs and recertify or decertify them, as needed.[21] As part of this, the SHOP must develop an application for issuers of health coverage that seek to offer a QHP. The SHOP must review the health plan data to ensure it meets certification standards for inclusion in the SHOP as a QHP. For example, the SHOP is to ensure that the health plan will accept payment from the SHOP on behalf of an employer and enroll an employee in accordance with the employer's annual employee open enrollment period. The SHOP must also conduct ongoing oversight

[21]A SHOP may initially certify a plan as a QHP if the plan meets the required minimum criteria and if the exchange determines that it is in the best interest of eligible employers and employees to have such a plan available. The annual recertification process, at a minimum, must include a review of the general certification criteria and must be completed on or before September 15 of the applicable calendar year. The SHOP must also have the ability to decertify a plan at any time if the SHOP determines that the QHP no longer meets the certification requirements.

and monitoring to ensure that the QHPs comply with all applicable regulations.

- *Consumer assistance*: SHOPs will be required to provide a call center, website, and in-person assistance to support small employers and their employees in filing an application, obtaining an eligibility determination, comparing coverage options, and enrolling in a QHP.[22] Other consumer assistance activities that SHOPs must conduct are outreach and education to raise awareness of and promote enrollment in QHPs.

Federal and State Roles in Operating SHOPs

The role of the federal government with respect to a SHOP for a state is dependent on whether the state seeks to operate a state-based exchange. States can choose to establish exchanges as directed by PPACA and seek approval from CMS to do so. States electing to establish and operate a state-based exchange, including a SHOP, were required to submit to CMS, by December 14, 2012, the "Blueprint for Approval of Affordable State-based and State Partnership Insurance Exchange." Through this Blueprint application, the state attests to how its exchange meets, or will meet, all legal and operational requirements.[23] For example, the state must demonstrate that it will establish the necessary legal authority and governance, oversight, financial-management processes, and the core exchange functions of eligibility and enrollment, plan management, and consumer assistance. For each activity in the Blueprint application, the state must attest to either the completion of the activity or its expected completion date and provide a timeline and work plan. Depending on the activity, the state may also be required to provide supporting documentation. Although a state assumes responsibility for the exchange when it elects to operate a state-based SHOP and individual exchange, it can choose to rely on the federal

[22]In general, SHOPs are required to provide in-person assistance only for the purpose of assisting small employers and employees to complete an application. CMS notes that licensed agents and brokers will provide much of the in-person assistance for FF-SHOP enrollees.

[23]A state that elects to operate its own exchange has a number of legal and operational decisions to make, including decisions related to its organizational structure (governmental agency or a nonprofit entity) and governance (governing board and standards of conduct).

government for certain exchange-related activities, including having the federal government operate activities related to risk adjustment.[24]

Under PPACA, if a state did not elect to establish a state-based exchange or is not approved by CMS to operate its own exchange, then CMS is required to establish and operate an FF-SHOP and FFE in that state. Although the federal government retains responsibility to establish and operate the FF-SHOPs and FFEs, CMS has identified possible roles for states to play in the day-to-day operation of these exchanges.

- CMS indicated that a state can choose to participate in an FF-SHOP and FFE through a partnership exchange by assisting CMS with plan management, consumer assistance, or both. According to CMS, the overall goal of a partnership exchange is to enable the FF-SHOP and FFE to benefit from efficiencies to the extent states have regulatory authority and capability to assist with these functions, help tailor the FF-SHOP and FFE to that state, and provide a seamless experience for consumers. The agency also noted that a partnership exchange can serve as a path for states toward future implementation of a state-based exchange.[25] Although the states would assist in carrying out plan management or consumer assistance, or both, on a day-to-day basis, CMS would retain responsibility for these activities and the activities within other functional areas. By February 15, 2013, states seeking to participate in a partnership exchange had to submit a Blueprint application to CMS regarding expected completion dates for required activities related to their participation.
- CMS indicated in guidance issued on February 20, 2013 that an FF-SHOP and FFE state choosing not to submit a Blueprint application for a partnership exchange by the February 15, 2013,

[24]PPACA and implementing regulations provide that, beginning with the 2014 benefit year, states electing to operate a state-based exchange may establish a permanent risk-adjustment program for all nongrandfathered plans in the individual and small-group markets both inside and outside of the exchanges. HHS will establish this risk-adjustment program for any state that will have an FFE, including a partnership exchange, or for states operating a state-based exchange but that do not elect to administer the risk-adjustment program. This risk-spreading mechanism is designed to mitigate the potential effect of adverse selection and provide stability for health insurance issuers in the individual and small group markets.

[25]Through regulation, CMS has outlined a process for states, regardless of whether they participate in a partnership exchange, to seek approval to establish a state-based exchange after 2014.

deadline could still choose to assist with the plan management function.[26] CMS officials said that, operationally, the activities performed by these states will be no different than the activities performed by states as part of a partnership exchange. Instead of a Blueprint application, states interested in participating in this alternative arrangement had to submit letters attesting that the state would perform all plan management activities in the Blueprint application.[27]

- Even in states in which CMS will operate an FF-SHOP and FFE without states' assistance, CMS plans to rely on states for certain information. For example, it expects to rely on state licensure of health plans as one element of its certification of a QHP. Additionally, CMS has indicated that for states in which an FF-SHOP will operate, including as part of a partnership exchange, it will adopt the states' upper threshold of 50 or 100 full-time equivalent employees for its small group market in 2014 and 2015 for the purpose of determining whether a small employer is qualified to participate in the SHOP.

After a state submits an application to operate a state-based SHOP and individual exchange or participate in a partnership exchange, CMS may approve or conditionally approve the state for that status. Conditional approval indicates that the state had not yet completed all steps necessary to carry out its responsibilities in a state-based exchange or partnership exchange, but its SHOP and individual exchange are expected to be ready by the beginning of initial enrollment on October 1, 2013. To measure progress towards completing these steps, CMS officials indicated that the agency created a set of typical dates for when specific key activities would need to be completed in order for the exchanges to be ready for the initial enrollment period. The agency then

[26]For the purposes of this report, we refer only to states that have been conditionally approved to participate in partnership exchanges as partnership states.

[27]CMS officials said that they considered whether to offer FF-SHOP and FFE states this type of arrangement for other functional areas. However, they noted that there are differences between plan management and consumer assistance that made plan management a better candidate for such an arrangement. In particular, they said that many elements of plan management are similar to those activities that states engage in as a part of their traditional role as an insurance regulator. Therefore, according to these officials, these states would not have to take many additional steps to assist with an FF-SHOP's and FFE's plan management function. They said that, in contrast, consumer assistance, which is not a function that states previously performed, is more likely to be resource-intensive for the states.

adapted those dates for each state establishing a state-based SHOP and individual exchange or participating in a partnership exchange. CMS officials said that if the state indicated in its Blueprint application that it planned to complete an activity earlier than CMS's typical target completion date, CMS accepted the state's earlier date. If the state proposed a date that was later than CMS's typical target date, the state had to explain the difference, and CMS determined whether that date would allow the exchange to be ready for the initial enrollment period. The agency indicated that a state's conditional approval continues as long as it meets the key activity target dates agreed to with the individual state and demonstrates its ability to perform all required exchange activities.

The federal government's role in operating a SHOP and individual exchange in a particular state may change in future years if states reassess and alter the roles they play in establishing and operating exchanges. For example, a state may be approved to participate in a partnership exchange in 2014 and then apply, and receive approval, to run a state-based SHOP and individual exchange in 2015. Although the federal government would retain some oversight over the state-based exchanges, the responsibility for operating the exchange would shift from the federal government to the state.

CMS and State Roles and Activities in Establishing SHOPs Vary and May Continue to Evolve

CMS conditionally approved 18 states to operate state-based SHOPs in 2014, and expects to operate FF-SHOPs in 33 states in 2014. However, the nature of the activities that CMS and the states will conduct has not been finalized and may continue to evolve.

CMS Conditionally Approved 18 States to Operate State-Based SHOPs, and Expects to Operate FF-SHOPs in the Remaining 33 States in 2014

For 2014, CMS conditionally approved 18 states to operate state-based SHOPs and individual exchanges.[28] CMS issued conditional approval letters to these states from December 2012 to January 2013. While Utah was originally conditionally approved to operate a state-based exchange, in February 2013, the governor of Utah proposed that the federal government operate the individual exchange, and the state build upon and operate its existing small business health insurance marketplace as a SHOP. On May 10, 2013 CMS indicated that it planned to issue a proposed rule that, if finalized, would permit Utah to adopt this approach. On June 14, 2013, CMS released this proposed rule, which will be published in the Federal Register on June 19, 2013. In the remaining states that did not apply to operate state-based exchanges or were not conditionally approved to do so, CMS is required to operate an FF-SHOP and FFE. While CMS will retain full authority over each of the 33 FF-SHOPs and 34 FFEs, it plans to allow 15 of these states to assist in carrying out certain exchange functions. Specifically, as of May 2013, CMS granted the 7 states with an FF-SHOP and FFE conditional approval to participate in a partnership exchange. CMS issued these conditional approval letters from December 2012 to March 2013. Of those states participating in a partnership exchange, 6 (Arkansas, Delaware, Illinois, Michigan, New Hampshire, and West Virginia) indicated that they planned to assist with both the plan management and consumer assistance functions of the exchange and 1 (Iowa) indicated that it would only assist with the plan management function. In an alternate arrangement, CMS plans to allow the other 8 states (Kansas, Maine, Montana, Nebraska, Ohio, South Dakota, Utah,[29] and Virginia) to assist with the plan management function. (See fig. 1 for a map of exchange arrangements for 2014.)

[28]The 18 state-based SHOPs include California, Colorado, Connecticut, Hawaii, Idaho, Kentucky, Maryland, Massachusetts, Minnesota, Nevada, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, Washington, and the District of Columbia.

[29]CMS intends to permit Utah to operate a state-based SHOP, while it operates an FFE for individuals in the state.

Figure 1: Health Insurance Exchange Arrangements for 2014, as of May 10, 2013

State-based exchange
Federally facilitated exchange (FFE)
FFE partnership exchange
FFE alternate arrangement with state plan management assistance

RI (state-based exchange)
DE (FFE partnership)
DC (state-based exchange)

Source: GAO analysis of CMS information; Map Resources (map).

Note: Unless otherwise indicated, the exchange arrangement shown for each state applies to both the Small Business Health Options Program (SHOP) and the individual exchange.

[a]Iowa intends to assist with the plan management function, and not the consumer assistance function.

[b]On May 10, 2013, CMS indicated that it planned to issue a proposed rule that, if finalized, would permit Utah to operate a state-based SHOP, while CMS would operate the individual exchange as an FFE, for which Utah would assist with plan management. On June 14, 2013, CMS released this proposed rule, which will be published in the Federal Register on June 19, 2013.

Some states also informed CMS of whether or not they chose to carry out certain other activities related to the exchanges.[30] For example, CMS indicated that Massachusetts would operate a risk-adjustment program for benefit year 2014, leaving CMS to operate programs in the remaining states.

Planned CMS and State Activities to Establish SHOPs Have Evolved Recently and May Continue to Change

Although decisions about the roles of CMS and the states in the exchanges have been made, the activities that CMS and the states each plan to carry out have evolved recently. CMS was required by statute to certify or conditionally approve any state-based SHOPs and individual exchanges by January 1, 2013.[31] CMS extended application deadlines leading up to that date to provide states with additional time to determine whether they would operate a state-based SHOP and individual exchange. On November 9, 2012, CMS indicated that in response to state requests for additional time, it would extend the deadline for submission of the application for states that wished to operate state-based exchanges in 2014 by about 1 month to December 14, 2012. The agency noted that this extension would provide states with additional time for technical support in completing the application. At the same time, the agency also extended the application deadline for states interested in participating in a partnership exchange by about 3 months to February 15, 2013. In addition, the option for FFE states to participate in an alternate arrangement to provide plan management assistance to the

[30]Although not specifically related to exchange operation, states are also informing CMS whether they are enforcing, or plan to enforce, new health insurance market reforms enacted under PPACA. Some of these reforms, including a provision prohibiting lifetime limits on the dollar value of benefits provided under a group or individual health plan, are already in effect; others, including a provision prohibiting issuers of group and individual health coverage from denying coverage or charging higher premiums because of preexisting conditions, do not take effect until 2014. These provisions apply whether a plan is offered on an exchange or outside of an exchange. States were asked to notify CMS whether they would enforce PPACA's health insurance market reforms. As required under a 1999 rule implementing the Health Insurance Portability and Accountability Act of 1996, CMS is required to enforce these and other health insurance market regulations under the Public Health Service Act in states that do not have authority to enforce them or otherwise fail to enforce them. CMS indicated that, as of April 8, 2013, 11 states notified CMS that they do not have the authority to enforce or are not otherwise enforcing PPACA insurance market provisions, leaving CMS to assume an enforcement role. CMS officials indicated that there is no deadline for this notification, but a notification is required of all states.

[31]There was no statutory deadline for approvals of partnership exchanges, as such exchanges were not specifically identified in PPACA.

FFE was made available to states by CMS in late February 2013. CMS did not provide states with an explicit deadline for them to indicate their intent to participate in this arrangement, but CMS officials said April 1, 2013, was a natural deadline because issuers of health coverage had to know by then to which entity—CMS or the state—to submit health plan data for QHP certification.

The specific activities CMS will undertake in each of the state-based and partnership exchanges may continue to change if states do not make adequate progress toward completion of their key activities. When CMS granted conditional approval to states, it was contingent on states meeting several conditions, such as obtaining authority to undertake exchange activities and completing key activities by specified target dates. For example, in April 2013, CMS officials indicated that Michigan—a state that had been conditionally approved by CMS to participate in a partnership exchange—had not been able to obtain the legislative authority needed to use federal grant funds to pay for exchange activities, which has been a requirement of its conditional approval. As of May 2, 2013, CMS officials expected that Michigan would participate in a partnership exchange, but indicated that Michigan may not be able to conduct consumer assistance without funding authority.[32] They noted, however, that a final decision about Michigan's responsibilities had not been determined. In addition, on May 10, 2013, CMS indicated that it intended to operate Utah's individual exchange—which was conditionally approved as a state-based exchange in January 2013—as an FFE. Officials indicated that final approval for state-based and partnership exchanges will not be granted until the states have succeeded in completing all of their key activities, and that some of these exchanges may still be under conditional approval when enrollment begins on October 1, 2013.

CMS officials indicated that they are working with each state to develop mitigation strategies to ensure that all applicable exchange functions are operating in each state on October 1, 2013. Agency officials said that they are assessing the readiness of each state as interim deadlines approach.

[32]CMS officials noted that it is generally more resource intensive for states to implement consumer assistance activities than plan management activities, because, unlike plan management activities which are similar to traditional state insurance functions, consumer assistance is not a function in which states previously participated and would represent a significant new investment for the states.

For example, issuers began submitting applications to exchanges for QHP certification on April 1, 2013. Therefore, CMS officials said that they began assessing state readiness for this activity in March 2013. They also indicated that they are doing this kind of assessment for each state as deadlines approach for other activities—such as those related to eligibility and enrollment and consumer assistance functions. If a state is not ready to carry out a specific activity, CMS officials said the agency will support them in this area. As of May 2, 2013, CMS had not granted final approval to any state to operate a state-based exchange or to participate in a partnership exchange. If any state conditionally approved to operate a state-based exchange or participate in a partnership exchange does not adequately progress towards completion of all required activities, CMS has indicated that it would carry out more exchange activities in that state. CMS officials indicated that exchanges receiving this assistance would retain their status as a state-based or partnership exchange.

CMS and States Have Made Progress Establishing SHOPs and FF-SHOPs, but Many Key Activities Are Yet to Be Completed and Some Were Behind Schedule

CMS has made progress in core functional areas towards establishing the FF-SHOPs and FFEs; CMS has many activities yet to complete; and completion of certain activities was behind schedule. Similarly, states have completed many required activities towards establishing the SHOPs and individual exchanges, although many activities remained to be completed and some activities were behind schedule.

CMS Completed Many Activities to Establish State-Based SHOPs and FF-SHOPs; CMS Has Many Activities Yet to Complete; and Some Activities Were Behind Schedule

CMS issued regulations and guidance to set a framework within which the federal government, states, issuers of health coverage, and others can participate in the exchanges, including state-based SHOPs and FF-SHOPs. For example, in March 2012 CMS issued a final rule on establishment of exchanges that, among other things, outlined the minimum required functions for a SHOP and the standards that employers must meet to participate in the SHOP.[33] In June 2013, CMS issued a final rule that created transitional policies for employee choice and premium aggregation requirements for 2014, and aligned special enrollments periods to those used in state small group markets today.[34] CMS also issued guidance specifically related to the establishment of FF-SHOPs and FFEs to assist states seeking to participate in a partnership exchange and issuers seeking to offer QHPs in an FF-SHOP and FFE, including a partnership exchange. For example, the agency issued general guidance on FF-SHOPs and FFEs in May 2012, and issued guidance on partnership exchanges in January 2013. On April 5, 2013, the agency issued guidance to issuers of health coverage seeking to offer QHPs through FF-SHOPs and FFEs, including partnership exchanges.

In addition to establishing the basic exchange framework for state-based SHOPs and FF-SHOPs, CMS also completed activities needed to establish the core FF-SHOP functions—eligibility and enrollment, plan management, and consumer assistance—many of which are related to FFE functions.

- *Eligibility and Enrollment*: In late January 2013, CMS released a draft of the online and paper applications that small employers and employees will use to apply for health care coverage in the FF-SHOPs. Following a public comment period, the final applications were issued on May 31, 2013. CMS indicated that, since May 2012, it has consulted with, received feedback from, and provided training to issuers on the eligibility and enrollment process standards for the FF-SHOPs and FFEs.

[33] 77 Fed. Reg. 18310 (Mar. 27, 2012).

[34] 78 Fed. Reg. 33233 (June 4, 2013).

- *Plan management*: CMS indicated that it completed development of the IT systems necessary for it to carry out the plan management function and awarded a contract to help the agency certify QHPs that will be offered in the FF-SHOPs and FFEs.[35] Officials said that the contractor will review plan data, perform quality-assurance checks, and help CMS determine whether issuers applying for QHP certification are in full compliance with PPACA requirements. Officials also said that submission of plan information by issuers of health coverage to CMS for QHP certification began on April 1, 2013.
- *Consumer assistance*: In 2010, CMS awarded Consumer Assistance Program grants to 36 states and 4 territories,[36] including 23 states with FF-SHOPs and FFEs. The agency awarded a contract on February 28, 2013, for the development of training and quality assurance metrics for the call center that will provide consumer assistance for FF-SHOPs and FFEs.

CMS has many key activities remaining to be completed across the core functional areas—eligibility and enrollment, plan management, and consumer assistance—and has established timelines to track its completion of the remaining activities necessary to establish FF-SHOPs and FFEs, but the agency has faced delays in the completion of certain activities.[37]

[35]In FFEs where the state will assist with plan management, the state will review plan data and make recommendations for certification to CMS.

[36]PPACA appropriated $30 million to the Secretary of HHS for the award of federal grants to states to establish, expand, or provide support for offices of health insurance consumer assistance or health insurance ombudsmen programs. PPACA, § 1002, 124 Stat. at 138. Consumer Assistance Program grants are to be used to assist consumers with filing health insurance coverage complaints and appeals, assist consumers with enrollment into health insurance coverage, and educate consumers on their rights and responsibilities with respect to such coverage. According to CMS, as of June 2013, there were Consumer Assistance Programs operating in 22 states and one territory.

[37]The CMS activities for which we report progress here are not exhaustive. In particular, CMS also tracks its progress in developing the federal data services hub and related IT tasks. It also tracks the progress of states participating in partnership exchanges, which is also relevant to CMS's progress in establishing the FFEs. Progress in establishing the FFEs and the federal data services hub is examined more closely in a related report. See GAO-13-601.

Eligibility and Enrollment

CMS expects to complete development and testing of the IT systems necessary for the FF-SHOPs and FFEs to determine eligibility for enrollment into a QHP and to enroll employees by October 1, 2013, when enrollment is scheduled to begin for the 2014 plan year. However, as of April 2013, CMS indicated that it still needed to complete some steps in order to enable the FF-SHOPs and FFEs to determine eligibility. CMS indicated that these steps will be completed in July 2013.

Plan Management

The activities that CMS needs to complete for the plan management function primarily relate to the review and certification of the QHPs that will be offered in the FF-SHOPs and FFEs. CMS has set time frames that it anticipates will allow it to certify and upload QHP information to the FF-SHOP and FFE websites in time for initial enrollment. CMS indicated that issuers of health coverage were to submit their applications for QHP certification by May 3, 2013.[38] Once received, CMS, with the assistance of its contractor, expects to evaluate and certify eligible plans as QHPs by July 31, 2013. CMS will then allow issuers to preview and approve QHP information that will be presented on the exchange website by August 26, 2013. CMS then expects to finalize the QHP information and load it into the exchange website by September 15, 2013. In the 15 states in which states will assist with the plan management function, the states will evaluate health issuer plan applications and submit recommendations to CMS regarding the plans they recommend should be certified as QHPs. CMS indicated that the states are expected to submit their recommendations by July 31, 2013, which is also when CMS expects to complete its evaluation of QHPs for the other FF-SHOP and FFE states.[39]

---

[38]CMS officials said that on April 30, 2013, the deadline for issuers to submit their applications was pushed back from April 30, 2013, to May 3, 2013.

[39]Seven of the 15 states submitted an application to CMS and were approved to assume this responsibility on the condition that they complete certain required activities by targeted completion dates. In contrast, an additional 7 states were not required to submit an application and CMS officials indicated that the agency has no formal monitoring relationship with the state. Instead, CMS conducted a one-day review of these states in February and March to determine the states' operational plans and capacity to assist with the plan management functions. The last state, Utah, was originally conditionally approved to operate a state-based exchange. On May 10, 2013, CMS indicated that it intended to allow the exchange to instead operate as an FFE and the state attested that it would be able to assist with all aspects of the plan management function.

Consumer Assistance

CMS has yet to complete many activities related to assistance and outreach to small employers and employees, and some initial steps were behind schedule. Specifically, several steps necessary for the implementation of the Navigator program in FF-SHOPs and FFEs were delayed by about 2 months. CMS had planned to issue the funding announcement for the Navigator program in February 2013 and have two rounds of awards, in June and September 2013. However, the announcement was delayed until April 9, 2013, and CMS officials indicated that there would be one round of awards, with an anticipated award date of August 15, 2013. CMS did not indicate the number of awards it expected to make, but noted that it expects, consistent with federal regulations, to make awards to at least two different applicants in each of the 33 FF-SHOP and 34 FFE states.[40] CMS officials indicated that, even with these delays, they planned to have Navigator programs operating in each FF-SHOP and FFE state by October 1, 2013.

Before any federally funded in-person assisters, including Navigators, can begin their activities, they will have to be trained and certified.[41] For example, these individuals are required to complete an HHS-approved training program and to receive a passing score on all HHS-approved certification exams before they are able to assist with enrollment activities. While CMS had planned to begin Navigator training in July 2013, under its current plan the agency will not have awarded Navigator grants by this date. In coordination with the Navigator training, CMS is also developing web-based training for other types of in-person assistance programs, such as agents, brokers, and the state partnership exchange in-person assistance programs. CMS officials said that the overall content of the training for these groups of individuals will be similar to that of the Navigator training. CMS indicated that it plans to complete development of the training curriculum and certification exam by August

[40]CMS indicated that it would award up to $54 million to organizations and individuals in the 34 FFE, including partnership exchange, states. It indicated that award funds would be allocated among states on the basis of their numbers of uninsured people, but at least $600,000 would be available for award in each state. Texas was allocated the largest share of funding for award at approximately $8.2 million. CMS gave applicants until June 7, 2013 to submit their applications. Federal regulations require exchanges to award Navigator grants to at least two types of entities, including a community and consumer-focused nonprofit organization. 45 C.F.R. § 155.210(c)(2).

[41]In addition to establishing a Navigator program, exchanges may also establish an in-person assister program to provide similar in-person assistance to consumers.

2013 and noted that training can begin when the training curriculum is made available.

CMS and states with partnership exchanges have also begun and established time frames for implementing other outreach and assistance activities that are necessary to implement FF-SHOPs and FFEs. Examples of key activities that remain to be completed include the federal call center, healthcare.gov website, media outreach, and the consumer complaint tracking system for the FF-SHOPs and FFEs. CMS recommended that in-person outreach activities begin in the summer of 2013 to educate small employers and employees in advance of the open enrollment period. CMS has indicated that it expects agents and brokers to play a large role in working with small employers. Additionally, CMS reported in April 2013 that SHOP-focused training and materials were currently under development to assist small employers in understanding the PPACA provisions that relate to them. CMS also reported that the Small Business Administration will play a role in educating small employers about how PPACA affects them and providing basic information to them about SHOPs.

States Have Completed Many Activities to Establish SHOPs; Many Key Activities Remain to Be Completed; and Some Activities Were behind Schedule

In late 2012 and early 2013, CMS provided each state that was conditionally approved to operate a state-based exchange with a list of key activities and target completion dates that CMS would use to gauge that state's progress. These key activities were a subset of the more than 100 required activities listed in the Blueprint application. Some of the key activities specific to SHOPs include establishing enabling authority and developing a coordination strategy with the individual exchange. The total number of key activities each state had to complete varied from as few as 20 for Maryland, to as many as 56 for Idaho.[42] See table 1. CMS officials told us that the number and type of key activities assigned to each state varied because not all key activities are applicable to each state's specific circumstances, and because some states had already completed certain key activities when these target completion dates were established.

[42]The original number of key activities was provided in state conditional approval letters. CMS provided us with updated information on each state's number of key activities in April and May of 2013, noting that some activities no longer applied for certain states.

Table 1: CMS-Identified Key Activities to Be Completed by Each State-based Small Business Health Options Program (SHOP) and Individual Exchange, as of May 13, 2013

State	Total number of key activities to be completed
California	45
Colorado	37
Connecticut	42
District of Columbia	45
Hawaii	48
Idaho	56
Kentucky	39
Maryland	20
Massachusetts	40
Minnesota	47
Nevada	40
New Mexico	53
New York	39
Oregon	43
Rhode Island	47
Utah	39
Vermont	41
Washington	39

Source: GAO analysis of CMS data.

States have completed many required activities in developing their SHOPs and individual exchanges. For example, many states have completed preliminary activities such as obtaining the necessary authority to operate an exchange, conducting initial analyses of current and required IT capabilities and hiring an exchange executive director or equivalent. In addition, according to CMS data updated as of March 31, 2013, states had completed between 3 and 14 of the key activities, representing, on average, about 15 percent of each state's total number of key activities. In the functional areas of eligibility and enrollment, plan management, and consumer assistance, states had made varying degrees of progress by the end of March.

- *Eligibility and enrollment*: Many states had developed a coordination strategy with relevant state agencies and the SHOP.

- *Plan management*: Most states had already completed key activities such as establishing a QHP certification timeline and standard operating procedures and making their QHP application and certification standards publicly available.

- *Consumer assistance*: Some states had awarded a call-center contract, begun outreach and education-material dissemination, released a Navigator grant application, and established policy for agents and brokers, where applicable.[43] Other key activities related to consumer assistance generally will not be completed until closer to the launch of open enrollment in October 2013.

With regard to key activities remaining to be completed for establishment of state-based SHOPs and individual exchanges, the total number and target completion dates varied by state. Specifically, according to CMS data updated through March 31, 2013, states had between 16 and 52 key activities remaining to be completed, or on average, about 85 percent of their total key activities. Among these key activities that were not completed, states may have nevertheless made significant progress towards their completion. We separately reported in more detail on the range of actions selected states have taken to establish their individual exchanges.[44]

- *Eligibility and enrollment*: Most remaining eligibility and enrollment key activities were targeted to be completed by states by July 31; however, a few states had target completion dates ranging from August to October 2013. For example, by July 31, 2013, all states were targeted to have SHOP applications approved (if not using CMS-developed applications), while almost all states were targeted to have necessary data-sharing agreements signed by that time. Similarly, most states were targeted to have completed key activities related to eligibility and enrollment technology by July 31, 2013, such as demonstrating the functionality and verifying the code for eligibility and enrollment exchange components.

[43]The state may permit agents and brokers to assist employers with the application process and enroll employees in a QHP in the SHOP. Such agents and brokers must agree to comply with the SHOP's privacy and security requirements.

[44]See GAO-13-486.

- *Plan management*: Many key activities related to plan management were targeted to be completed in July through September, closer to the October 2013 launch of open enrollment. For example, most states were targeted to complete their QHP certification process in July through September, and post their plan options on-line in August or September.

- *Consumer assistance*: Many key activities related to consumer assistance were targeted to be completed in the 3 months leading up to the launch of open enrollment in October 2013, with some key activities not expected to be completed for most state-based exchanges until August or September. For example, most states were targeted to launch their campaigns not before May, or to begin call center training not before July. Similarly, key consumer support activities such as call centers and websites going live, and Navigators, agents, and brokers beginning work, were generally not targeted to be completed until August or September 2013.

- *SHOP-specific key activities*: State-based exchanges had only one SHOP-specific key activity, which related to capabilities for aggregating premiums. Most states were targeted to complete this key activity by the end of June 2013.[45]

See figure 2 for examples of the target completion dates for remaining key activities by functional area.

[45]Under a June 2013 final rule, CMS postponed the requirement that SHOPs provide premium aggregation in 2014, and this key activity now only applies to states that choose to offer premium aggregation in 2014. As of April 2013, CMS officials did not have a count of such states, but indicated that most state-based SHOPs intended to offer premium aggregation in 2014.

Figure 2: Examples of Remaining Key Activities Required for States to Establish Exchanges and the Target Completion Dates, as of April 24, 2013

Key Activities for State-based Exchanges	2013 Target Completion Date: April	May	June	July	August	September	October
Eligibility and enrollment							
● Data-sharing agreements signed	●	●●●●●●●●●●●●	●●●●		●		
● Related technology in place, such as functionality demonstrated and code verified[a]	●	●●●●●	●●●	●	●●		
● Eligibility application published		●●●●●●●	●●●●	●	●●●	●	●
● Appeals business-process model and functional capabilities established		●●	●	●●●●●●●●●	●	●●	●●
Plan management							
● Qualified Health Plan (QHP) certification process completed		●●	●●	●●●●●	●●	●●●●	
● Plan options posted online			●	●●●	●●	●●●●●●●●●●●	●
● Complaint-tracking system selected			●●●●●				
Consumer assistance							
● Exchange branding and marketing campaign launched	●●	●	●●●●●	●●●		●	
● Call-center training begins	●●●	●●	●●	●●●●●●●●	●●		
● Website launched			●●●		●●	●●●●●●●●●●●	●
● Agents/brokers begin work			●	●●●	●●●	●●●●●●●	●●●
Small Business Health Options Program (SHOP)							
● SHOP premium aggregation functional capabilities established		●	●●●●●●●●●●		●	●	●

● One of the 18 state-based exchanges

Source: GAO analysis of CMS data.

Notes: The 18 state-based exchanges include California, Colorado, Connecticut, Hawaii, Idaho, Kentucky, Maryland, Massachusetts, Minnesota, Nevada, New Mexico, New York, Oregon, Rhode Island, Utah (SHOP only), Vermont, Washington, and the District of Columbia. CMS determined the key activities necessary for each state to complete in order to operate a state-based exchange. These key activities vary by state, and thus not every key activity listed applied to each of the 18 state-based exchanges.

[a]As of April 24, 2013, one additional state was scheduled to complete this key activity, however the target completion date was yet to be determined.

CMS officials told us that the number of key activities remaining to be completed and their target completion dates provide only a partial measure of state progress in establishing their exchanges. They noted that another measure would include the extent to which states were completing key activities by the targeted completion dates. Therefore, we examined the extent to which key activities originally scheduled for completion from December 2012 through March 31, 2013, met their target completion dates, on the basis of data provided by CMS in April and May 2013. While state timeliness varied, overall, about 44 percent of all states' key activities scheduled for completion during this period (89 of 201) were behind schedule. CMS data showed that the share of each states' key activities that were behind schedule ranged from as low as about 17 percent to as high as 75 percent. Among all states, about 40 percent of the key activities that were behind schedule (36) were related to CMS—either the agency revised the target completion dates (26), such as where CMS reported it had improved the specificity of new targeted completion dates for a particular activity, or CMS's own actions required states to delay completion of an activity (10), such as where state activities had to await CMS issuance of enrollment or QHP applications. The remaining 60 percent of the activities that were behind schedule (53) related to state factors, such as delays states had incurred in issuing regulations or guidance, coordinating between state agencies, or procuring contract support. While most of these delayed activities were rescheduled to be completed during May and June of 2013, about 17 percent (15) were rescheduled for July through September or did not have new completion dates established as of May 13.

While 44 percent of states' key activities were delayed, states may have nevertheless made progress on them, and CMS noted that many of the delays were not expected to affect exchange operational readiness. Additionally, CMS reported that most states were on track for initial open enrollment beginning October 1, 2013; however, the agency noted that some states may need to continue to build their capabilities and improve their operations during the year. CMS said it would continue to monitor state exchange operations, including the outreach, testing, and implementation of necessary improvements, during the critical start-up year.

Concluding Observations

Successfully establishing SHOPs at both the federal and state level by the start of 2014 is central to PPACA, as these exchanges are intended to serve as a new point of access to health insurance markets for small employers and their employees in each state. The establishment of exchanges has been a complex undertaking, involving the coordinated actions of multiple federal and state stakeholders, as well as private stakeholders such as issuers of health insurance coverage. Much progress has been made in establishing the regulatory framework and guidance required for this undertaking, and CMS and states are continuing to take steps necessary to complete activities required for establishing the SHOPs and individual exchanges. Nevertheless, much remains to be completed within a relatively short amount of time. CMS's timelines and targeted completion dates provide a roadmap to completion of the required activities by the start of enrollment on October 1, 2013. However, certain factors, such as the still-unknown and evolving scope of the exchange activities to be performed in each state by CMS, and the large numbers of activities remaining to be completed—some close to the start of enrollment—suggest a potential for implementation challenges going forward. And while the interim deadlines missed by CMS and states thus far may not affect progress, any additional missed deadlines closer to the start of enrollment could do so. CMS said it will monitor progress to establish exchanges, and is working on strategies in each state to address contingencies. Whether CMS's contingency planning will assure the timely and smooth implementation of the exchanges by October 2013 cannot yet be determined.

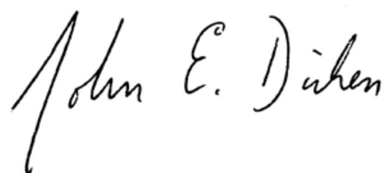
Agency Comments

We received comments from HHS on a draft of this report (see app. I). HHS emphasized the progress it has made in establishing exchanges since PPACA became law, and expressed its confidence that on October 1, 2013, exchanges will be open and functioning in every state. HHS also provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the Secretary of Health and Human Services and other interested parties. In addition, the report is available at no charge on the GAO website at http://www.gao.gov.

If you or your staff have any questions about this report, please contact John E. Dicken at (202) 512-7114 or dickenj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix II.

Sincerely yours,



John E. Dicken
Director, Health Care

Appendix I: Comments from the Department of Health and Human Services

DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE SECRETARY

Assistant Secretary for Legislation
Washington, DC 20201

JUN 10 2013

John E. Dicken
Director, Health Care
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Mr. Dicken:

Attached are comments on the U.S. Government Accountability Office's (GAO) report entitled, entitled, "PATIENT PROTECTION AND AFFORDABLE CARE ACT: Status of Federal and State Efforts to Establish Health Insurance Exchanges for Small Businesses" (GAO-13-614).

The Department appreciates the opportunity to review this report prior to publication.

Sincerely,

Jim R. Esquea
Assistant Secretary for Legislation

Attachment

GENERAL COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S (GAO) DRAFT REPORT ENTITLED, "PATIENT PROTECTION AND AFFORDABLE CARE ACT: STATUS OF FEDERAL AND STATE EFFORTS TO ESTABLISH HEALTH INSURANCE EXCHANGES FOR SMALL BUSINESSES" (GAO-13-614)

The Department appreciates the opportunity to review and comment on this draft report.

On October 1, 2013, a Health Insurance Marketplace will be open and functioning in every state. In the more than three years since the law was passed we have made tremendous progress. Earlier this year, we successfully administered the qualified health plan submission process for the federal facilitated Marketplace. We published the final single streamlined application, the SHOP application, and we have announced several grant and contract programs that provide consumer assistance functions. We are in the final stages of finalizing and testing the information technology infrastructure that will support the application and enrollment process. HHS is extremely confident that on October 1 the Marketplace will open on schedule and millions of Americans will have access to affordable quality health insurance.

1

Appendix II: GAO Contact and Staff Acknowledgments

GAO Contact

John E. Dicken, (202) 512-7114 or dickenj@gao.gov

Staff Acknowledgments

In addition to the contact name above, Randy DiRosa, Assistant Director; Ashley Dixon; Jawaria Gilani; William Hadley; Sandra George; Laurie Pachter; and Christina Ritchie made key contributions to this report.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's website (http://www.gao.gov). Each weekday afternoon, GAO posts on its website newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to http://www.gao.gov and select "E-mail Updates."

Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, http://www.gao.gov/ordering.htm.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

Connect with GAO

Connect with GAO on Facebook, Flickr, Twitter, and YouTube. Subscribe to our RSS Feeds or E-mail Updates. Listen to our Podcasts. Visit GAO on the web at www.gao.gov.

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Website: http://www.gao.gov/fraudnet/fraudnet.htm
E-mail: fraudnet@gao.gov
Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Katherine Siggerud, Managing Director, siggerudk@gao.gov, (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, DC 20548

Please Print on Recycled Paper.