State Health Reform Assistance Network
Charting the Road to Coverage

ISSUE BRIEF
June 2014

Understanding the Potential Role Web Brokers Can Play in State-Based Marketplaces

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Executive Summary

The Affordable Care Act (ACA) is already greatly expanding individual health insurance coverage, particularly among lower-income uninsured individuals. However, this is neither easy nor inexpensive to sustain, and it will require ongoing, effective public-private partnerships on multiple levels. One such partnership opportunity is with "web brokers," who have been selling individual health insurance online since eHealth opened for business in 1997. Web brokers function as private distribution channels in a fashion similar to the new Marketplaces, offering a choice of health plans from multiple insurers, relying primarily on web sites and call centers for customer service.

In March 2012, the U.S. Department of Health and Human Services (HHS) provided the opportunity for Marketplaces to capitalize on web broker experience by authorizing Marketplaces to partner with web brokers in enrolling individuals (including those eligible for subsidies) as long as those web brokers met certain consumer protection standards. The Federally-Facilitated Marketplace (FFM) embraced the web broker policy in May 2012, and the Centers for Medicare & Medicaid Services (CMS) began signing contracts with web brokers in July 2013. The agency has signed agreements with more than 30 web brokers, though technology problems limited their role during the 2014 open enrollment period.

Some leading web brokers have sought similar partnerships with states and, while there has been some state interest, no State-Based Marketplace (SBM) has fully embraced the federal model for contracting with web brokers. This may be changing now that the first open enrollment period has closed and states are looking ahead to crafting sustainable models for reaching as many consumers as possible.

The purpose of this executive summary and its associated comprehensive issue brief is to help SBMs think about how they might work with web brokers. The paper is divided into three sections.

ABOUT STATE NETWORK
State Health Reform Assistance Network, a program of the Robert Wood Johnson Foundation, provides in-depth technical support to states to maximize coverage gains as they implement key provisions of the Affordable Care Act. The program is managed by the Woodrow Wilson School of Public and International Affairs at Princeton University. For more information, visit *www.statenetwork.org.*

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WHO ARE THE WEB BROKERS?

Section one describes web brokers, which come in different flavors, but share a common goal with the Marketplaces: to use the internet as a distribution channel that makes it easier, cheaper, and faster to purchase health insurance in a consumer-oriented Marketplace. The mutual benefit of a partnership can be explained as such: Marketplaces have achieved considerable public

awareness and may attract issuers that web brokers hope to represent, while web brokers can provide technology tools, consumer-friendly innovations, and marketing and sales capacity that may be of increasing value as Marketplaces must become self-sustaining.

Five leading web brokers, each with its own business model, are profiled:

- **eHealth, Inc.:** Founded in 1997, eHealth (aka eHealthInsurance) offers more than 10,000 products from 180 insurance companies, has affinity relationships with nearly 1,000 businesses, and reports having enrolled over four million individuals in health insurance to date. The company focuses on providing a self-executing online experience for web-savvy consumers.
- **Getinsured:** Founded in 2005, Getinsured's national web-based platform supports over 110 carriers and 6,748 health plans. Getinsured has also contracted as an information technology (IT) vendor with several states and offers various "off-the-shelf" solutions for both the individual and small business (SHOP) Marketplaces.
- **GoHealth:** GoHealth has operated a "consumer health insurance exchange" since 2002, assisting individual purchasing online, through its agent network, or directly through a major health insurance company. GoHealth was an early partner of the FFM by using a combination of online and call center capabilities.
- **OneExchange:** Towers Watson's exchange division includes ExtendHealth, the largest private Medicare exchange, and Liazon Corporation, a leading private exchange for mid-sized employers. The company is particularly interested in part-time and other employee classes that may be best served by individual coverage.
- **Quotit:** Part of Word & Brown Companies, Quotit is an internet application service provider that has relationships with over 300 insurance carriers representing more than 40,000 plan designs in the health, life, dental, and vision insurance markets. Quotit's software enables independent brokers and retail consumers to generate insurance quotes.

EVOLUTION OF FEDERAL POLICY ON WEB BROKERS

Section two chronicles the evolution of the federal web broker policy, describing how the federal government established a web broker policy for public Marketplaces, and then adopted an "open competition" version of that policy for the FFM and the 36 states that operated as FFM states in 2014. Under the federal regulation, web brokers can enroll consumers through their own websites only if there are both appropriate connections to the relevant state or federal Marketplace and if the web broker signs an agreement and abides by the following consumer protections:

- Registers with the Exchange and receives training in the range of Qualified Health Plan (QHP) options;
- Complies with the Exchange's privacy and security standards;
- Complies with state laws, including laws related to confidentiality and conflicts of interest;
- Meets all standards for disclosure and display of QHP information;
- Provides consumers with the ability to view all QHPs offered through the Exchange and displays all QHP data provided by the Exchange;
- Provides consumers with the ability to withdraw from the process and use the Exchange website instead at any time; and,
- Maintains electronic records for audit purpose for at least 10 years.

In July 2013, web brokers began signing agreements with CMS, and by late 2013, CMS had entered into agreements with more than 30 web brokers. However, the "double redirect" technology used to connect the FFM with web brokers (as well as carriers for direct enrollment) proved difficult to use without consumer assistance during the 2014 enrollment process. Because the consumer was redirected from the web broker's site to the FFM for eligibility determination, then back to the web broker's site to shop and choose a QHP, there were many opportunities for delays and disruption. Web brokers estimate that relatively little of this traffic succeeded in achieving electronic enrollment, and most web brokers did not rely on the automated enrollment process, preferring instead to provide telephonic assistance to their customers.

CMS has considered a set of web services that would be built on top of the double redirect process and provide a seamless enrollment experience for the consumer enrolling through a web broker. The new services, which have been referred to as the Eligibility Verification as a Service (EVaaS) application program interface (API), would be an enhancement to the direct enrollment capacities of the current process, but there is no timeline for these new services. Web brokers believe that EVaaS would significantly improve the consumer experience and their ability to connect electronically to the FFM. They are hoping it will be developed and tested in time for the 2015 open enrollment season. In recent interviews, however, several web brokers expressed skepticism about CMS meeting this timetable given the agency's many IT priorities.

STATE OPTIONS FOR WORKING WITH WEB BROKERS

Section three describes two models for how SBMs can work with web brokers:

- **Open Competition:** The Marketplace contracts with all web-based entities that meet basic consumer protection and operational performance standards; or,
- **Managed Contracting:** The Marketplace contracts selectively and/or in special partnerships with one or more web brokers to achieve specific goals.

The case for open competition starts with consumer choice and maximizing enrollment. Consumer buying habits vary, so offering consumers as many ways as possible to shop for coverage options will make it easier for them to enroll, especially with several of the leading web brokers further down the learning curve than the Marketplaces on how to sell health insurance online. Expanding enrollment options may be most attractive at this early stage in the development of consumer choice tools, when no one knows which tools will turn out to be most helpful to consumers. Public Marketplaces will have strong appeal to certain types of consumers, but private web brokers will appeal to other consumers and may be able to experiment with consumer shopping enhancements in ways that public agencies find more difficult. In essence, open competition boils down to giving those that qualify for subsidized coverage the same access to multiple distribution channels as all other consumers.

The case for managed competition starts with the fact that SBMs offer a unique benefit—Advanced Premium Tax Credits (APTCs)—and therefore are in a position to select and "partner" with those web brokers who are most aligned with the SBM's objectives; and some SBMs may find that selective contracting provides more value than offering a "vanilla" contract to all web brokers that meet minimum standards of consumer protection and interoperability. Moreover, public Marketplaces and web brokers "compete" for unsubsidized enrollees. The substantial value that public Marketplaces can offer web brokers suggests that, rather than "give away" that value, they bargain for significant marketing commitments in return. For example, an SBM might structure a bid process, whereby web brokers propose marketing resources aimed at tough-to-reach segments.

With the 2014 open enrollment experience behind them, SBMs are in a better position to set longer term objectives, with different objectives suggesting different approaches to web brokers:

- To learn from as many different web brokers as possible how to reach enrollees, to attract as much enrollment of any kind as possible, and to avoid any suspicion of favoritism. This objective suggests the value of casting a very wide net for web brokers.
- To leverage tax credits, brand awareness, and a wide range of participating issuers to make the Marketplace the primary destination for all individual buyers, whether subsidized or not. This objective suggests favoring web brokers that agree to place subsidized and non-subsidized individual business through the Marketplace.
- To target for special outreach efforts particular linguistic, professional, or demographic groups (e.g., Hispanics, Native Americans, entrepreneurs, solo professionals, etc.). This objective suggests partnering with selected web brokers—by, for example, matching the web broker's dollar outlays for targeted advertising and community events.
- To help bridge discontinuities and different rules between Medicaid and QHPs for the lower-income applicants who may turn out to be eligible for Medicaid. This objective suggests partnerships with brokers, web-based or otherwise, that have relationships with a state's Medicaid program, and that are committed to assisting low-income applicants.
- To provide customers with a truly objective choice of issuers and equally robust access to all QHPs on the Marketplace. This objective suggests favoring web brokers who have appointments from all the issuers or commit to equally promote those issuers that have not appointed the web broker by including them in its decision-support tools.
- To minimize the Marketplace's cost and time for establishing and managing relationships with web brokers. Depending on the marginal cost of adding web brokers, this objective may suggest the open competition model or, if marginal costs are high, this objective may suggest limiting the number of web brokers with which the Marketplace contracts.

While Marketplaces may initially gravitate toward one strategy, a Marketplace's needs and web broker capabilities will probably evolve over time, and so should its strategies. For example, a Marketplace may initially want to learn from as many web brokers as possible or it may not have the resources to negotiate individual contracts. This Marketplace may wish to follow the federal open competition model. Over time, the same Marketplace may find a better return from selectively partnering only with those web brokers who make a major commitment to promoting the Marketplace and its priorities.

Introduction

Web-based brokers have been using the internet to enroll consumers in health plans since 1997. In March 2012, the U.S. Department of Health and Human Services (HHS) sought to capitalize on that experience by promulgating a regulation that allowed public Marketplaces to partner with web brokers in enrolling subsidy-eligible individuals as long as those web brokers met certain consumer protection standards.[1] The Federally-Facilitated Marketplace (FFM) embraced the web broker policy in May 2012[2], and the Centers for Medicare & Medicaid Services (CMS) began signing contracts with web brokers in July 2013. To date, the agency has signed contracts with more than 30 web brokers, though various problems impeded the effective use of web brokers during the 2014 open enrollment period.

Some leading web brokers have sought similar partnerships with states and, while there has been some state interest and a few alternative forms of collaboration between states and web brokers, no state has embraced the federal web broker policy. This may be changing now that the first open enrollment period has closed and states are beginning to look ahead to 2015. Covered California recently issued a request for information (RFI) from web brokers. AccessHealthCT was hoping to do a "pilot" with web brokers, and it is reasonable to expect that other State-Based Marketplaces (SBMs) will show increasing interest in this channel.

The purpose of this issue brief is to help SBMs think about how they might work with web brokers. The paper has three sections. First, the brief describes web brokers, who come in different flavors, but share a common goal with the public Marketplaces: to use the internet as a distribution channel that makes it easier, cheaper, and faster to purchase health insurance in a consumer-oriented marketplace. Five leading web brokers are profiled, each with its own particular business model.

Second, the paper chronicles the evolution of the federal web broker policy, describing how the federal government established a web broker policy, including basic consumer protection standards as an option for public Marketplaces, and then adopted an "open competition" version of that policy for the FFM and the 36 states that operated as FFM states in 2014.

Third, the brief offers two models for how the SBMs can work with web brokers, recognizing that actual state choices will fall along a continuum and that the two models can be mutually exclusive or mutually reinforcing, depending on how they are implemented:

- **Open Competition**: The Marketplace contracts with all web-based entities that meet basic consumer protection and operational performance standards; or
- **Managed Contracting**: The Marketplace contracts selectively and/or in special partnerships with one or more web brokers to achieve specific goals.

The paper continues discussing the strategic considerations for SBMs in deciding whether to lean toward one or the other web broker models, focusing on both the operational and strategic challenges. The operational challenge for Marketplaces and web brokers is to integrate technology and functionality for an optimal customer experience. Even with an optimal customer experience, Marketplaces and their partners (including web brokers) will still face the strategic business challenge of achieving the enrollment and other goals of the Affordable Care Act (ACA) in the most cost-effective way.

I. Who are the Web Brokers?

For purposes of this issue brief, "web brokers" are defined as a web-based channel, including its own or contracted brokers, to sell health insurance from multiple insurers to individual consumers.[3] Private exchanges could be seen as a form of web broker, but private exchanges, such as those run by Aon Hewitt, Mercer, and Towers Watson, primarily focus on the group employer market, while the leading web brokers primarily focus on the individual market.

However, it is important to recognize that this distinction may well disappear over time as web brokers and private exchanges diversify and/or partner with each other to add complementary capabilities and focus. For example, Towers Watson serves large employers as human resources consultant and a private exchange, but reports interest from these clients in having the company help their part-time, seasonal, COBRA-eligible, and other "associated" employees or ex-employees qualify for subsidies and find affordable coverage in the individual market. Having acquired ExtendHealth, Towers Watson also operates a private exchange serving Medicare enrollees.

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[1] *Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers*, Final Rule and Interim Final Rule. 77 Fed. Reg, 18335, (March 27, 2012).

[2] Department of Health and Human Services. "General Guidance on Federally-facilitated Exchanges." May 16, 2012. (p. 16) http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/ffe-guidance-05-16-2012.

[3] Though HHS uses the term "web-based entities" ("WBEs") rather than "web brokers," this brief uses the latter, more common term to avoid another acronym.

The success of the public Marketplaces depends on effective public-private partnerships on multiple levels, including with web brokers. Web brokers function as private distribution channels in a fashion similar to Marketplaces, offering a choice of health plans primarily to individuals, and relying primarily on web sites and call centers for customer service. The standardization of covered services (Essential Health Benefits) and actuarial values (four metal levels) also mean that the choice of offerings on private and public Marketplaces may be fairly similar.

Some differences exist as well, the most obvious of which are that only public Marketplaces can offer tax credits, and web brokers also sell their own selection of unsubsidized health plans outside the Marketplace. The selection of issuers (i.e., carriers) on a public Marketplace may well differ from the selection of carriers that appoint any particular web broker. Carriers that appoint web brokers typically pay them on a commission schedule, and most issuers will also pay Marketplaces some kind of "user fee," typically based on business volume. As a result, the contractual and financial relationships among the three sets of entities—Marketplaces, web brokers, and carriers—can be overlapping, or mutually exclusive, or some complex combination of the two. [4]

WHY SHOULD MARKETPLACES AND WEB BROKERS WORK TOGETHER AND ON WHAT TERMS?

Working in tandem, the Marketplace offers web brokers access to subsidized coverage to sell, and web brokers are organized to process many individual buyers efficiently. Public Marketplaces are projected to double the size of the individual market nationally, so web-based brokers have a powerful incentive to tap into that growth.[5] Moreover, the Marketplaces have achieved considerable public awareness, which can benefit web brokers as well. Finally, the Marketplaces attract issuers that web brokers hope to represent. All these elements make Marketplaces attractive to web brokers.

For a public Marketplace, web brokers can provide technology tools, consumer-friendly innovations, and additional marketing and sales capacity. These assets may be of increasing value as SBMs convert from federal grant support to self-sustaining finances and may encounter various financial and other limitations on their ability to innovate in ways available to the private market. Direct sales is very expensive and, absent ongoing grant support, must be tightly managed to be cost-effective. Web brokers already have a customer base, and generally have an advertising budget and/or affiliations to reach customers for the Marketplace. They may even be interested in joint efforts to reach targeted populations.

Like pure technology vendors, web brokers can also supply Marketplaces with core systems. For example, Getinsured has contracted with California and several other states to provide services as a vendor. SBMs can use web brokers as vendors for core functions in different ways, as outlined in Appendix B, but the vendor arrangements are outside the focus of this study. Instead, this brief focuses on state use of web brokers as additional or complementary enrollment channels.

Insurers also are accelerating their web-based selling and direct enrollment through "issuer specific" web sites. The issue brief references federal policy on direct enrollment through issuers since it has implications for web broker policy, including the fact that both issuers and web brokers rely on the same federal technology solution. But for the purposes of this analysis, the term "web brokers" will be limited to those online brokers who offer broad choice among insurers in a given Marketplace. In other words, the value proposition they offer to consumers is similar to that offered by the public Marketplaces, except that they cannot offer tax credits (absent a partnership with the Marketplace) and do not have all the other responsibilities that SBMs have beyond selling individual health insurance products to consumers.

The 30-plus web brokers that have signed agreements with CMS reflect a broad diversity of business models, and many of them may end up collaborating with other web brokers rather than working independently with Marketplaces. Appendix A provides detailed profiles of five leading web brokers which are briefly overviewed here:

- **eHealth, Inc.:** Founded in 1997, eHealth (aka eHealthInsurance) offers more than 10,000 products from 180 insurance companies, has affinity relationships with nearly 1,000 businesses and nonprofits, and reports having enrolled over four million individuals in health insurance to date. The company focuses on providing a self-executing online experience for web-savvy consumers.

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[4] The relationships here suggest that states should be wary of requiring carriers to appoint web brokers, since this adds a web broker commission from the carrier to whatever fees the Marketplace may charge the carrier for the enrollment. This will not change the premium for the consumer but it is an added cost and explains why carriers will generally be opposed to appointed brokers bringing unsubsidized business through the Marketplace, unless the fees that finance the Marketplace apply to sales on and off Exchange, which is not true for the FFM. There are many additional wrinkles here that will have to be thought through by the states, but are beyond the purview of this issue brief.

[5] Congressional Budget Office. "Updated Estimates of the Effects of the Insurance Coverage Provisions of the Affordable Care Act, 2014." April 2014. Available at: http://www.cbo.gov/sites/default/files/cbofiles/attachments/45231-ACA_Estimates.pdf

- **Getinsured:** Founded in 2005, Getinsured's national web-based platform supports over 110 carriers and 6,748 health plans.[6] Like eHealth, it has enrolled online, primarily in the individual market, across the country. Getinsured has also contracted as an information technology (IT) vendor with several states and offers various "off-the-shelf" solutions for both the individual and small business (SHOP) Marketplaces.
- **GoHealth:** GoHealth has operated a "consumer health insurance exchange" since 2002, assisting individual purchasing online, through its agent network, or directly through a major health insurance company.[7] In addition to its own agents, some 20,000 independent brokers use its quoting platform.[8] GoHealth was an early partner of the FFM by using a combination of online and call center capabilities.
- **OneExchange:** Towers Watson's exchange division includes ExtendHealth, the largest private Medicare exchange, which works with large employers to allow retirees to shop among health plans on a website [9], and Liazon Corporation, a leading private exchange for small employers and their active employees.[10] The company is particularly interested in part-time and other employee classes that may be best served by individual coverage.
- **Quotit:** Part of Word & Brown Companies, Quotit is an internet application service provider that has established relationships with over 300 insurance carriers representing more than 40,000 plan designs in the health, life, dental, and vision insurance markets.[11] Quotit's software enables independent brokers and retail consumers to generate insurance quotes, including comparative information on rates and benefits.

II. Evolution of Federal Policy on Web Brokers

In July 2011, CMS published its first proposed Marketplace regulation and asked whether there was a role for "web-based entities with experience in health plan enrollment that are seeking to assist in QHP enrollment."[12] Some of those firms pointed to more than a decade of online experience selling a multi-insurer suite of products to individual consumers and suggested that their experience could be helpful to the new Marketplaces. Several forms of partnership were suggested and the July 2011 proposed regulation called out two models for comment:

- **Vendor model:** CMS defined this model as "contracting with an Exchange to carry out outreach and enrollment functions."[13]
- **Independent model:** CMS defined this model as "acting independently of an Exchange to perform similar outreach and enrollment functions to the Exchange."[14]

CMS did not propose any regulatory language for the web broker model in July 2011, but did ask for public comment on what kind of regulation might make sense: "We seek comment on the functions that such entities could perform, the potential scope of how these entities would interact with the Exchanges and what standards should apply to an entity performing functions in place of, or on behalf of, an Exchange."[15]

In March 2012, CMS regulations embraced an expanded role for web brokers, as well as other agents and brokers, in the eligibility and enrollment process. The preamble to 45 CFR 155.220 describes the goal as "ensur[ing] that consumers enjoy a seamless experience with appropriate consumer protections if an Exchange chooses to allow web brokers to participate in Exchange enrollment activities."[16]

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6 https://www.getinsured.com/exchange/about.html

7 http://exchange.gohealth.com/about-us/

8 Ibid.

9 Jones, Kristen. "Towers Watson to buy Extend Health for $435mln." *Wall Street Journal MarketWatch*. May 14, 2012. http://www.marketwatch.com/story/towers-watson-to-buy-extend-health-for-435-mln-2012-05-14

10 Towers Watson Press Release. "Towers Watson Acquires Liazon to Expand Private Benefit Exchange Offerings Through Multiple Channels." November 22, 2013. http://www.towerswatson.com/en-US/Press/2013/11/towers-watson-acquires-liazon-to-expand-private-benefit-exchange-offerings-through-multiple-channels

11 Ibid.

12 *Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans* Proposed Rule. 76 Fed. Reg, 41878, (July 15, 2011).

13 Ibid.

14 Ibid.

15 Ibid.

16 *Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers*, Final Rule and Interim Final Rule. 77 Fed. Reg, 18335, (March 27, 2012).

The preamble also discusses consumer protection concerns, and the regulation allows web brokers to enroll consumers through their own web sites only if there are both appropriate connections to the relevant state or federal Marketplace and if the web broker signs an agreement and abides by the following consumer protections:[17]

- Registers with the Exchange and receives training in the range of QHP options;
- Complies with the Exchange's privacy and security standards;
- Complies with state laws, including laws related to confidentiality and conflicts of interest;
- Meets all standards for disclosure and display of QHP information;[18]
- Provides consumers with the ability to view all QHPs offered through the Exchange and displays all QHP data provided by the Exchange;
- Provides consumers with the ability to withdraw from the process and use the Exchange website instead at any time; and,
- Maintains electronic records for audit purpose for at least 10 years.

The web broker must also ensure the applicant completes an eligibility verification and enrollment application through the Exchange, and the Exchange must transmit the enrollment information to the QHP issuer.[19] As discussed below, these last two requirements create a challenge—defining the precise role that a state or federal Marketplace must play in eligibility verification and enrollment—while meeting the goal of the rule which is a "seamless experience" for the consumer. Though the regulation did not address the vendor model, as described above and illustrated in Appendix B, the use of web brokers as vendors continues to be a viable approach as well.

FFM ADOPTS WEB BROKER POLICY

In May 2012, CMS announced that the FFM would adopt the web broker policy and allow web brokers to partner with the FFM in FFM states: "To the extent permitted by a State, an FFE will permit agents and brokers to enroll individuals in a QHP 'through an Exchange' if the agent or broker ensures that an individual completes the eligibility verification and enrollment application using the Exchange internet site or the agent or broker's site that meets certain conditions; the Exchange transmits the enrollment information to the QHP issuer; and the agent or broker meets other applicable requirements (an agreement, training, and registration)."[20]

In May 2013, CMS reiterated that it planned to work with all web brokers meeting applicable requirements.[21] CMS also indicated that integration between the web brokers' websites and the FFM's website would be facilitated via secure redirect and applicationprogram interface (API) mechanisms.[22]

CMS DEVELOPS WEB BROKER AGREEMENT AND ESTABLISHES TRAINING AND TESTING REQUIREMENTS

In the summer of 2013, CMS made available the web broker agreement required by 45 CFR 155.220.[23] The agreement cites section 1312 (e) of the ACA as the authority for Marketplaces using web brokers and defines rules of conduct, including consumer protection and privacy and security standards, that web brokers must meet.[24]

The agreement is standardized (not subject to any customization) and detailed as to the authorized functions for which a web broker may "create, disclose, access, maintain, store, and use" Personally Identifiable Information (PII), the specific types of PII that a web broker may employ to carry out authorized functions, permissible information sharing, and the applicable consumer protection,

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[17] 45 C.F.R.§ 155.520(c)

[18] This provision was modified in the Exchange Program Integrity Final Rule to require that, to the extent that not all QHP information is displayed on the agent or broker's web site, web brokers must prominently display a standardized disclaimer provided by HHS stating that required QHP information is available on the Exchange web site and provide a link to the Exchange web site (45 C.F.R. 155.220 (c)(3)(i) and (vii). *Patient Protection and Affordable Care Act*; *Program Integrity: Exchange, SHOP, and Eligibility Appeals* Final Rule. 78 Fed. Reg, 54076, (August 30, 2013).

[19] Ibid.

[20] Department of Health and Human Services. "General Guidance on Federally-facilitated Exchanges." May 16, 2012. (p. 16) http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/ffe-guidance-05-16-2012.pdf

[21] Department of Health and Human Services. "Role of Agents, Brokers and Web-brokers in Health Insurance Marketplaces." May 1, 2013. http://www.cms.gov/CCIIO/resources/regulations-and-guidance/downloads/agent-broker-5-1-2013.pdf

[22] Ibid

[23] CMS has made several iterations of the web broker agreement available to stakeholders but to date has not made a version publicly available via the CMS website. The agreement described herein made available online by the Maryland Health Benefit Exchange at the following link: http://marylandhbe.com/wp-content/uploads/2013/08/Web-broker-Agreement_071913.pdf

[24] Ibid.

privacy, and security standards, as well as standards for communication with the Federal Data Services Hub. The agreement also specifies the effective date and term of the contract, as well as provisions for renewal and termination.[25]

In July and August 2013, a number of web brokers, including eHealth, Getinsured, and GoHealth, announced that they had signed the CMS agreement. CMS has not released the list of web brokers who have signed agreements, but news reports indicated that by late 2013, the FFM had entered into agreements with more than 30 web brokers.[26]

Once a senior representative of the web broker has signed and submitted a web broker agreement to CMS, the next step in the process for web brokers is training and testing. A web broker representative must first register on the Medicare Learning Network in order to complete a series of training courses, pass a number of related exams, and execute additional Federally-Facilitated Individual Marketplace agreements related to standards of participation.[27, 28] Similar to the testing process required of states connecting to the FFM, web brokers' technology platforms must then undergo extensive testing to ensure secure communication and business logic interoperability between the broker website and the FFM, as well as end-to-end testing to verify system functionality and interoperability across a multi-partner environment. Unlike state partner websites, web brokers are also required to test the secure redirect process with the FFM.[29] Web brokers are allowed to "lease" out their connections to affiliated agents and other business partners with certain protections in place.

[25] Ibid.

[26] Bidgood, Jess. "More than One Way to Buy a Plan." *New York Times*. March 6, 2014. http://www.nytimes.com/news/affordable-care-act/2014/03/06/more-than-one-way-to-buy-a-plan/?_php=true&_type=blogs&_r0

Mangan, Dan. "eHealth CEO's Obamacare fix: Let us run HealthCare.gov." CNBC. October 30, 2013. http://www.cnbc.com/id/101153131

[27] CMS. "Participating in the Federally-facilitated Marketplaces: Registration Process for Agents and Brokers." August 16, 2013. http://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/agent-broker-registration-webinar.pdf

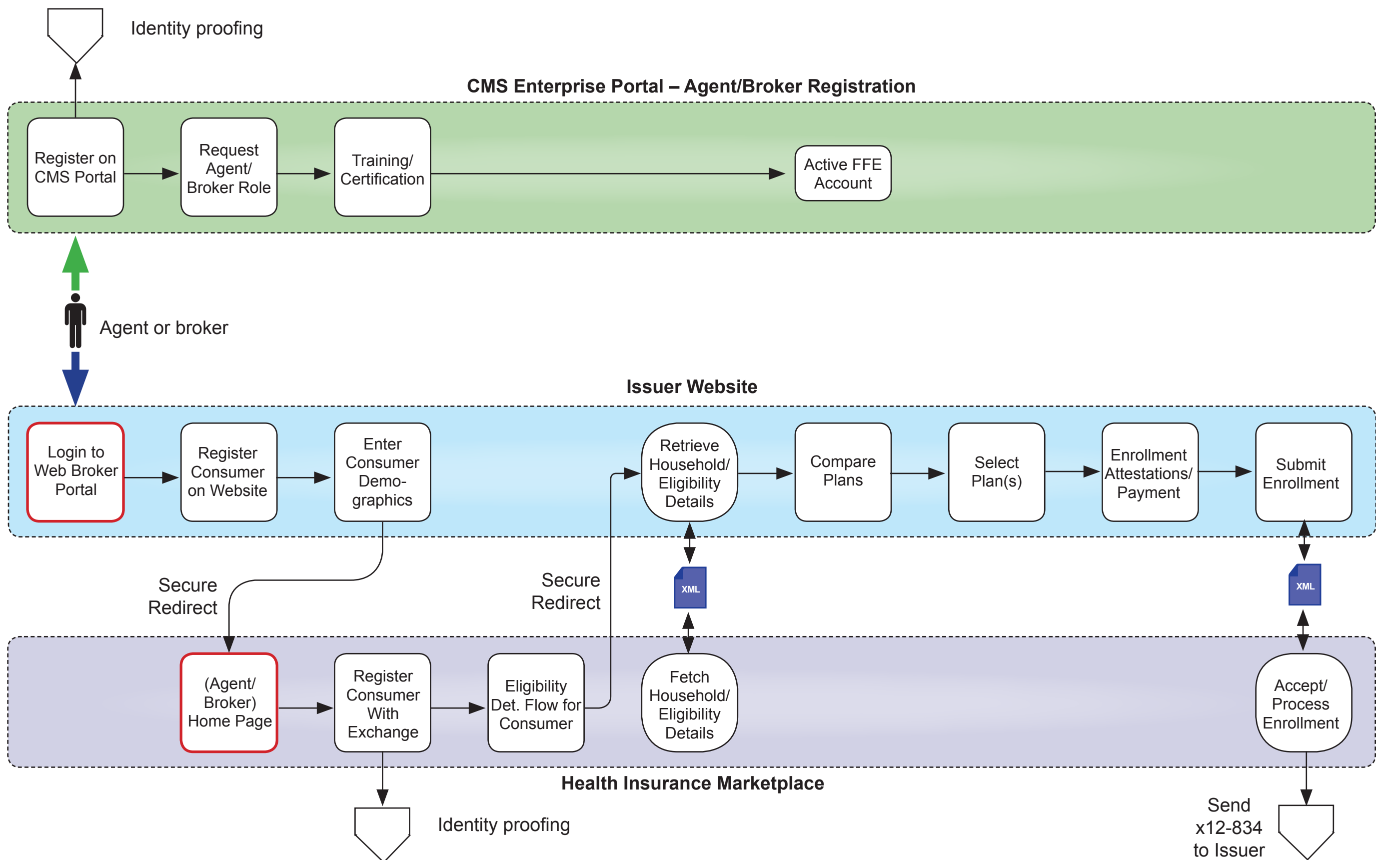
[28] Individual agents or brokers affiliated with a web broker are not required to sign a Web-broker Agreement but must complete the registration steps required for the FFM and comply with state licensure requirements. (CMS, August 2013 Webinar).

[29] CMS. "CMS State Testing Handbook." June 2013; CMS. "CMS Zone Direct Enrollment Testing with the FFM."

OPERATIONALIZING THE FEDERAL POLICY

To meet the regulatory requirements for the Marketplace to verify eligibility and enrollment, CMS initially designed a "double redirect" process where the person starting out on a web broker site was "handed-off" to the FFM for eligibility determination and then redirected back to the web broker site for plan selection. The web broker then uses a web service to submit the enrollment to the FFM so that the FFM can notify the carrier and the IRS.[30] This process was supposed to be seamless, yet has proved to be anything but seamless in practice, according to leading web brokers. The more critical among them have characterized the double redirect system initially designed by CMS as "byzantine."[31] See Diagram A for a schematic representation of the double redirect process.

Diagram A: Direct Enrollment Process Flow[32]



As one stakeholder put it, "any redirect is a red flag for eCommerce," so the double redirect has been highly problematic. Because the consumer is redirected from the web broker's site to the FFM for eligibility determination, there are many opportunities for delays and disruption. Inefficiencies resulting from the double redirect process include delays, lost contact with the consumer, duplicate data requests of the applicant because the full information on one site does not transfer to the other, having to start over because of time outs after 30 minutes, and so forth.[33]

As a result of these flaws, web brokers estimate that relatively little of this traffic succeeds in achieving electronic enrollment. While web brokers have taken different approaches to use of the double redirect process, most have not implemented the automated

[30] The FFM notifies the carrier via an 834 transaction that contains enrollment information and, if an APTC is involved, the FFM notifies the IRS via an 820 transaction that contains the amount owed to the carrier.

[31] *Aigner-Treworgy*, Adam. "Private Exchanges: Obamacare Shopping Still Not Ready." *CNN PoliticalTicker*. December 17, 2013. http://www.cnn.com/2013/12/17/politics/obamacare-private-exchanges/

[32] Department of Health and Human Services. "Role of Agents, Brokers and Web-brokers in Health Insurance Marketplaces." May 1, 2013. http://www.cms.gov/CCIIO/resources/regulations-and-guidance/downloads/agent-broker-5-1-2013.pdf

[33] While some web brokers have been quite critical of the double redirect process, there are competing considerations which led CMS to develop a process in which the application was completed on the FFM site. These considerations include shielding web brokers from the restrictive policies of the IRS and other federal agencies, and protecting the privacy and other rights of consumers.

enrollment process, preferring instead to provide telephonic assistance to customers. Similarly, all agree there is room for improvement and there is strong support for moving from the double redirect process to a web services approach in order to avoid the many problems they claim to have experienced to date on the FFM.

NEW WEB SERVICES SOLUTION UNDER CONSIDERATION

While CMS has not publicly confirmed that a new solution is under consideration, multiple sources have said that CMS has explored a set of web services that would be built on top of the double redirect process and provide a seamless enrollment experience for the consumer enrolling through a web broker.[34] The new services, which have been referred to as the Eligibility Verification as a Service (EVaaS) application program interface (API), would be an enhancement to the direct enrollment capacities of the current process, but there is no timeline for these new services. Web brokers believe that EVaaS would significantly improve the consumer experience and their ability to connect electronically to the FFM. They are hoping it will be developed and tested in time for the 2015 open enrollment season. In recent interviews, however, several web brokers expressed skepticism about CMS meeting this timetable given the agency's many IT priorities.

Issuer-Specific Websites Given Same Rights as Web Brokers

While CMS was working out the details of its web broker policy, the agency was also working with the insurance industry to address the concern of insurers with significant subsidy-eligible business. They stood to lose significant portions of that business when current enrollees were converted to ACA-compliant plans if consumers had to purchase their QHPs on the Marketplace web site, rather than directly through the incumbent insurer, in order to access federal subsidies. The result of those discussions was to allow "issuer-specific" web sites to have the same rights as web brokers, and as shown in Diagram A, the double redirect process was designed to be a single interface for issuers and web brokers, as well as the primary means for other agents and brokers to work with the FFM. Some of the carriers report better results with the "double redirect" technology than web brokers, partly because they can do their own enrollments.

Erosion of the Consumer Right to See All QHPs

The extension of the web broker policy to issuers has several implications, including erosion of the principle that all "independent" web sites enrolling consumers in subsidized coverage would be required to display all QHP options. Issuers were exempted from this requirement on the grounds that consumers already enrolled with them (or visiting their websites) had made their decision and should not be required to revisit their selection of an issuer. While carriers have the obligation to inform consumers of their right to shop on the public Marketplaces, they do not have an obligation to display their competitors' products.

By contrast, CMS continues to require web brokers to display all QHPs, but here, too, there has been some erosion from the ideal of full choice. A web broker will not necessarily have full product information for QHPs offered by issuers that have not appointed that web broker. While some state Marketplaces have done so, to date CMS has not required issuers and web brokers to contract with each other, and insurers have balked at non-appointed web brokers providing detailed product information to consumers. The result is that where web brokers are not appointed, the product information they provide is very basic information with the consumer given the option to click a button and go to the relevant Marketplace to get the full picture.

The policy decision to allow direct enrollment through issuer sites illustrates that consumer choice is only one of several priorities in the effort to achieve universal coverage. If choice were the only priority, Marketplaces might require that consumers make an active selection of a health plan each anniversary in order to remain covered. Rather, we expect that Marketplaces will allow enrollees to default to their existing QHPs, absent an active selection, in order to maintain coverage. There are good reasons why Marketplaces and carriers will, wherever possible, make the default be continued enrollment. Moreover, many Marketplaces are exploring policies that might allow consumers to keep their current plans, even when their circumstances change, such as when they churn from Medicaid to tax credit eligibility. The bottom line is that stability in any insurance market depends on making it as easy as possible for consumers to keep the coverage they have, a point that should be kept in mind when debating the importance of choice for web brokers and other ports of entry.

[34] Aigner-Treworgy, February 2014.

III. State Options for Working with Web Brokers

Although many of the SBMs have been approached by web brokers, no state has established a web broker policy similar to the federal one. Responses from a brief survey of the 14 SBMs indicate that this issue has yet to receive much attention, with the exception of a 2013 review process in Maryland. This section begins with a summary of the Maryland review and some highlights from other states that are starting to look at the issue. It then turns to an analysis of two models—open competition and managed competition—to illustrate the range of options for states.

MARYLAND POLICY WITH WEB BROKERS

Maryland formed a Web Broker Advisory Committee[35] in mid-2013 to explore the value proposition offered by web brokers, the consumer protections that should be included in any web broker policy, the feasibility of contracting with web brokers, and various technical issues associated with web brokers.

The Advisory Committee met three times over the summer of 2013, and presented its findings to the Maryland Health Benefit Exchange Board in September 2013. The Advisory Committee found that there were potential benefits to partnering with web brokers. Among the benefits cited were:

- Applications for mobile devices and other consumer enhancements targeted to the young invincibles;
- A range of tools to help with plan selection;
- Additional assistance to consumers post enrollment; and,
- Assistance to employers enrolling part-time workers into individual plans.

The Advisory Committee also found that "any partnership must include extensive consumer protections" and noted that SBMs could go beyond the federally-required protections.

Turning to partnership options, the Advisory Committee cited 'limited resources and oversight" in recommending that Maryland "start with a limited number of web brokers and expand overtime."

Based on these Advisory Committee recommendations, the staff recommended "clarifying the outstanding technical, staffing, timing, and cost issues," and "reporting back to a future Board meeting."

Action is still pending in Maryland since the Marketplace encountered substantial IT challenges when open enrollment began in October 2013, resulting in the web broker issue being put on the back burner. In February 2014, Maryland issued a Request for Applications for web brokers interested in participating in a pilot program with the Maryland Health Benefit Exchange.[36] Further action has been delayed by Maryland's decision to reuse IT components from AccessHealthCT.

APPROACH TO WEB BROKERS FOR 2015 AND BEYOND

As states look forward to the 2015 open enrollment period, they will have a more realistic opportunity to consider web broker policy than they had during 2014 open enrollment, especially given the technology problems that the FFM experienced in trying to execute the federal open competition model. In fact, there already are some signs of SBMs moving forward: Connecticut has expressed interest in a pilot; Colorado has signed agreements with several web brokers as part of its broader agent and broker outreach program and is considering enhanced partnerships similar to the federal model; and California has released a request for information, indicating that Covered California may contract with web brokers in 2015.[37]

THE CASE FOR OPEN COMPETITION

The case for opening up the enrollment process to web brokers starts with consumer choice and maximizing enrollment. Consumer buying habits vary, so offering consumers as many ways as possible to shop for coverage options will make it easier for them to enroll, especially with several of the leading web brokers further down the learning curve than the public Marketplaces on how to sell health insurance online. The case for expanding enrollment options may be most attractive at this early stage in the development of consum-

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[35] http://marylandhbe.com/committees/web-based-wbe-advisory-committee/

[36] Maryland Health Benefit Exchange. "Request for Applications, Web-Based Entities Pilot Program." February 3, 2014. http://marylandhbe.com/wp-content/uploads/2014/02/WBE-PILOT-RFP.pdf

[37] Covered California and the California Department of Health Care Services. "Web-Based Entity – Request for Information." March 18, 2014. http://www.hbex.ca.gov/solicitations/RFI-Web-Based-Entity/Request%20for%20Information%20(WBE)%20Final.pdf

er choice tools, when no one knows which tools will turn out to be most helpful to consumers. Public Marketplaces will have strong appeal to certain types of consumers, but private web brokers will appeal to other consumers, and web brokers will be able to experiment with consumer shopping enhancements in ways that public agencies may find more difficult, politically or technically. In essence, open competition boils down to giving those that qualify for subsidized coverage the same access to multiple distribution channels as all other consumers.

Marketplaces that are open to all web brokers who meet minimum standards for consumer protection, interoperability, and service have much to gain since every web broker will be additive in at least some respects—each has its own approaches, marketing partnerships, advertising spend, consumer experience, etc. Also, the web broker revenue model, based on commissions paid by the carriers that appoint them, gives them an advantage as a sales vehicle after federal grants end. By supplementing a lesser spend on mass media with "free" sales efforts, Marketplaces can continue to add enrollees at a lower average cost of acquisition.

Web brokers may also be helpful in reaching certain target populations. For example, some web brokers may have the capacity to reach certain desired demographics, such as the young, Hispanics, or other underinsured groups. Other types of web brokers, such as private employer-oriented exchanges, are growing rapidly and may be able to refer part-timers and others associated with their client employers to the local Marketplace.[38] If it makes sense for Marketplaces to cooperate with one private exchange in order to reach its client's COBRA-eligibles, seasonal workers, and part-timers, then each additional connection simply opens access to additional groups through a channel that is especially well-positioned to reach qualified individuals associated with employers.

Even the caveat that such affiliations must justify the resources required of public Marketplaces to establish and maintain them may be "self-regulating," in that web brokers that cannot deliver much volume to a public Marketplace will probably not find it cost-effective to establish (or maintain) the relationship. And since it is hard to predict at this stage which affiliations will prove most (or least) productive, there is a good case for public Marketplaces to be open to all web brokers willing and able to dedicate the resources required to connect with public Marketplaces.

In addition, web brokers can provide an alternative enrollment path to SBM's own web portal and call center when the SBM is either overloaded by high volume or, at least for non-subsidized enrollees, has been taken down for a fix or for routine maintenance.

Finally, for states that also are considering direct enrollment through insurers, it is worth noting that web brokers will have an advantage, from a consumer choice perspective, over direct enrollment with an individual carrier to the extent they display multiple insurer choices. This requirement is built into the minimum federal standards for web brokers, and states may want to further define what a fair comparison shopping requirement entails.

States that generally favor the open competition model may nevertheless prefer to begin small with a pilot project, especially if the operational challenges to achieve a good customer service experience require significant resources to connect each additional web broker. It remains to be seen whether that will be true with the evolving federal solution, or whether that solution will substantially reduce the marginal costs for bringing on new web brokers. On the other hand, states that start with an open competition model may choose to add complementary partnerships and/or pare down the number of web brokers over time, as it becomes clear which are most productive.

THE CASE FOR MANAGED CONTRACTING

State Marketplaces vary in objectives and political constraints, but for those with the interest and will to do so, some may find that selective contracting provides more value than offering a "vanilla" contract to all web brokers that meet minimum standards of consumer protection and interoperability. Because low- and modest-income enrollees can access federal subsidies only through a public

Marketplace, it enjoys a unique advantage in attracting issuers and enrollees alike, and therefore some leverage in selectively contracting with web brokers. Moreover, public Marketplaces and web brokers "compete" for unsubsidized enrollees. So, having invested hundreds of millions of dollars to build brand awareness over the past year, SBMs may be hesitant to simply "give" that away to private exchanges and dilute their own brand.

The substantial value that public Marketplaces can offer web brokers suggests that, rather than give it away, they bargain for significant marketing commitments in return. Because web brokers may differ in their strategies, including their commitment to public

[38] For example, Aon Hewitt recently announced that more than 600,000 employees and their family members enrolled in group health benefits for 2014 during the Fall 2013 open enrollment period through its Aon Active Health Exchange. Aon Hewitt Press Release. March 6, 2014. http://www.prnewswire.com/news-releases/aon-hewitt-year-two-enrollment-results-show-private-health-exchanges-can-mitigate-costs-and-create-greater-individual-accountability-248731331.html

Marketplaces, and because they target various segments in partnership with different commercial and membership entities, some may be more adept than others in reaching a Marketplace's target populations. It may take more analysis, negotiation, and investment to customize relationships with web brokers, but it may also deliver greater benefits than doing a "vanilla" contract with all of them.

Most of the arguments in favor of contracting with any qualified web broker—rather than none at all—apply as well to a more discretionary contracting strategy. The arguments in favor of open competition that do not apply to managed contracting are that more (web brokers) is better and that a "level playing field" is the only fair one. Arguably, there are several reasons not to contract with any willing web broker, at least initially, but to "partner" with some web brokers.

First, establishing and maintaining additional web broker relationships is not completely cost-free. For example, each broker needs to be on-boarded, a connection must be established, and troubleshooting must occur when there are problems. There is a learning curve for working with web brokers, and some Marketplaces may prefer to learn with just a few than with many. Covered California seems to be headed in this direction, based on its intentions as described in a recent RFI.[39]

Over time, the annual changes in QHPs (issuers, benefits, network, pricing, etc.) must be transmitted and tested for each affiliated web broker. A change in policy, such as which entity collects the first month's premium, would affect each web broker differently, requiring prior consultation with each one and complicating decision-making.

Second, there is the cost of commissions associated with all brokered enrollments, even if they do not show up on the Marketplace's books. The Marketplace itself adds costs, typically supported by "user fees," which (like broker commissions) add to the cost of health insurance. This means an additional cost to issuers for enrollments that come in through a broker, web-based or otherwise, as opposed to those coming directly through the Marketplace.

A cost-accounting question of considerable relevance is whether the commission for a web broker is more or less than the variable cost to the Marketplace of handling the enrollment directly. To the extent that web brokers efficiently perform functions that the Marketplace would have had to supply, and are thereby able to reduce Marketplace costs, then the web broker's cost is instead of, not in addition to, Marketplace costs.

Another empirical question is whether and when continuing to add more web brokers takes more enrollments away from existing brokers and unbrokered enrollments than it adds to total enrollments. That is, at what point does the market become saturated by "me, too" web brokers, and adding more would simply take away from others? (As both questions involve complex and imprecise analyses, answering them would add to the Marketplace's workload, as would conducting a competitive bidding and selection process.)

Third, there is the classic problem of channel conflict and consumer confusion with multiple web brokers selling the same Marketplace. To the extent that a Marketplace in effect "licenses" multiple web brokers to use its brand and promote access to subsidies, do the web brokers confuse the public or, worse still, "cherry-pick" the non-subsidized enrollees, while using the Marketplace to serve only the subsidy-eligible? (Of course, a Marketplace may not be concerned about brand confusion or "cherry-picking," as long as it is confident that total enrollment grows as a result of such affiliations.)

Fourth, joint efforts between a Marketplace and select web brokers may produce results more efficiently than many separate efforts, especially if each party brings complementary resources to marketing and sales. While all web brokers share an efficient technology for business-to-consumer sales, they will differ in their marketing efforts, including partnerships with retail and membership organizations, and the consumer experience. They will also likely differ in their strategies for working with public Marketplaces. Some web brokers may be more capable of, and interested in, committing resources to promote public Marketplaces than others. Depending on the focus of a Marketplace and different web brokers, the Marketplace may be able to leverage its own spend by joining in partnership with select web brokers.

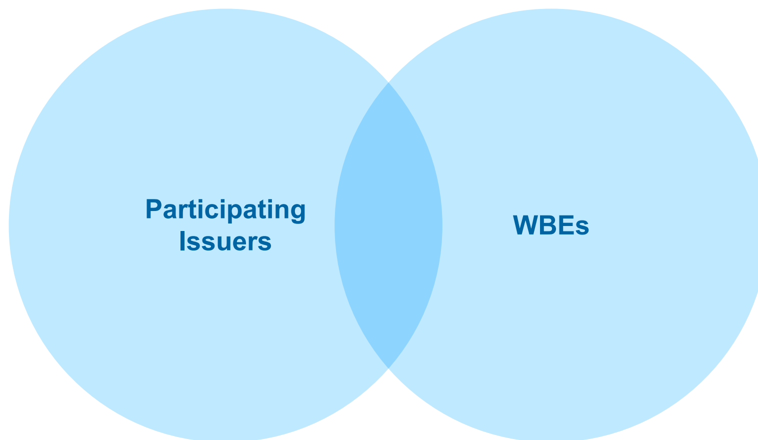
In this regard, it is worth asking whether all enrollment is of equal value to the Marketplace. For example, enrolling the uninsured, the unsubsidized, and/or younger lives may be priorities for a Marketplace. Because web brokers have a volume of lives already enrolled, they are likely to "deliver" to the Marketplace the subsidy-eligible ones among them, but those same enrollees are also reasonably likely to find their way to the public Marketplace on their own. It is not yet clear that web brokers will "deliver" many formerly uninsured individuals or enrollees above 400 percent of the federal poverty level (FPL). A Marketplace might decide to work exclusively with those web brokers that make a commitment to "deliver" target segments of particular interest.

[39] Covered California and the California Department of Health Care Services. "Web-Based Entity – Request for Information." March 18, 2014. http://www.hbex.ca.gov/solicitations/RFI-Web-Based-Entity/Request%20for%20Information%20(WBE)%20Final.pdf

A “complicating” factor in contracting with web brokers is the dependence of the broker’s revenue model on having appointments from the issuers. One of the attractions of working with brokers, web-based or otherwise, is that this is a self-sustaining sales model, insofar as issuers build broker commissions into their premiums. Ideally, web brokers should mirror offerings on the Marketplace, and be compensated for enrollment in all issuers.

However, this may not happen on its own. If not, the Marketplace can work with web brokers that are not appointed by all issuers, or it can actively encourage (or even require) all participating issuers to work with its participating web brokers. Several Marketplaces currently require or encourage brokers to obtain appointment by all participating issuers that work with any brokers. State Market-places may be in a better position to require issuers to contract with web brokers as they know their local markets better than the FFM across 36 states. Of course, issuers appoint brokers for all their clients, not just the Marketplace, so forcing issuers to appoint all the web brokers that a Marketplace uses may meet resistance from issuers, and raises questions as to what terms will govern these “forced marriages.”

The more web brokers that the Marketplace uses, the more burden it imposes on issuers to contract with agents not of an issuer’s choosing. The “sweet spot” for contracting with issuers and web brokers may be, as illustrated below, to do so selectively with those web brokers that already overlap with most participating issuers, and to encourage the other participating issuers to appoint these same web brokers. Connect for Health Colorado, which has contracted with six web brokers, adopted a policy of requiring all its brokers to work with all those issuers who appoint brokers.[40]



For Marketplaces interested in selective contracting, a few hypothetical illustrations are suggested below of how and why public Mar-ketplaces might manage contracting. These considerations and examples are simply illustrative, and might apply to traditional agents as well:

1. A Marketplace that prioritizes target market segments may decide to focus its limited resources on joint efforts with those web brokers that share this focus. For example, if the priority is outreach to the low- and modest-income uninsured, it might partner with the web broker that proposes to spend the most in-state for direct outreach to uninsured households earning less than 400 percent FPL, and that also proposes credible plans for targeting that population. Or it might propose to match any web brokers’ proposal to spend a minimum amount on billboards and direct mail in modest-income neighborhoods in the state. The Marketplace might also persuade QHP issuers that also serve the Medicaid market, but have never worked with brokers, to appoint these kinds of web brokers. Something similar could be developed for reaching Spanish-speaking Americans—the Marketplace might co-fund Spanish language advertising for any web brokers that customize their web enrollment tools for Hispanics, or promote the web broker that proposes the most effective outreach and servicing program for Hispanics.

2. A Marketplace that prioritizes equal promotion of all issuers as a key element of competition might include in its selection criteria that the web broker should already have letters of appointment from many of the larger issuers in that Marketplace. In return, the Marketplace might require carrier appointments or, if this is not palatable, help web brokers win letters of appoint-ment from all issuers in the Marketplace. This may be easier to accomplish in competitive markets than those dominated by one

[40] Connect for Health Colorado. “Broker Appointments with Web Brokers.” Memo. March 11, 2013. http://connectforhealthco.com/wpfb-file/20130311_broker-appointments_board-approved.pdf

or two resistant carriers.

3. A Marketplace that prioritizes scale in order to achieve economies and self-sufficiency might require that contracting web brokers enroll all or most of their new individual households, whether eligible for subsidies or not, through the Marketplace. Or it might exclude those market segments, such as small employers, where it competes with the private web entity. For example, private exchanges such as Towers Watson's OneExchange can reach employers' early retirees, seasonal workers, COBRA-eligibles, and part-time workers who are ineligible for group benefits. If total enrollment, including in the Small Business Health Options Program (SHOP), is important to a public Marketplace, it might contract with such private exchanges for this targeted enrollment from large employer clients, but carve out small employers, where the public and private exchanges compete with each other.
4. A Marketplace that prioritizes Medicaid enrollment as much as QHP enrollment and bridging the discontinuities of "churn," might insist that web brokers also establish relationships and referral patterns with navigators, in-person assisters, and/or certified application counselors to handle enrollees who are eligible for Medicaid or are transferring between the two coverage programs.

CRITERIA FOR SELECTING A MARKETPLACE STRATEGY

A Marketplace that wants web brokers to add as much value as possible would do well to consider what kind of enrollment it needs most, which web brokers can be most productive in the target segments, and how it can work jointly with some or all web brokers to achieve its objectives. Now that SBMs have substantial experience in outreach, can identify the most promising, hard-to-reach market segments based on initial enrollment results, and must carefully budget their own spend with an eye to sustainability, they should revise marketing priorities no matter what contracting strategy is adopted. Below is a starting list of plausible strategic objectives for public Marketplaces that may suggest various approaches to web brokers:

1. Learn from as many different web brokers as possible how to reach enrollees to attract as much enrollment of any kind as possible, and avoid any suspicion of favoritism. This objective suggests the value of casting a very wide net for web brokers.

2. Leverage APTCs, Cost-Sharing Reductions (CSRs), brand awareness, and a wide range of participating issuers to make the Marketplace the primary destination for all individual buyers, whether subsidized or not. This objective may be a reason for the Marketplace to require that participating brokers place most of their non-group health business through the Marketplace, and that web brokers that refuse to do so be excluded from representing the public Marketplace. (Issuers that would have to pay both the web broker and the Marketplace may oppose this direction.)

3. Target special outreach efforts to particular linguistic, professional, or demographic groups (e.g., Hispanics, Native Americans, entrepreneurs, solo professionals, etc.). This objective suggests the possibility of special partnership arrangements with selected web brokers—by, for example, matching the web broker's dollar outlays for targeted advertising and community events. "Partnering" can encompass diverse activities, ranging from co-branding promotional activities, to joint funding of advertising, to preference in referring qualified leads from a linguistic group to web brokers specially set up to handle that linguistic group, or preference in referring prospects to selected brokers who "produce" the most enrollees (overall or of a certain type).

4. Help bridge discontinuities and different rules between Medicaid and QHPs for the lower-income applicants who may turn out to be eligible for Medicaid, or a household split between the Children's Health Insurance Program (CHIP) for kids and QHPs for adults, or enrollees moving from Medicaid to a QHP. This objective suggests partnerships with brokers, web-based or otherwise, that have relationships with a state's Medicaid program, Medicaid MCOs, and/or navigators, and that are committed to assisting very low-income applicants. The Marketplace may have a strong interest in providing extra services tied to bridging the Medicaid and QHP worlds, and so may seek special relationships with such brokers, whether web-enabled or not.

5. Provide customers with a truly objective choice of issuers and equally robust access to all QHPs on the exchange. This objective suggests using as a criterion that the web broker have appointments from all the issuers or commit to equally promote those issuers that have not appointed the web broker as a broker of record by including them in its decision-support tools. For example, all web brokers could be required to show detailed description and price—attainable from the Marketplace, if not from the issuer—for all QHPs, with their websites ranking all QHPs on comparative metrics for price, network breadth, and quality.[41] Of course, direct enrollment by issuers is even more at odds with full choice of QHPs, so the SBM that permits direct enrollment by carriers may not be as focused on promoting broad choice through web brokers.

[41] This approach will depend on state laws governing appointments and may encounter objections from carriers over what they regard as proprietary information.

6. Minimize the Marketplace's cost and time for establishing and managing relationships with web brokers. Depending on the marginal cost of adding web brokers, this objective may suggest the open competition model or, if marginal costs are high, this objective may suggest limiting the number of web brokers with which the Marketplace contracts initially, and/or of winnowing down the number of participating web brokers over time, based on their productivity (for the Marketplace). Marketplaces may be especially interested in "piloting" relationships with a limited number of web brokers of diverse types to gain more experience before committing to all or specifying long-term selection criteria.

Various web brokers will have their particular objectives for working with Marketplaces. Some may simply wish to retain customers who now qualify for APTCs. They may also be looking to grow their penetration and volume substantially by offering new individual clients a special service (access to subsidies). Or, they may be competing for group clients by helping their COBRA-eligibles and part-time workers access subsidized coverage in the Marketplace. Again, the difference in capabilities and objectives among web brokers suggests the value in considering selective contracting; "raising the bar" may filter out those web brokers with only a minimal commitment to working with public Marketplaces, while generating more value for the selected web brokers willing to commit more resources.

IV. Bringing it All Together

The ACA has made it possible and desirable to greatly expand individual coverage, particularly among lower-income uninsured individuals. However, this is neither easy nor inexpensive to sustain. Web brokers promise the efficiencies of eCommerce in the difficult and expensive business of selling insurance to individual households. This potential is of increasing value to Marketplaces as they overcome the problems of start-up and turn their focus to self-sustainable outreach and enrollment. However, taking advantage of the potential value of web brokers in the enrollment process does require establishing efficient, customer-friendly electronic connections, and this has yet to be worked out in practice. Once it has been, there appears to be a substantial advantage to working with web brokers.

Beyond representing a source of "free" outreach and servicing, how do web brokers fit the sales strategy of Marketplaces? To answer this question, each Marketplace must prioritize its own enrollment objectives, and develop an understanding of the various capabilities and interests among the web brokers with which it might engage. Based on its own priorities—which may range from casting a wide net through multiple channels that are self-sustaining to spending what is needed to attract mostly lower-income uninsured among certain hard-to-reach segments—and the interests of various web brokers, each Marketplace should develop its own strategy for dealing with web brokers.

While these Marketplace strategies are characterized into two categories, a Marketplace's needs and web broker capabilities will probably evolve over time, and so should their strategies. For example, a Marketplace may initially want to learn from as many web brokers as possible or it may not have the resources to negotiate individual contracts. This Marketplace may wish to follow the federal open competition model. Over time, the same Marketplace may find a better return from selectively partnering only with those web brokers who make a major commitment to marketing the Marketplace.

Appendix A: Profiles of Five Leading Web Brokers

eHealth, Inc.: eHealthInsurance.com was founded in 1997 by Vip Patel and in 1998, became responsible for the first ever online sale of a health insurance policy. eHealth maintains partnerships with over 180 insurance companies, offers more than 10,000 health insurance products online, and boasts having enrolled over four million people in health insurance to date.[42] Of particular importance to Marketplaces that seek to attract and enroll young and healthy individuals, eHealth reports that more than half of its 20 million visitors are between 18 to 34 years old[43], as were 40 percent of the customers who submitted health insurance applications on the site inthe fourth quarter of 2014 (compared to, for example, only 28 percent of applicants at Healthcare.gov).[44]

Since enactment of the ACA, the company, and in particular its CEO, Gary Lauer, has been a vocal proponent of the FFM and SBMs forging partnerships with web brokers that would allow these web brokers to enroll subsidy-eligible individuals into QHPs.[45] On July 31, 2013, eHealth was one of a handful of web brokers to sign agreements with CMS to enroll subsidy-eligible individuals in QHPs in FFM states.[46,47] As of early 2014, the company had yet to launch a fully online enrollment process due to what it deemed as insufficient stability and usability of the federal platform, instead adopting a call center workaround process in which customers receive subsidy estimates and browse plans online but enrollment is finalized by phone.[48] eHealth has also actively pursued similar agreements with SBMs, most notably in California. In March 2014, news outlets reported that eHealth may have been selected to participate in a pilot program with the Maryland Marketplace to enroll subsidy-eligible QHPs offered on the state's Marketplace.[49]

Getinsured: Getinsured was founded in 2005 by Chini Krishnan and Shankar Srinivasan and launched its first comparison shopping tool for health care services and insurance products in 2006.[50] Headquartered in Mountain View, California, Getinsured's national private exchange supports over 110 carriers and 6,748 health plans.[51] In late February 2014, after signing an agreement with CMS in early August 2013 to serve as a web broker for the FFM, Getinsured was the first web broker to announce that it was successfully using the double redirect process to enroll subsidy-eligible individuals into QHPs via an entirely online process.[52] Getinsured has also contracted with several state Marketplaces that use the company's Getinsured exchange technology platform. For example, the Covered California site was partially built off of Getinsured's exchange software, and the company is serving as a cloud provider for New Mexico's and Mississippi's SHOP Marketplaces.[53] The company recently was tapped by Idaho's Marketplace, Your Health Idaho, to build the technology platform for the state.[54]

GoHealth: GoHealth has operated a "consumer health insurance exchange" since 2002 and in that time has helped more than 2 million consumers compare health insurance quotes and purchase individual coverage online, through its agent network, or directly through a major health insurance company. GoHealth boasts having built the first nationwide insurance quote engine software and notes that its technology has since been integrated with over 125 top insurance carriers and more than 20,000 brokers—mostly independent agents, but nearly 1,000 of whom are employed by GoHealth—are supported by its platform.[55] One of the early web brokers to sign an agreement with CMS, in late November 2013 GoHealth announced it was the first web broker to have activated

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[42] http://www.ehealthinsurance.com/about-ehealth/our-story

[43] Mangan, Dan. "eHealth CEO's Obamacare fix: Let us run HealthCare.gov." *CNBC*. October 30, 2013. http://www.cnbc.com/id/101153131

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their integration with the FFM thereby allowing customers to calculate subsidies and choose a plan online on the GoHealth Marketplace website before finalizing enrollment by phone with a GoHealth licensed advisor.[56] GoHealth reports that it began giving subsidy-eligible individuals the option to directly enroll using an unassisted online process near the close of the 2014 open enrollment period.

OneExchange: OneExchange was established following Towers Watson's acquisition in June 2012 of ExtendHealth, the largest private Medicare exchange in the United States working with private clients (such as Caterpillar and Ford Motors), as well as municipalities and state governments, to allow retirees to shop among health plans.[57] In an effort to expand capacity in the private exchange market, in November 2013 Towers Watson acquired Liazon Corporation, a leading company in the development of private exchanges for active employees.[58] Towers Watson signed a web broker agreement with CMS in August 2013. The company has stated it intends to use the agreement to integrate its technology platform with the federal eligibility system and help employers offer education and enrollment services to part-time and seasonal employees, retirees, and their dependents by supporting them as they select and evaluate ACA coverage options.[59]

Quotit: Quotit Corporation, part of the Word & Brown Companies, is an internet application service provider for the health insurance and employee benefits industry.[60] Quotit has established relationships with over 300 insurance carriers representing more than 40,000 plan designs in the health, life, dental, and vision insurance markets and its database of carriers and plans extends to 50 states and the District of Columbia.[61] Quotit's software enables independent brokers and retail consumers to generate insurance quotes, including comparative information on rates and benefits, online and in real time. The Quotit subscription-based WBE technology platform allows licensed, certified community-based brokers to access WBE technology, security, and efficiencies if they cannot make the investment on their own. Brokers who subscribe to the Quotit software service can use the technology platform to assist consumers in enrolling in QHPs and can also establish a broker-branded, consumer-facing portal where individuals can shop and enroll in a plan using an entirely online process. In September 2013, Quotit entered into a web broker agreement with CMS.[62] Under the agreement, Quotit has stated that it will provide compliant technology to independent, licensed agents to empower them in assisting consumers in enrolling in QHPs and receiving available tax credits.[63]

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Appendix B: Use of Web Brokers as Vendors for Core Functions

Three examples illustrate the range of possibilities for web brokers serving as a core vendor:

- **Component of a broader IT system:** Accenture, as a leading system integrator, is the major IT vendor for the California Marketplace (Covered California), with Getinsured providing some of the front end technology for plan selection and enrollment.[64,65] eHealth provides similar technology support for the Washington state Marketplace (Washington Healthplanfinder), working with Deloitte, another leading system integrator.

- **Full service solution:** Getinsured has expanded its business model to include a full service solution for states choosing to outsource their SHOP Marketplaces. Mississippi and New Mexico have contracted with Getinsured to operate their SHOP Marketplaces.[66] New Mexico subsequently awarded their individual Marketplace contract to Getinsured over several more-established system integrators. Idaho recently followed suit, selecting Getinsured as their lead IT vendor, with support from Accenture.[67]

- **Filling a niche:** eHealth has shifted away from being a technology vendor, but as part of its efforts to build support for the market model among SBMs, eHealth has offered to help states with dysfunctional web sites find temporary solutions.

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