

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 393

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO THE HEALTH INSURANCE EXCHANGE; AMENDING SECTION 41-6105, IDAHO CODE, TO PROVIDE THAT SHOPPERS ON THE EXCHANGE MAY COMPARISON SHOP AND SHALL PROVIDE CERTAIN INFORMATION ONLY UPON SUBMISSION OF AN APPLICATION AND TO PROVIDE FOR A WARNING REGARDING A SUBMISSION OF ESTIMATED INCOME.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 41-6105, Idaho Code, be, and the same is hereby amended to read as follows:

41-6105. POWERS AND AUTHORITY OF THE EXCHANGE. (1) Unless otherwise required by this chapter, in the discretion of the board, the exchange shall have the powers and authority to:

- (a) Perform all duties that are necessary and appropriate to implement a health insurance exchange and the provisions of this chapter;
- (b) Adopt bylaws for the regulation of its affairs and the conduct of its business, subject to the review and approval by the director. The director's consent shall be required for any amendment to the bylaws;
- (c) Assess and collect fees from participating health carriers, exchange users and receive funds from any other source, that shall be used solely for the purposes of this chapter. The exchange shall not be subject to income tax imposed by the state of Idaho under chapter 30, title 63, Idaho Code;
- (d) Appoint any advisory committees as deemed necessary by the board;
- (e) Take any legal action to recover any amounts lawfully owed to the exchange or otherwise consistent with this chapter;
- (f) Enter into contracts to effectuate and implement a health insurance exchange and shall accept requests for proposal to bid on such contracts; and
- (g) Develop, adopt and implement a plan of operation and other governing documents to fulfill the requirements of this chapter.

(2) The exchange powers and authority shall be subject to the following limitations:

- (a) The exchange shall not have the power to alter its own legal structure;
- (b) The exchange shall be financially self-supporting and shall not request any financial support from the state and shall not have the power to tax or encumber state assets;
- (c) (i) The exchange shall be a voluntary marketplace with the purpose of preserving individual choice and facilitating the informed selection and purchase of health benefit plans by eligible individuals, eligible employers and eligible employees. To that end the exchange portal shall be constructed to permit health insurance

1 shoppers to anonymously input information to comparison shop, and
2 only upon submission of an application require login names, pass-
3 words and identifying information.

4 (ii) Neither the exchange nor any agency of the state of Idaho
5 shall require any person to use or participate in the exchange,
6 nor have the authority to impose upon or collect from a person any
7 penalty for failure or refusal to participate in the exchange or to
8 purchase a health benefit plan or stand-alone dental plan.

9 (iii) The exchange shall provide as part of the application
10 process for any person qualifying for a premium reduction subsidy
11 or credit through the exchange a prominent warning stating the
12 following:

13 "WARNING -- Estimate your income for the year carefully. If your
14 future income ends up being higher than submitted in this applica-
15 tion, the amount of premium reduction will likely change and you
16 may be responsible for repayment of the difference to the Internal
17 Revenue Service."

18 (d) The exchange shall not prohibit a health carrier from participating
19 in the exchange or prohibit a health benefit plan or stand-alone den-
20 tal plan from being sold in the exchange so long as the health carrier or
21 health benefit plan or stand-alone dental plan meets all requirements
22 of applicable law and any requirements of the exchange consistent with
23 this chapter;

24 (e) The exchange shall not prohibit or preclude a health carrier from
25 offering insurance or a stand-alone dental plan outside the exchange;

26 (f) The exchange shall not prohibit a producer from participating in
27 the exchange, and any producer participating in the exchange shall be
28 entitled to payment for his services through written fee agreements
29 with the individuals or small employers utilizing the services of said
30 producer or through commissions offered by health carriers participat-
31 ing in the exchange;

32 (g) Before the exchange begins taking applications or collecting in-
33 formation from exchange users, the board shall certify to the director
34 and governor that personal information collected from and about any
35 person who voluntarily uses the exchange including, but not limited to,
36 health care records and income, is and will continue to be secure;

37 (h) The exchange shall not inquire about the use, ownership, possession
38 or storage of any firearm or ammunition by anyone using the exchange;

39 (i) In the event the patient protection and affordable care act
40 (PPACA), P.L. 111-148, or any section thereof or rule enacted thereto,
41 is declared unconstitutional or otherwise invalid by any federal court,
42 unless such ruling is stayed by the court, the exchange shall immedi-
43 ately cease to enforce those affected provisions of the PPACA or rules;

44 (j) The state of Idaho shall not be liable for any obligations of the
45 exchange; and

46 (k) The board shall not be liable for any obligations of the exchange.
47 No member of the board shall be liable, and no cause of action of any
48 nature may arise against them, for any act or omission related to the

1 performance of their powers and duties under this chapter, unless such
2 act or omission constitutes willful or wanton misconduct. The board may
3 provide for indemnification of, and legal representation for, its mem-
4 bers.