

**CONFIDENTIAL**  
**LEGISLATIVE BILL REVIEW FORM: 2015**

Bill Number: H.60

Name of Bill: Supported State-Based Marketplace Exchange; Transition Plan

Agency/ Dept: AHS/DVHA

Author of Bill Review: Seán Sheehan

Date of Bill Review: 2/2/15

Related Bills and Key Players: Introduced by Representatives Koline of Dorset, Scheuermann of Stowe, Condon of Colchester, and Greshin of Warren

Status of Bill: (check one):  Upon Introduction       As passed by 1<sup>st</sup> body       As passed by both

**Recommended Position:**

Support       Oppose       Remain Neutral       Support with modifications identified in #8 below

**Analysis of Bill**

**1. Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.*

This bill proposes to direct the Secretary of Administration or designee to develop a plan by March 31, 2015 to transition the Vermont Health Benefit Exchange from a fully State-based exchange to a supported State-based marketplace exchange.

Issues aimed to be addressed by the bill:

-Problems associated with Vermont Health Connect's (VHC) functionality and ongoing costs.

**2. Is there a need for this bill?** *Please explain why or why not.*

No. Transitioning VHC to a federally supported marketplace does not adequately address issues with VHC's functionality or operating costs. Transitioning to a federally supported State-based marketplace exchange is not needed for the following reasons:

1. Optum, VHC's current systems integrator, continues to improve functionality and is performing well in its delivery.
2. A federally supported State-based marketplace exchange will not support Medicaid eligibility or enrollment. Change of Circumstance functionality and ongoing maintenance is still needed to administer Medicaid, regardless of whether Qualified Health Plan (QHP) enrollment is supported in state or by the federal marketplace.
3. Additional Vermont subsidies cannot be administered through a federally supported marketplace. Under a federally supported state-based exchange, a separate system would need to be established in order to continue Vermont subsidies.
4. Significant costs could be incurred through transaction fees as a result of utilizing the federal marketplace. Healthcare.gov currently charges a 3.5% surcharge to premiums to support ongoing operations, which would add an additional financial impact to individuals not receiving credits.
5. VHC has helped Vermont excel in the marketplaces' primary goal: helping as many people as possible access health coverage. Vermont has the second lowest uninsured rate in the country, with just 3.7% of the state's population uninsured.

*Please return this bill review as a Microsoft Word document to [laura.gray@state.vt.us](mailto:laura.gray@state.vt.us) and [jessica.mishaan@state.vt.us](mailto:jessica.mishaan@state.vt.us)*

**3. What are likely to be the fiscal and programmatic implications of this bill for this Department?**

Significant staff time and resources would be needed to develop a plan by March 31, 2015 to transition the Vermont Health Benefit Exchange from a fully state-based exchange to a supported state-based marketplace exchange. A transition to [healthcare.gov](http://healthcare.gov) would create additional risk to preparations for 2016 open enrollment, as sufficient time for design, development and implementation of this solution may not be available, particularly given the earlier date of open enrollment next year. Staff would be pulled away from important work creating a more functional exchange in order to draft a plan for an inviable solution.

In addition, the State would either need to eliminate Vermont Premium Reductions and Cost-Sharing Reductions or else develop a new system for administering the state subsidies.

**4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**

The Economic Services Division (ESD) of the Department of Children and Families would need to devote already strained resources in order to develop a transition plan for a solution that does not sufficiently address the major functionality issues facing VHC.

The State would likely need to overhaul its rate review process in order to comply with federal timelines, which would impact the Green Mountain Care Board (GMCB) and Department of Financial Regulation (DFR). If there is an individual market in Vermont outside of a federal exchange, DFR and GMCB would likely have additional regulatory responsibilities and therefore need additional resources.

**5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?**

Vermont families would be impacted by this programmatic shift. Families with members enrolled in both a QHP and Medicaid or Dr. Dynasaur, as well as those who transition between programs, would face additional complications and are likely to be frustrated. Families would need to call two different phone numbers, and deal with two separate entities, to get coverage and financial help for the whole family.

Moderate-income Vermonters would be financially impacted if state premium and cost-sharing subsidies are eliminated (because the federal website does not allow for these special rules state by state). Vermonters would lose millions of dollars in Vermont Premium Reductions to reduce premium costs. A Vermonter earning \$35,000 would pay \$524 more per year in premiums. A family of four earning \$70,000 would pay \$912 more per year.

Municipalities are generally in the small market and their employees could be impacted by this loss of financial help.

**6. Other Stakeholders:**

**6.1 Who else is likely to support the proposal and why?**

Business associations could support a move away from a state-based exchange for two reasons: 1) a decreased scope of state government and decreased risk of exposure to cost overruns, 2) a misperception that this eliminates some ACA requirements, such as the metal levels and benefit requirements and 3) a misperception that this could re-open the association market, which was a source of income for these groups. Those who acknowledge the need to update the State's Medicaid system

*Please return this bill review as a Microsoft Word document to [laura.gray@state.vt.us](mailto:laura.gray@state.vt.us) and [jessica.mishaan@state.vt.us](mailto:jessica.mishaan@state.vt.us)*

would understand that the cost savings are overestimated, as it appears that Vermont's share of implementation costs for the Medicaid system without the QHP component would be the same or greater than with the QHP component.

It's also important to point out that, while the bill references Idaho having been a supported marketplace, Idaho has moved to a state-based marketplace. This move was driven by the principal of local control. Leadership in Idaho wanted control of their marketplace to reside in Idaho, not Washington DC, and they saw the state-based marketplace as delivering this control.

## **6.2 Who else is likely to oppose the proposal and why?**

Proponents of single payer: Concern that this is a move to splinter, rather than to consolidate programs and information.

Proponents of cost-containment efforts: Concern over duplication of efforts, as well as a decrease in available data if the federal government, rather than the State of Vermont, controls marketplace data.

Moderate-income Vermonters: Unless a new system was created to administer state subsidies, Vermonters would lose millions of dollars in Vermont Premium Reductions to reduce premium costs. This is because the federal website does not allow for this type of special rules state by state. A Vermonter earning \$35,000 would pay \$524 more per year in premiums. A family of four earning \$70,000 would pay \$912 more per year.

## **7. Rationale for recommendation:** *Justify recommendation stated above.*

1. VHC serves as the enrollment gateway for both Medicaid and QHPs. If QHPs are moved to the federal health insurance website, Vermont would need to design, develop and implement different infrastructure to access healthcare.gov. This would likely take six to eight months, and work on VHC would still be needed to effectively administer Medicaid.
2. Vermont families could pay thousands more in health insurance and health care costs.
  - a. Depending on how the U.S. Supreme Court rules in *King v. Burwell*, customers of federally-supported marketplaces could lose their federal tax credits and cost-sharing reductions.
  - b. There is no provision in the ACA that contemplates states using the federal technology.
  - c. The law arguably requires state-based exchanges to operate their own websites, so it is likely that federally -supported marketplaces would be determined by federal courts to be a federal exchange.
  - d. If the U.S. Supreme Court decides that tax credits and cost-sharing reductions are only available in state exchanges, the residents of the states that use the federally supported marketplace model will not receive this needed financial help to reduce premiums.
  - e. Due to the loss of Vermont Cost-Sharing Reductions, many Vermonters could also face higher out-of-pocket cost when they go to the doctor or use medical services.
3. Close examination of the national experience signals the prospect for an increased burden to Vermonters, State staff, and health care providers under a federal-supported exchange.
  - a. Customers would not call fellow Vermonters for assistance, as they do now. Instead, Vermonters would call a federal call center outside of Vermont that serves over 30 other states.

- b. Over the course of this year's open enrollment period, average wait times at the federal call center have been more than ten times longer than at Vermont's Customer Support Center.
- 4. Families with members enrolled in both a QHP and Medicaid or Dr. Dynasaur, as well as those who transition between programs, would face additional complications. Families would need to call two different phone numbers, and deal with two separate entities, to get coverage and financial help for the whole family.
- 5. Vermont could lose authority over operational coordination and error-resolution, but would still bear the impact.
  - a. When the federal marketplace estimates that an applicant is eligible for Medicaid, they send a data transfer with the applicant's information to the state. When the states receive incorrect information, they must call applicants back to re-determine eligibility for Medicaid and CHIP (Dr. Dynasaur in Vermont). If the applicant is not eligible for Medicaid, the state then re-refers them back to the federal marketplace for a manual process. This process is of greatest concern in states with unique eligibility rules, which is the case with Dr. Dynasaur in Vermont.
- 6. One could make a solid argument for this bill if there was not a light at the end of the tunnel for the delivery of Vermont's marketplace infrastructure. This is not the case, as Optum has performed well since taking over in October and has met delivery targets. States that have made the move from a state-based exchange to one that is federally supported had far less functionality that what currently exists in VHC. Moving to a federally supported marketplace exchange when VHC has functionality that is continually being improved upon faces the potential for significant push-back from CMS, and it is unknown whether CMS would support transition costs given their sizable investment of federal dollars in VHC to date.

**8. Specific modifications that would be needed to recommend support of this bill:**

N/A

**9. Gubernatorial appointments to board or commission?**

No.

**Secretary/Commissioner has reviewed this document:**



**Date:** 2/9/15