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NEVADA: ROUND 1

State-Level Field Network Study of the Implementation of the Affordable Care Act

March 2014

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Part 1 – Setting the State Context

1.1 Decisions to Date

Following passage of the Affordable Care Act (ACA), Nevada became the only state with a Republican governor both to set up its own state exchange and to expand the state's Medicaid program.

By all accounts, Governor Brian Sandoval's stance was pivotal. Sandoval chose to implement a law he personally opposed, with the aim of giving Nevada maximum autonomy in setting up and administering the new health insurance marketplaces. Sandoval's decision reflected in large part the circumstances of the state in the wake of a recession that hit Nevada particularly hard. By 2011, Nevada had the highest unemployment rate and the second highest rate of uninsured persons (588,000, or roughly 22 percent of its population) of any state in the country.

In June 2011, Senate Bill 440 established the Silver State Health Insurance Exchange in response to the requirements of the ACA. The exchange hired an executive director, James Hager, in December 2011. Named Nevada Health Link in March 2013, the Exchange opened both as an individual and small business (SHOP) exchange on October 1, 2013.

The exchange is a quasigovernmental entity: the seven voting members of its Board are appointed by the governor (five voting members) and by the Senate majority leader and speaker of the Assembly (one each). The exchange is exempt from the

requirements of the Nevada Administrative Procedures Act, which gives it greater discretion over hiring practices.

1.2 Goal Alignment

Practically speaking, Nevada's implementation process has affirmed federal policy goals. Its aggressive outreach program to inform uninsured Nevadans about the availability of affordable health coverage has been a model of its kind. At the same time, Web site language, public framing, and summary documents all go out of their way to distance Nevada rhetorically from the federal project and to affirm "a system designed by Nevadans for Nevadans." Much of this language plays up Nevada's role as a watchdog over federal regulators. For example, the exchange's operational report to the Nevada legislature notes that "Nevada was the first state to raise the alarm regarding a federal misinterpretation of the law that could have cost Silver State Health Insurance Exchange enrollees approximately $15 million in 2014."[1]

Moreover, Sandoval has stressed his personal opposition to the ACA and his responsibility — as a former federal judge and district attorney — to uphold the law.[2] Nevada joined the states challenging the ACA that resulted in the 2012 Supreme Court decision.

This blend of rhetorical skepticism and operational pragmatism reflects the divided and fluid electorate of Nevada and the competitive nature of its politics. Barack Obama carried the past two presidential elections, Nevada's Senate delegation is split, and the state Senate and Assembly are controlled by Democrats (the former by a single vote). Just 14 percent of Nevada's electorate was born in the state, with fully one-fifth born in California, while three-quarters of the state legislators were born elsewhere. Elections in Nevada are characterized by ticket-splitting and a relative lack of party loyalty. The number of both Hispanic and Asian voters has been growing rapidly.

Part 2 – Implementation Tasks

2.1 Exchange Priorities

The main priorities of the Silver State Exchange were to establish a Web site with smoothly functioning links to Nevada's Medicaid program and to state agencies and to embark on an ambitious outreach program, which resembles a political campaign. Establishing the exchange early on after the passage of the ACA enabled agencies and subcontractors ample time to set up and test the Web site and to disseminate information in the field. As a result, Nevada has largely avoided many of the logjams and wholesale breakdowns in early implementation that have plagued other states.

Xerox was hired to design and run the enrollment Web site and call centers, under a $72 million contract that began in August 2012 and runs through December 2016.[3] Deloitte, which has

handled the information technology (IT) development for many of the state exchanges that have functioned reasonably well, has built the state's IT systems for determining eligibility for health programs and taken responsibility for synchronizing these data with the exchange.[4]

The exchange from the outset branded itself as "a free market facilitator" for qualifying health plans and has been consistent in accepting all qualified health plans that meet a minimum standard rather than attempting to be an active purchaser in the marketplace by setting standards that might have excluded some carriers.

2.2 Leadership – Who Governs?

The enabling legislation gives authority to the Board of Directors to create and administer the exchange and with developing its business model and overseeing all aspects of day-to-day operations. It also specified that the voting members must have expertise in health care, defined as knowledge of the individual or small employer health insurance market; health care administration; health care financing or health IT; administration of health delivery services; or health-related consumer advocacy.[5] The Board's seven voting members are two physicians from larger medical groups, two members who hail from consumer and health-focused advocacy groups (Clark County Urban League, Legal Aid Center of Southern Nevada), one representative of a large public finance institution (Consensus), one intellectual property lawyer, and one tax lawyer. Six of the seven voting members are women. The three ex-officio, nonvoting Board members are the heads of Nevada's Health and Human Services Agency, the Administration Agency, and the director of the Division of Insurance (DOI). Jon Hager, the executive director, previously served as CFO of Nevada's Public Employees' Benefits Program.

The Board established five advisory committees to make recommendations on implementation in the areas of finance and sustainability; plan certification and management; SHOP exchange; reinsurance and risk adjustment programs; and consumer assistance. These groups met for more than a year, beginning in March 2012 and concluding in March 2013, when the committees were disbanded. This differs from a number of other states where advisory committees are continuing their work after the exchanges are up and running.

2.3 Staffing

Nevada has one of the smallest, if not the smallest, exchange staffs of any state in the country. As of October 2013 it was operating with just twelve employees, up from nine at the beginning of the year. These staff members are physically located in Carson City, while contract programmers work out of nearby Reno. The central call center, which employs more than ninety workers, is located in Henderson in Southern Nevada. This bare-bones staffing

means that a great deal of the practical implementation work was carried out by other agencies, particularly the Department of Health and Human Services and the Department of Administration, and that virtually all of the outreach and education activities were contracted out.

2.4 Outreach and Consumer Education

As noted above, outreach has been a high priority of the Silver State Exchange. This includes stakeholder and consumer outreach. On the stakeholder side, according to the agencies involved, DOI and exchange staff met biweekly with carriers since March 2012 to discuss implementation policies. They also met with brokers and with representatives of tribal communities, of which nineteen different tribes are federally recognized in Nevada. Exchange staff made presentations to approximately 4,000 stakeholders in 2013, mostly small businesspeople and local Chambers of Commerce and political associations.

The state has conducted a very extensive advertising campaign and door-to-door canvassing effort aimed at informing uninsured people about exchange and Medicaid enrollment opportunities. Roughly $2.5 million from federal sources has been, or will be, spent from July 2013 through the end of the open enrollment period on March 31, 2014. The marketing director of the Silver State Exchange, C.J. Bawer, reported in December that the goal was to reach 85 percent of the uninsured with at least twenty-four "impressions" each through television, radio, theater, newspaper, mobile device, or personal contact through door-to-door messaging, mall booths, or meetings with navigators. Based on his metrics, he expected this figure to be over 90 percent.

The exchange hired the Ramirez Group and Mi Familia Vota to conduct the door-to-door campaign. The former, a prominent polling and public affairs firm that generally works with Democratic candidates, delivered almost 20,000 door hangers through November 2012 and generated 335 leads from around 6,000 contacts. Mi Familia Vota delivered just over 15,000 door hangers and generated 320 leads (when individuals or businesses showed interest and provided follow-up contact information) from 2,985 contacts.[6]

Enrollment Numbers

As in most state-based exchanges, enrollment began very slowly after the October launch and picked up rapidly as the December 23, 2013 enrollment deadline for January coverage approached. Enrollment continued to grow at a faster clip after January 1st than in October and November but not as rapidly as before the December deadline.

As of the December 23 enrollment deadline to purchase health insurance for the January 1st deadline, 12,740 had selected plans in the individual market and 6,219 had paid for the first month's

premium.[7] This number roughly doubled from some 6,600 on December 12th. As of January 18th, 20,399 Nevadans had enrolled in qualified health plans (QHPs), while some 13,159 had paid the first month premiums.[8]

The exchange originally set itself a goal of 118,000 enrollments in private coverage by the end of the March open enrollment period. The Congressional Budget Office made a similar estimate of 115,000. Relative to the latter estimate, Nevada had reached about 18 percent of this total by mid-January. This performance, on a percentage basis, puts it near the bottom of state-run exchanges that didn't suffer major rollout problems, but well ahead of most of the federally facilitated exchange states.[9]

Nevada officials have expected a considerable increase in Medicaid enrollment, both previously qualified and enrolling for the first time and those enrolling through the eligibility expansion. About 78,000 Nevadans were believed to be newly eligible. The early numbers appear to be bearing this prediction out.

According to a January 2014 Centers for Medicare & Medicaid Services report, applications submitted to Medicaid and Children's Health Insurance Program (CHIP) agencies more than doubled during the October-December 2013 enrollment period compared with the earlier three month period (July-September 2013), from 12,941 per month to 27,167 per month. Of this group, just 4,350 new eligibility determinations had been processed.[10] Medicaid enrollments in Nevada have grown rapidly since the ACA went into effect. The number of enrollments reflects both those newly eligible for Medicaid because of changes made by the law and those who were previously eligible but unaware that they qualified. Roughly three times as many Nevadans who sought coverage through the exchange have signed up for Medicaid as have purchased private plans. The most careful estimates to date show that over 100,000 in the state have been enrolled in Medicaid, of whom one in five was previously eligible but enrolled for the first time.[11] This growth reflects, presumably for the most part, Nevadans who were previously eligible but enrolling for the first time in response to publicity for the ACA and in recognition of the law's requirement to obtain coverage.

According to the exchange's year-end operational report, both the Web site and the call center were overwhelmed on October 1, with wait times on calls averaging twenty-three minutes and high Web traffic causing the site to shut down intermittently. They reported that the time to answer was reduced to thirty seconds by the end of the first day of operations. The authors also reported that the information exchanges with the Federal Data Services Hub by and large have been working smoothly.

However, based on frequent complaints aired online, in meetings, and in newspaper accounts, many Nevada residents have found the experience of trying to enroll far from seamless. For instance, the former administrator of the Nevada Division of Health Financing and Policy testified at a December Board meeting that

he had been unable to enroll online despite numerous attempts and that the queue in the call center was eighty-six minutes on the rare occasion that he didn't receive a busy signal.[12] Problems with both call center and online functioning that contradict the version of acceptable wait times presented by the exchange in public documents have been echoed in dozens of media stories.[13]

In late January 2014, Sandoval publicly criticized Xerox's handling of the exchange Web site and call centers. He spoke directly to Xerox CEO Ursula Burns, and promised to hold the company's "feet to the fire" until the problems were fixed. Xerox responded that it understands public frustration and that it had increased call center staffing, dispatched additional teams and staff to the state to work on the Web site, and put teams in place to handle the particular issues faced by brokers.[14]

Board and public frustration with the Website and with the rollout contributed to the decision of Jon Hager to announce his resignation as exchange executive director, effective mid-March. He will be replaced on an interim basis by Steve Fisher, the deputy director of the state's Division of Welfare and Supportive Services. The Exchange Board will bring in a third-party contractor to review the Web site problems, probably Deloitte, which currently works on IT contracts under HHS.

2.5. Navigational Assistance

All those who enroll qualified individuals into insurance plans in Nevada, but who do not have a producer (broker) license, must obtain an Exchange Enrollment Facilitator (EEF) Certification from the Nevada Division of Insurance. As of December 2014, there were seventeen navigators, fifty-five enrollment assisters, and seventy-seven certified application counselors certified by DOI and appointed by Nevada Health Link to enroll individuals and employers into the exchange.[15] As of January, according to the Northern Nevada Association of Health Underwriters, the number of navigators had grown to thirty-four and enrollment assisters to 169. A total of 1,562 agents and brokers had also been appointed to Nevada Health Link. All three categories of enrollment facilitators have been charged with seeking out individuals and groups who typically have not had prior insurance coverage. Navigators generally speak to groups, assisters work on a one-to-one basis, while certified application counselors ordinarily work in hospitals and other medical settings.[16]

2.6. Interagency and Intergovernmental Relations

Setting up the exchange was begun by the Nevada HHS and its Division of Health Care Financing and Policy. After the appointment of the Board of the exchange and its executive director, day-to-day responsibilities shifted to the exchange itself, but the different agencies, including the Department of Business and Industry, the Division of Insurance, and the Department of Administration, work very closely with HHS and the exchange. As

noted above, the directors of the state's departments of Administration, Health and Human Services, and Insurance sit on the exchange Board as nonvoting members.

2.7. QHP Availability and Program Articulation

Nevada's pre-ACA insurance market, like that of many states, was highly concentrated, although not lacking competition altogether. One insurer (Anthem/Wellpoint) commanded almost 40 percent of all business, while the top four carriers accounted for nearly 90 percent of the policies in both the large group and small group markets.[17]

Two of the largest insurers in Nevada, Anthem and Health Plan of Nevada (United Healthcare), chose to participate in the exchange. They were joined by St. Mary's Health (a member of the Dignity Health network, formerly Catholic Health West), and a new cooperative insurer, Nevada Health Co-op, which was created partly under the auspices of Culinary Local 226, a Las Vegas-based labor union. Aetna, Humana, and Sierra Health, which have been active in the individual and small group markets, chose not to participate in the exchange and have been offering competitively priced off-exchange products in all rating regions.

Insurers were not required to offer plans on all tiers, but all carriers participating on the exchange were required to offer at least one gold-level and one silver-level plan in each of the four rating regions. The benchmark plan chosen as the basis for the essential benefits package was the Health Plan of Nevada's Point of Service plan, the state's largest small group plan by enrollment.[18]

The premium (before subsidies) of the lowest-cost bronze plan listed on the exchange is $227 monthly.[19] A twenty-seven-year-old living in Elko County, a rural northern county, has access to thirteen listed metal tier plans with premiums ranging from $321.87 to $539.38 per month.

By contrast, the same individual in Clark County, the urban county which includes Las Vegas and accounts for over three-quarters of the state's population, faces premiums for eighty-six comparable plans ranging from $185.45 to $310.78.[20] Nevada's rural counties, in fact, rank as having some of the most expensive ACA premiums in the United States, principally due to the limited number of hospitals and providers and the high proportion of residents who lack employer coverage, among other factors.[21]

As of the January reporting period, the Nevada Health Co-op had signed up 37 percent of those who had purchased and paid for an exchange plan, followed by Health Plan of Nevada (United) with 33 percent and WellPoint Anthem Blue Cross Blue Shield with just 13 percent of the total.[22] The likely explanation is that the new cooperative plan marketed more heavily toward its exchange-based products and that the established insurers split business between their exchange and nonexchange plans. It is a noteworthy development given the minimal market share gained by newer entrants in the insurance market in most states.

Part 3 – Supplement on Small Business Exchanges

3.1 Organization of Small Business Exchanges

Nevada Health Link manages the state's Small Business Health Options Program for businesses with two to fifty employees. Employers can sign up directly online or work with brokers to enroll. The insurers participating in the individual marketplace are not required to offer SHOP plans but, in practice, all the entrants in the individual market are also selling SHOP plans. Participating employers have three options: "Open SHOP," "Open Metal Tier," and "Package Option." The first allows employees to access all SHOP-qualified health plans, the second allows the employer to select a specific metal tier, while the latter permits the employer to select a particular set of plans.[23]

While an official tally of enrollment in SHOP has not been released, a spokesman for Nevada Health Link told a reporter that fewer than 100 individuals have enrolled in SHOP through the end of January 2014.[24]

Part 4 – Summary/Analysis

Nevada's operational acceptance of the Affordable Care Act, combined with vocal public hostility to the law (even among some involved in its practical implementation), is rooted in its contested and volatile politics and its widening urban-rural divide. The leaders of Nevada's health industry, including hospitals and insurers, have gone along with ACA implementation while saying little in public that would contradict their stance of studied neutrality.

The uneven performance of the Web site and the structural issues that have emerged during early implementation, such as the divergence between urban and rural premiums and the early enrollment success of a labor-backed health cooperative, will only serve to intensify the debate over the ACA's future in the state.

In the short- to medium-term, in Nevada as elsewhere, the ACA is in large part the plaything of politics. Former Senate candidate Sharron Angle's recent petition to outlaw the state insurance exchange in Nevada— a proposed state constitutional amendment that, if qualified, would go before the voters in both 2014 and 2016 — is as good a symbol as any of the high-profile political fight over the ACA. In Nevada, this tension is likely to persist even if the implementation issues are ironed out over time.[25]

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