



# Status of Federal Funding for State Implementation of Health Insurance Exchanges

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## Summary

The Patient Protection and Affordable Care Act (ACA, P.L. 111-148, as amended) requires health insurance exchanges to be established in every state by January 1, 2014. ACA intends exchanges to be marketplaces where individuals and small businesses can “shop” for health insurance coverage. An exchange may be established by the state itself as a state-based exchange; otherwise, an exchange will be established by the Secretary of Health and Human Services (HHS) as either a partnership exchange, whereby a state partners with HHS to establish and administer an exchange, or as a federally facilitated exchange wholly operated and administered by HHS.

ACA provided an indefinite appropriation for HHS grants to states to support the planning and establishment of exchanges. For each fiscal year, the HHS Secretary is to determine the total amount that will be made available to each state for exchange grants. No grant may be awarded after January 1, 2015.

There are three different types of exchanges grants. First, planning grants were awarded to 49 states, the District of Columbia, and four territories. These grants of about \$1 million each were intended to provide resources to states to help them plan their health insurance exchanges. Three states returned all or a portion of those funds. Second, there have been multiple rounds of exchange establishment grants. There are two levels of exchange establishment grants: level one establishment grants are awarded to states that have made some progress using their planning funds, and level two establishment grants are designed to provide funding to states that are farther along in the establishment of an exchange. Finally, HHS awarded seven early innovator grants to states (including one award to a consortium of New England states) to support the design and implementation of the information technology systems needed to operate the exchanges. Three states returned their early innovator grant funds.

To date, HHS has awarded a total of \$3.8 billion to states and the District of Columbia (DC) in planning, establishment, and early innovator grants.

This report will be periodically revised and updated to reflect important administrative developments and further rounds of exchange grant awards.

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This report summarizes key federal activities related to the establishment of health insurance exchanges, as required by the Patient Protection and Affordable Care Act (ACA).<sup>1</sup> This report begins with a brief discussion of exchanges, and then **Table 1** summarizes regulatory activity related to exchanges, and **Table 2** shows key implementation dates as established in ACA and in regulations and other guidance documents. **Figure 1** and **Table 3** provide information about the federal grant funds that have been awarded to states for exchange planning and establishment.

## Health Insurance Exchanges

ACA requires health insurance exchanges to be established in every state by January 1, 2014. ACA exchanges are marketplaces where individuals and small employers can shop for and enroll in health insurance coverage. Exchanges are intended to simplify the experience of providing and obtaining coverage in the nongroup and small group markets. They are not intended to supplant the private market outside of exchanges, and individuals and small businesses cannot be compelled to obtain coverage through an exchange. Plans offered in exchanges are generally subject to certain ACA requirements.<sup>2</sup>

An exchange may be established by the state itself as a state-based exchange; otherwise an exchange will be established by the Secretary of Health and Human Services (HHS) as either a partnership exchange, whereby a state partners with HHS to establish and administer an exchange, or as a federally-facilitated exchange wholly operated and administered by HHS.<sup>3</sup> In May 2013, HHS published guidance that indicated that HHS intends to propose,<sup>4</sup> through rulemaking, that a state may also choose to establish and administer its small business health options program (SHOP) exchange while the federal government establishes and administers the state's individual exchange.<sup>5</sup> In this report this arrangement is referred to as a "state-based SHOP/federally-facilitated individual exchange."

ACA provides general direction regarding the establishment and administration of health insurance exchanges and directs federal agencies, particularly HHS, to promulgate regulations that provide further guidance. For example, Section 1321 requires the HHS Secretary to promulgate regulations relating to the establishment and operation of exchanges, the offering of health insurance plans through an exchange, the establishment of programs created by the ACA to

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<sup>1</sup> ACA was signed into law on March 23, 2010 (P.L. 111-148, 124 Stat. 119). A week later, on March 30, 2010, the President signed the Health Care and Education Reconciliation Act (HCERA; P.L. 111-152, 124 Stat. 1029), which amended multiple health care and revenue provisions in ACA. Several other bills that were subsequently enacted during the 111<sup>th</sup> and 112<sup>th</sup> Congresses made more targeted changes to specific ACA provisions. All references to ACA in this report refer to the law as amended.

<sup>2</sup> For more information about exchanges, see CRS Report R42663, *Health Insurance Exchanges Under the Patient Protection and Affordable Care Act (ACA)*, by Bernadette Fernandez and Annie L. Mach.

<sup>3</sup> Sections 1311(b) and 1321(c) of P.L. 111-148.

<sup>4</sup> HHS, *Small Business Health Option Program (SHOP) - Only Marketplace FAQs*, May 10, 2013.

<sup>5</sup> For individuals seeking coverage, exchanges will be a marketplace where individuals can purchase private insurance, and exchanges will also assist individuals with obtaining federally subsidized financial assistance and screen individuals for eligibility for certain public insurance programs (e.g., Medicaid). This part of an exchange is referred to as the "individual exchange." Small businesses seeking coverage for their employees will be able to use the small business health options program (SHOP) exchange. The SHOP exchange is designed to assist small employers and their employees with the purchase of plans offered in the small group market.

mitigate risk in the exchanges, and any other requirements the HHS Secretary deems appropriate. Federal agencies have promulgated a number of final (or interim final) and proposed regulations related to exchange establishment (**Table 1**).

**Table 1. Recent Regulatory Action Related to Health Insurance Exchanges**

Regulation	Federal Agency	Date Published in Federal Register
Final rule on standards related to reinsurance, risk corridors, and risk adjustment, effective May 22, 2012.	HHS	March 23, 2012 (77 Fed. Reg. 17220)
Final rule on Medicaid eligibility changes under ACA, effective January 1, 2014. [Certain provisions of the rule were issued as interim final; comments were due May 7, 2012.]	Centers for Medicare & Medicaid Services, HHS	March 23, 2012 (77 Fed. Reg. 17144)
Final rule on health insurance premium tax credit, effective May 23, 2012.	Internal Revenue Service, Department of the Treasury	May 23, 2012 (77 Fed. Reg. 30377)
Final rule on establishment of exchanges and qualified health plans, and exchange standards for employers, effective May 29, 2012. [Certain provisions of the rule were issued as interim final; comments were due by May 11, 2012.]	HHS	March 27, 2012 (77 Fed. Reg. 18310)
Final rule on standards related to essential health benefits, actuarial value, and accreditation, effective April 26, 2013.	HHS	February 25, 2013 (78 Fed. Reg. 12834)
Final rule on parameters related to: reinsurance, risk corridors, and risk adjustment; cost-sharing reductions; user fees for a federally facilitated exchange; advance payments of the premium tax credits; a federally facilitated Small Business Health Option Program (SHOP); and the medical loss ratio (MLR) program, effective April 30, 2013.	Centers for Medicare & Medicaid Services, HHS	March 11, 2013 (78 Fed. Reg. 15410)
Proposed rule on essential health benefits in alternative benefit plans, eligibility notices, and fair hearing and appeal processes for Medicaid and exchange eligibility appeals. Comments were accepted until February 13, 2013.	Centers for Medicare & Medicaid Services, HHS	January 22, 2013 (78 Fed. Reg. 4594)
Final rule on the SHOP exchange under ACA, effective July 1, 2013.	Centers for Medicare & Medicaid Services, HHS	June 4, 2013 (78 Fed. Reg. 33233)

**Source:** Table prepared by Congressional Research Service based on information collected from the *Federal Register*.

Provisions in ACA, its implementing regulations, and other guidance produced by HHS identify dates by which certain requirements must be met in order for exchanges to be in operation in every state on January 1, 2014, as the law requires. **Table 2** summarizes these key dates.

**Table 2. Key Exchange Implementation Dates**

Date	Requirement
December 14, 2012	States seeking to establish a state-based exchange must submit a declaration letter and an exchange blueprint application no later than this date to be considered for exchange approval by January 1, 2013.
January 1, 2013	Each state-based exchange must be approved to operate by HHS no later than this date in order to be operational on January 1, 2014. <sup>a</sup>
February 15, 2013	States seeking to establish a partnership exchange effective in 2014 must submit a declaration letter and an exchange blueprint application no later than this date.
October 1, 2013	Open enrollment must begin for coverage offered through an exchange for the 2014 coverage year.
January 1, 2014	Exchanges must be established and offer coverage in every state.

**Source:** Table prepared by Congressional Research Service based on information collected from (1) ACA (P.L. 111-148, as amended); (2) 77 *Federal Register* 18310; and (3) Letter from Kathleen Sebelius, Secretary of Health and Human Services, to State Governors, November 9, 2012, <http://cciio.cms.gov/Archive/Technical-Implementation-Letters/exchange-blueprint-letter.pdf>.

- a. As of April 8, 2013, HHS has conditionally approved 17 states and the District of Columbia (DC) to operate state-based exchanges, and seven states have been conditionally approved to operate partnership exchanges. For more information, see <http://cciio.cms.gov/resources/factsheets/state-marketplaces.html>.

## Health Insurance Exchange Grants

Section 1311 of ACA appropriated indefinite (i.e., unspecified) amounts for planning and establishment grants for health insurance exchanges, which must be operational by the beginning of 2014. For each fiscal year, the HHS Secretary is to determine the total amount that will be made available to each state for exchange grants. However, no grant may be awarded after January 1, 2015.

The subsequent sections discuss the three different types of exchange grants HHS has awarded. **Figure 1** shows the total amount of funding each state has received from exchange planning and establishment grants as well as the type of exchange (state-based, partnership, federally-facilitated, or state-based SHOP/federally-facilitated individual exchange) each state intends to have in 2014.<sup>6</sup> **Table 3** shows the amount each state has received from the various types of grants.

### Exchange Planning Grants

Exchange planning grants were given to 49 states, the District of Columbia (DC), and four territories.<sup>7</sup> These grants of about \$1 million each were intended to provide resources to states to help them conduct the research and planning needed to determine how their exchanges would be

<sup>6</sup> It should be noted that while the deadlines by which a state must apply to HHS to have a state-based or partnership exchange in 2014 have passed, HHS has not indicated whether there is a deadline for a state to request to have a state-based SHOP/federally-facilitated individual exchange for 2014. However, HHS has indicated that only states that have previously submitted an approved application to have a state-based exchange may request to change to a state-based SHOP/federally-facilitated individual exchange for 2014.

<sup>7</sup> Alaska is the only state that did not apply for a planning grant.

administered and operated. Three states have returned all (Florida and Louisiana) or a portion (New Hampshire) of their exchange planning grants.

### **Exchange Establishment Grants**

There are two levels of exchange establishment grants. Level one establishment grants provide up to one year of funding to states that have made some progress under their exchange planning grants. States may seek an additional year of level one funding in order to meet the criteria necessary to apply for level two funds. Level two establishment grants are designed to provide funding through December 31, 2014, to states that are farther along in the establishment of an exchange. States applying for level two establishment grants must meet specific eligibility criteria regarding the structure and governance of the exchange they are developing. There are a series of deadlines throughout 2013 and 2014 for applying for the level one and level two exchange establishment grants.

HHS has announced seven rounds of exchange establishment grant awards, the most recent of which was on April 8, 2013.<sup>8</sup> To date, 35 states and DC have received a total of approximately \$3.6 billion in exchange establishment grant funding.<sup>9</sup> Within that group, 12 states—California, Connecticut, Hawaii, Kentucky, Maryland, Massachusetts, Nevada, New York, Oregon, Rhode Island, Vermont, and Washington—and DC have received both level one and level two funds.

### **Early Innovator Grants**

On February 16, 2011, HHS announced that it was awarding seven grants to help a group of “early innovator” states design and implement the information technology (IT) infrastructure needed to operate health insurance exchanges.<sup>10</sup> The goal is for these states to develop exchange IT models that can be adopted and implemented by other states. Six states and a consortium of New England states received a total of \$249 million in early innovator grant funding. Three states—Kansas, Oklahoma, and Wisconsin—have since returned their early innovator grants.

### **Additional Information**

The Center for Consumer Information and Insurance Oversight (CCIIO) at CMS is responsible for implementing ACA’s private health insurance reforms and administering the grant programs discussed above. Detailed information on the grants, including funding opportunity announcements, guidance, news releases, and amounts awarded, is available on CCIIO’s website.<sup>11</sup>

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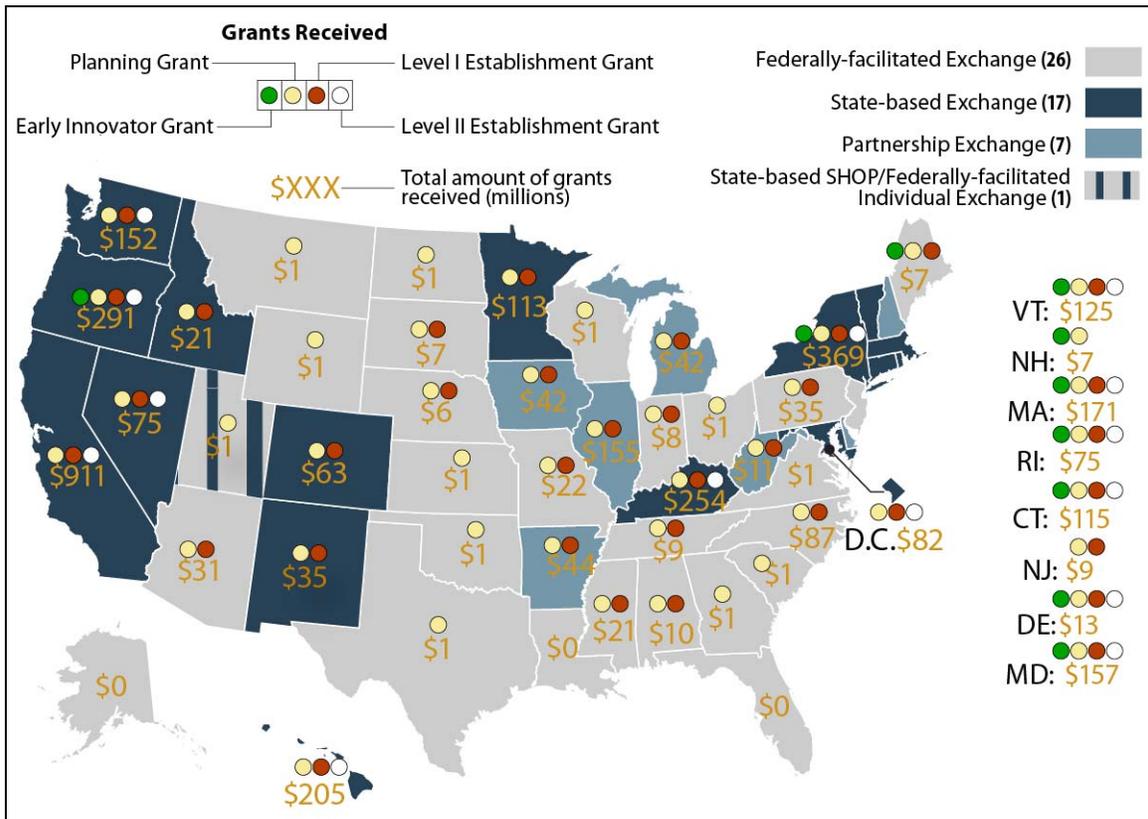
<sup>8</sup> Center for Consumer Information and Insurance Oversight (CCIIO), April 8, 2013, at <http://cciio.cms.gov/Archive/Grants/exchanges-map.html>.

<sup>9</sup> Authors’ calculation based on data found in **Table 3**.

<sup>10</sup> HHS press release, February 16, 2011, at <http://www.hhs.gov/news/press/2011pres/02/20110216a.html>.

<sup>11</sup> <http://cciio.cms.gov/>.

Figure I.ACA Exchange Funding to States (As of April 8, 2013)



**Source:** The total amount of grants received and the grant types are based on information from **Table 3** of this report. Information about the type of exchange that will be established in each state for 2014 is available from the Center for Consumer Information and Insurance Oversight’s (CCIIO) website, at <http://cciio.cms.gov/resources/factsheets/state-marketplaces.html>.

**Notes:** The total amount of grants received by each state is rounded to the nearest million. A \$0 amount in a state indicates that the state has either not received any grants (Alaska) or has returned all funds received from grants to the federal government (Florida and Louisiana).

The early innovator grant awarded to the University of Massachusetts Medical School is for a multi-state consortium, which includes Connecticut, Maine, Massachusetts, Rhode Island, and Vermont. Each of these states has a green dot in **Figure I** indicating receipt of an early innovator grant; however, the awarded funds are only included in the funding total for Massachusetts.

**Table 3.ACA Exchange Funding to States and Territories (As of April 8, 2013)**

Funding in Dollars

State/Territory	Health Insurance Exchange Grants				
	Planning	Establishment Grants		Early Innovator	Total
		Level I	Level II		
Alabama	1,180,312	8,592,139	NA	NA	9,772,451
Alaska	NA	NA	NA	NA	NA
Arizona	999,670	29,877,427	NA	NA	30,877,097
Arkansas	1,200,928	42,731,407	NA	NA	43,932,335
California	1,000,000	235,901,012	673,705,358	NA	910,606,370
Colorado	1,247,599	61,437,747	NA	NA	62,685,346
Connecticut	996,850	6,687,933	107,358,676	NA <sup>a</sup>	115,043,459
Delaware	1,000,000	11,936,639	NA	NA	12,936,636
DC	1,000,000	8,200,716	72,985,333	NA	82,186,049
Florida	0 <sup>b</sup>	NA	NA	NA	0
Georgia	1,000,000	NA	NA	NA	1,000,000
Hawaii	1,000,000	76,255,636	128,086,634	NA	205,342,270
Idaho	1,000,000	20,376,556	NA	NA	21,376,556
Illinois	1,071,784	153,741,352	NA	NA	154,813,136
Indiana	1,000,000	6,895,126	NA	NA	7,895,126
Iowa	1,000,000	41,221,578	NA	NA	42,221,578
Kansas	1,000,000	NA	NA	0 <sup>c</sup>	1,000,000
Kentucky	1,000,000	69,990,613	182,707,738	NA	253,698,351
Louisiana	0 <sup>d</sup>	NA	NA	NA	0
Maine	1,000,000	5,877,676	NA	NA <sup>a</sup>	6,877,676
Maryland	999,227	27,186,749	123,048,693	6,227,454	157,462,123
Massachusetts	1,000,000	53,324,443	81,256,970	35,591,333 <sup>a</sup>	171,172,746
Michigan	999,772	40,517,249	NA	NA	41,517,021
Minnesota	1,000,000	112,169,007	NA	NA	113,169,007
Mississippi	1,000,000	20,143,618	NA	NA	21,143,618
Missouri	1,000,000	20,865,716	NA	NA	21,865,716
Montana	1,000,000	NA	NA	NA	1,000,000
Nebraska	1,000,000	5,481,838	NA	NA	6,481,838
Nevada	1,000,000	23,738,273	50,016,012	NA	74,754,285
New Hampshire	334,000 <sup>e</sup>	6,267,088	NA	NA	6,601,088
New Jersey	1,223,186	7,674,130	NA	NA	8,897,316
New Mexico	1,000,000	34,279,483	NA	NA	35,279,483
New York	1,000,000	154,746,207	185,822,357	27,431,432	368,999,996

State/Territory	Health Insurance Exchange Grants				
	Planning	Establishment Grants		Early Innovator	Total
		Level I	Level II		
North Carolina	1,000,000	86,357,315	NA	NA	87,357,315
North Dakota	1,000,000	NA	NA	NA	1,000,000
Ohio	1,000,000	NA	NA	NA	1,000,000
Oklahoma	1,000,000	NA	NA	0 <sup>f</sup>	1,000,000
Oregon	1,000,000	15,652,301	226,472,074	48,096,307	291,220,682
Pennsylvania	1,000,000	33,832,212	NA	NA	34,832,212
Rhode Island	1,000,000	15,063,314	58,515,871	NA <sup>a</sup>	74,579,185
South Carolina	1,000,000	NA	NA	NA	1,000,000
South Dakota	1,000,000	5,879,569	NA	NA	6,879,569
Tennessee	1,000,000	8,110,165	NA	NA	9,110,165
Texas	1,000,000	NA	NA	NA	1,000,000
Utah	1,000,000	NA	NA	NA	1,000,000
Vermont	1,000,000	20,258,116	104,178,965	NA <sup>a</sup>	125,437,081
Virginia	1,000,000	NA	NA	NA	1,000,000
Washington	996,285	22,942,671	127,852,056	NA	151,791,012
West Virginia	1,000,000	9,667,694	NA	NA	10,667,694
Wisconsin	999,873	NA	NA	0 <sup>g</sup>	999,873
Wyoming	800,000	NA	NA	NA	800,000
<b>Total: 50 States &amp; DC</b>	<b>48,049,486</b>	<b>1,503,880,715</b>	<b>2,122,006,737</b>	<b>117,346,526</b>	<b>3,791,283,464</b>
Puerto Rico	917,205	NA	NA	NA	917,205
Virgin Islands	1,000,000	NA	NA	NA	1,000,000
Guam	1,000,000	NA	NA	NA	1,000,000
American Samoa	1,000,000	NA	NA	NA	1,000,000
Northern Marianas	NA	NA	NA	NA	NA
<b>Total: All</b>	<b>51,966,691</b>	<b>1,503,880,715</b>	<b>2,122,006,737</b>	<b>117,346,526</b>	<b>3,795,200,669</b>

**Source:** Table prepared by Congressional Research Service based on (1) grant award announcements and other information provided by the Center for Consumer Information and Insurance Oversight (CCIIO) at <http://cciio.cms.gov/Archive/Grants/exchanges-map.html>; and (2) data compiled in the HHS Tracking Accountability in Government Grants Systems (TAGGS) at <http://taggs.hhs.gov>.

**Notes:** NA = not applicable (i.e., state/territory has not applied for or received funding).

- a. The early innovator grant awarded to the University of Massachusetts Medical School is for a multi-state consortium, which includes Connecticut, Maine, Massachusetts, Rhode Island, and Vermont; however, the awarded funds are only included in the funding total for Massachusetts.
- b. In February 2011, Florida Governor Rick Scott returned the state's \$1 million exchange planning grant.
- c. In August 2011, Kansas Governor Sam Brownback returned the state's \$31.5 million early innovator grant.
- d. Louisiana's \$998,416 exchange planning grant was returned in March 2011.

By Bradford Fitch

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- e. A New Hampshire bill (HB 601) that became law in July 2011 instructed the state insurance commissioner to return \$666,000 in exchange planning grant funds.
- f. Oklahoma's \$54 million early innovator grant was returned in April 2011.
- g. In January 2012, Wisconsin Governor Scott Walker returned the state's \$37.7 million early innovator grant.

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