The Maryland Public Policy Institute

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Published by
The Maryland Public Policy Institute
One Research Court, Suite 450
Rockville, Maryland 20850
240.686.3510
mdpolicy.org

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BY MARC KILMER

THE MARYLAND HEALTH BENEFITS EXCHANGE IS THE HEALTH INSURANCE EXCHANGE established by the state of Maryland in compliance with the Affordable Care Act. ACA supporters promoted exchanges as a marketplace that would offer low-cost or no-cost insurance to individuals and small businesses through a design that promotes competition and service to the consumer.

That vision has not played out in Maryland. MHBE saw a bungled rollout, ever-increasing premium costs, until a federal bailout offered relief, and high costs to taxpayers. The failure of the health insurance exchange to live up to its promise is a clear sign that the Affordable Care Act is not working in Maryland.

The MHBE has two parts: a market for individuals to purchase health insurance and a market for small businesses to purchase insurance to cover their employees. The Maryland Health Connection is a website where Marylanders can determine whether they are eligible for insurance subsidies under the ACA, shop for plans, and enroll in Medicaid if eligible. Federal regulations govern what insurance can be sold in the exchange, since they must be certified as a Quality Health Plan. While individuals can purchase insurance outside of the exchange, the only way they can use federal ACA subsidies is through the MHBE.

BOTCHED ROLLOUT

ACA passage and implementation was mired in controversy, and it is still a controversial law. Passing over near-unanimous opposition from Republicans, this law was caught in partisan politics from the beginning. States with Republican governors and legislative majorities largely fought the law in the courts and refused to implement its state-based exchanges or Medicaid expansions, while states with Democratic governors and legislative majorities embraced the law and its implementation.

Martin O'Malley, a Democrat who served two terms, was governor of Maryland at the time of the ACA's passage. He strongly supported the ACA and vowed to make Maryland a national model for implementing the law. The centerpiece of this would be the state's health insurance exchange, which, according to then-Senator Barbara Mikulski, would "serve as a good template for the nation moving forward."[1]

Evidence later emerged that while state officials were touting the health insurance exchange days before it opened, they had been warned that there were serious problems with the website.

The rollout of the exchange did not, in fact, serve as a good template for the nation. It was a disaster from the moment it began operations on October 1, 2013, being plagued with problems that made it nearly impossible to use. On the first day, the state had to delay opening the exchange website for four hours since users could not log on. Then, after the website went online, users had trouble creating accounts.[2] Only four individuals were able to log in and purchase insurance on the first day. Months after its rollout, users were still encountering numerous problems with the exchange website.[3]

Another initial problem was that the system could not determine Medicaid eligibility for those who qualified for the program based on their income. The system made a variety of incorrect income eligibility determinations, and it could not process re-determinations. In addition, the technical problems delayed implementation of the small business portion of the exchange, the Small Business Health Options Program Exchange.

Legislators passed a supplemental budget amendment for the fiscal 2015 budget that authorized an additional $85.2 million to fix these problems, with $52.1 million being allocated towards contractual IT services directly related to transitioning to a new website.[4]

The problems became so bad that the state replaced the original contractor, Noridian, with a new one in February 2014. Through December 2013, the state had paid Noridian $65.4 million for a system that the state eventually abandoned.[5] The new website was based on the Connecticut health insurance exchange, and worked far better than the initial exchange website. However, the replacement exchange system, noted the Department of Legislative Services, "does not offer the level of functionality—particularly with regard to Medicaid enrollment—that had been promised of the MHBE's original system."[6] The Medicaid eligibility problems that plagued the original exchange system were not fixed by the replacement system.

In 2015, Noridian and the state came to a settlement in which Noridian paid the state $20 million and agreed to pay another $25 million in annual $5 million payments. That equals 61 percent of the amount of money paid to Noridian for the original exchange system that did not work. This amount is split with the federal government, which helped fund work on the health insurance exchange. Ultimately Maryland is expected to receive $12.6 million in reimbursement from Noridian.[7]

Evidence later emerged that while state officials were touting the health insurance exchange days before it opened, they had been warned that there were serious problems with the website. A year prior to the scheduled debut of the exchange website, auditors were issuing specific warnings about aspects of the work that was being done or, more often, not being done. During the months prior to launch, contractors were feuding, the website was failing key tests, and software was full of defects. Despite being briefed on these problems and being warned that the site may not work, O'Malley gave the signal to go ahead and launch it.[8]

FAILURE TO CONTROL COSTS

The premise of state-based health insurance exchanges was that they would be a one-stop-shop where consumers—either individuals who lacked insurance or small businesses—could go and choose from an affordable list of insurance that meets their needs. Competition among insurance companies would keep prices low and offer consumers a variety of amenities.

In a 2009 address to Congress, President Barack Obama laid out the theory behind a health insurance exchange:

If you lose your job or you change your job, you'll be able to get coverage. If you strike out on your own and start a small business, you'll be able to get coverage. We'll do this by creating a new insurance exchange—a marketplace where individuals and small businesses will be able to shop for health insurance at competitive prices. Insurance companies will have an incentive to participate in this exchange because it lets them compete for millions of new customers. As one big group, these customers will have greater leverage to bargain with the insurance companies for better prices and quality coverage.[9]

The Obama administration reiterated this on its website:

Americans without insurance coverage will be able to choose the insurance coverage that works best for them in a new open, competitive insurance market—the same insurance market that every member of Congress will be required to use for their insurance. The insurance Exchange will pool buying power and give Americans new affordable choices of private insurance plans that have to compete for their business based on cost and quality. Small business owners will not only be able to choose insurance coverage through this exchange, but will receive a new tax credit to help offset the cost of covering their employees.[10]

In Maryland, advocates for the ACA also touted the exchange. Vincent Demarco, president of the Health Care for All! Coalition, celebrated the exchange in a press release sent out by the O'Malley administration upon the signing of legislation authorizing MHBE. In it, he said, "This measure will authorize the Exchange Board to implement policies that will make health care more affordable for Marylanders."[11]

Days before the launch of MHBE, Obama visited Maryland and once again repeated the claim that the insurance exchange's design would result in lower costs for consumers:

It's buying insurance on the private market, but because now you're part of a big group plan—everybody in Maryland is all logging in and taking a look at the prices—you've got new choices. Now you've got new competition, because insurers want your business. And that means you will have cheaper prices.[12]

The promises made by the proponents of the ACA never became reality in Maryland. Once the technological problems with the MHBE stopped, consumers began to realize that the insurance being sold on the exchange was not very affordable. For their part, companies realized that they could not make money selling policies on the exchange, so some of them left. This led to fewer choices for consumers and higher prices, the exact opposite of what the exchange was supposed to promote.

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This was most evident in 2017, when the Maryland Insurance Administration approved premium price hikes between 20 and 30 percent for insurers selling in MHBE. That year also saw the voluntary departure of one insurance company, UnitedHealthcare, and the removal of another, Evergreen, because it was shifting to for-profit status. This left five carriers participating in the MHBE that year, three of which were CareFirst companies.[13]

That trend continued in 2018, with MHBE shoppers only being able to choose between four plans offered by two companies due to the departure of Cigna.[14] These plans cost more than in 2017, with those offered by CareFirst seeing increased premiums between 31 percent and 49 percent and Kaiser plans increasing by 21 percent.[15]

In 2019, consumers continued to have a limited choice in the exchange, with only CareFirst and Kaiser offering plans. However, premiums did decrease. However, this was not due to marketplace pressure driving prices down. Instead, the federal government began funding a reinsurance program (described below) that subsidized rates for many individuals purchasing policies.[16] This trend continued in 2020 and 2021. United Healthcare also re-entered the exchange in 2020.

One of the reasons for the lack of choice and the high cost of policies is that the exchange was never really a marketplace. To comply with the ACA, the state tightly regulated what products could be sold in the marketplace. The ACA mandated that every policy must offer a set of "essential benefits." Each of these mandated services came with an additional cost. Consumers had no options to choose policies that may not have an "essential benefit" or two that may, for that consumer, not be needed. Instead, federal rules as implemented by the state offered policies that were far more uniform, and also far more expensive, than some consumers desired.

The higher insurance premiums that Marylanders are experiencing are part of an overall national trend. The ACA has not led to more affordable insurance. Instead, it has provided subsidies that lower the cost of insurance to some consumers. Some of these subsidies have been stopped by courts or Congress, which has also led to higher consumer costs. But there appears to be no consumer savings as a result of the insurance exchange design, contrary to the promises made by ACA proponents when they were pushing to pass this legislation.

It is true that the state's uninsured population has declined during the time that MHBE has been in operation. However, most of this decline is not due to wider access to more affordable insurance. Instead, as the DLS pointed out, "Maryland's decision to expand Medicaid under the ACA provides coverage to just under 310,000 individuals as of December 2018. This expansion is by far the largest factor in the drop in the State's uninsured rate."[17]

REINSURANCE TO THE RESCUE

Faced with rising health insurance premiums being offered in the exchange, Maryland turned to the federal government for a bailout. The result was a reinsurance program that will subsidize insurers so they do not raise rates as much as they would otherwise be forced to do. This is an implicit acknowledgement that the insurance exchange is failing at its mission to create an affordable insurance market in the state.

The ACA allows states to establish reinsurance programs as a way to stabilize their insurance marketplaces until the exchanges could begin working as envisioned. These programs were designed to be temporary, lasting from 2014 through 2016. Since the reinsurance program reimbursed insurers for actual losses, the final payments made by the initial reinsurance program was in fiscal 2018.[18] Lawmakers recognized that the new regulations imposed by the ACA would destabilize markets right after introduction, so they allowed states to set up reinsurance programs that would subsidize insurance companies that incurred losses with higher-risk individuals. This would allow over-

The theory that rates would stabilize in the exchange within a few years of the ACA's implementation proved false.

all rates to be lower, which would, the thinking went, lead within a few years to enough young, healthy individuals entering the marketplace. In return, this would stabilize rates and exchanges would be able to provide affordable insurance rates in the exchange.

Maryland operated a state reinsurance program at the beginning of its experience under the ACA. That reinsurance program began 2014 and terminated in 2016. At its conclusion, rates began to climb. The theory that rates would stabilize in the exchange within a few years of the ACA's implementation proved false.

As the price of insurance premiums continued to increase, state officials looked for ways to stabilize them. In 2018, they revived the reinsurance plan, but this time with federal help paired with a new tax on insurance policies. During the operation of this reinsurance program, carriers that incur costs of between $20,000 and $250,000 for an individual can receive state reimbursement of 80 percent of those costs.

In 2018, the General Assembly passed legislation that imposed a 2.75 percent fee on health insurance premiums as well as Medicaid managed-care organizations. It also authorized Governor Larry Hogan's administration to seek a federal waiver to stabilize the insurance market. The federal government approved that waiver in August 2018. Part of this waiver is allowing the state to charge its insurance tax at a rate that is identical to the federal provider tax that the federal government agreed not to charge.

In essence, the federal waiver allows the state to collect a tax that the federal government would have otherwise charge and, in return, offer subsidies to insurance companies. The federal government is also providing pass-through funding to offer these subsidies. That pass-through money is what Maryland residents would have received as insurance tax credits in the absence of the reinsurance program.[19] In 2019, the General Assembly passed legislation to charge a 1 percent insurance tax through 2023.[20]

The Department of Legislative Services estimates that this program will incur costs of $1.1 billion through 2021. The state insurance tax will provide $365 million and the federal government will provide $730 million.[21] There will be a need for additional funding beginning in 2021. Unless the federal government reauthorizes its waiver, the reinsurance program will end in 2023.

If the only way that the exchange can offer affordable insurance is via a program that subsidizes health insurance companies to provide lower-cost premiums, it is an indication that the exchange's design is not working to provide those lower-cost premiums.

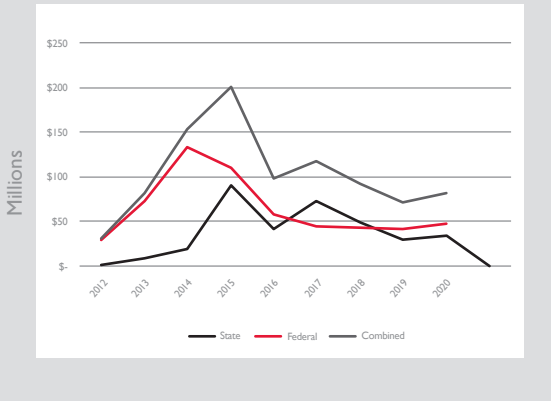
The sponsor of the reinsurance legislation, Delegate Joseline Peña-Melnyk said, "Can you imagine if we don't have the money and that market collapses?"[22] This comment is a remarkable admission that the centerpiece of the state's efforts to provide affordable insurance is not working as intended. If the only way that the exchange can offer affordable insurance is via a program that subsidizes health insurance companies to provide lower-cost premiums, it is an indication that the exchange's design is not working to provide those lower-cost premiums. Peña-Melnyk apparently recognizes that the exchange may never work as intended, since her legislation also tasks the Maryland Health Insurance Coverage Protection Commission with studying whether to extend the reinsurance program past 2023.

EXPENSIVE PROPOSITION

Even though it had a disastrous launch and has not controlled health insurance costs, the MHBE has cost Maryland and federal taxpayers significant sums.

Here is a yearly breakdown of the costs of the MHBE, in millions of dollars.

FIGURE 1: MARYLAND HEALTH BENEFIT EXCHANGE FUNDING



Source: Maryland General Assembly, Department of Legislative Services, Operating Budget Analysis: Maryland Health Benefit Exchange, Fiscal Years 2014–2020

FISCAL YEAR	STATE	FEDERAL	COMBINED
	MILLIONS		
2012	$1.674	$29.194	$30.868
2013	$8.021	$72.960	$80.981
2014	$19.340	$133.112	$152.452
2015	$90.344	$110.216	$200.561
2016	$41.062	$57.204	$98.266
2017	$72.156	$44.726	$116.882
2018	$49.154	$42.975	$92.129
2019	$28.808	$42.068	$70.876
2020	$34.148	$47.033	$81.182

The expenditure of Maryland money for MHBE comes in direct contrast to the promise made by O'Malley. Upon signing legislation to create the insurance exchange in May 2012, his administration published a press release stating:

Maryland's Health Benefit Exchange, which is expected to provide access to health care to over 350,000 Marylanders, is being established using no State funds due to $34.4 million in Federal grants that Maryland has received to plan and build the Exchange, including a $27.2 million Exchange Establishment grant and a $6.2 million Innovator grant given to six states leading the way on reform implementation.[23]

In fact, state funds were used to set up the exchange that did not work, and then re-establish a working exchange. Some of that money has been recouped due to the state's settlement with Noridian, but not all.

The use of state money is not the only promise put forward at the time of the rollout by the O'Malley administration that did not come true. When preparing the public for the launch of MHBE, the administration consistently underestimated the amount that the exchange would cost in later years. In 2012, a Department of Legislative Services report noted, "A consultant's report conducted for the exchange estimated that its operating costs could be between $21 and $30 million in calendar 2014 rising to $36 to $61 million in calendar 2016 depending on the level of enrollment and other considerations."[24] Actual spending for fiscal 2016, which covered much of the 2016 calendar year, was over $98 million. In 2013, the O'Malley administration estimated that the exchange's budget would be $63.5 million in FY 18.[25] In reality, MHBE spent $92.129 million in fiscal 2018.

These cost overruns began almost immediately upon the planning and creation of the exchange. In fiscal 2013, O'Malley's proposed budget for MHBE was $26.531 million.[26] The actual spending for the agency was $80.981 million.[27] Deficiency appropriations were made in both fiscal 2014 and fiscal 2015 to address these higher costs.

CONCLUSION

The centerpiece of the ACA's promise for affordable insurance was the health insurance exchange. While many states resisted implementing the ACA, Maryland officials embraced this law and rushed to build an insur-

These cost overruns began almost immediately upon the planning and creation of the exchange.

ance exchange in compliance with the law's dictates. Despite the promises that Maryland's ACA implementation would serve as a showpiece for the nation, the state's exchange website has failed to live up to the lofty promises made on its behalf.

It was plagued with problems from the moment of its launch. It has failed to keep insurance rates affordable aside from steep federal and state subsidies, and has cost taxpayers millions of dollars to operate. While there are certainly fewer uninsured Marylanders now than when the ACA was enacted, the health insurance exchange is not responsible for this decline. Instead of driving down costs through a government-designed marketplace, the exchange has instead primarily allowed people to sign up for Medicaid, a government health insurance program, or heavily subsidized insurance plans. This is not what the authors of the ACA said would be the result from this experiment in the health-care marketplace.

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