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AGENDA ITEM

☐ **For Possible Action**

☒ **Information Only**

Date: October 25, 2018

Item Number: IV

Title: Executive Director's Report

PURPOSE

The purpose of this report is to provide information to the Board and public regarding the status of the Exchange's implementation of a state based health insurance exchange and other operational matters of the Exchange.

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GENERAL COMMENTS

The Silver State Health Insurance Exchange (Exchange) enters its sixth open enrollment period (OEP) energized to connect eligible Nevadans to affordable, comprehensive qualified health plans. Exchange grantees, community partners, and stakeholders are standing by, ready to engage, educate, and enroll consumers during the brief 45 day OEP. The OEP landscape is not without challenges which may have an impact on enrollment numbers; specifically – the elimination of the Affordable Care Act's (ACA) individual mandate penalty, competing off-Exchange plans, proposed executive rule changes, and a compressed enrollment timeframe. The Exchange has historically overcome every trial it has faced, and there's little doubt that this organization will once again rise to the occasion for a successful plan year 2019.

Plan Year 2019 Overview

Health care is one of the top issues for voters who go to the polls just five days after Open Enrollment begins. With very affordable options, rate decreases, and a stabilizing market, this year Nevadans on the Exchange, or eligible for the Exchange, have a lot to be encouraged about. Open Enrollment runs from November 1st – December 15th allowing just 45 days to enroll new consumers and reenroll returning consumers.

Plans

Both Health Plan of Nevada (HPN) and SilverSummit will be returning to the Exchange to offer a combined total of 14 qualified health plans; two (2) gold plans, seven (7) silver plans, four (4) bronze plans, and one (1) catastrophic plan. The Exchange will have six (6) dental carriers with 22 stand-alone dental plans available to Exchange consumers. Consumers residing in Clark, Nye, and Washoe counties will be able to select qualified health plans from both carriers while the other counties will have five SilverSummit plans to choose from.

Rates

The Nevada Division of Insurance has approved 2019 health insurance rates for all plans in the Individual Health Insurance Marketplace. The approved average rate change in the individual market, both off and on Exchange is 0.3%. The average rate change on Exchange is a decrease of 0.4%, which is very good news for Exchange consumers. On average, consumers who are eligible for subsidies (82 percent) will continue to find low-cost and even no-cost plans, and consumers who are not subsidized (13 percent) will see slight decreases in their monthly premiums.

Individual Mandate

The United States Congress repealed the penalty associated with the individual mandate effective January 2019. This presents the Exchange with a challenge as it relates to consumer retention and recruitment. Health policy analysts have a difficult time determining the impact of the repeal, however most analysts agree that the individuals most likely to forgo health insurance as a result of the repeal are healthy individuals between the age of 26 and 40. The Exchange has tailored our marketing and outreach campaign with additional emphasis on this segment of the population, highlighting the prohibitively expensive prices associated with medical care should one opt out of health insurance. The Exchange's message is clear—unexpected and routine medical care comes at a significantly high cost that could potentially bankrupt an individual and their family—insurance protects against this devastating outcome.

Competing Plans

There are three types of plans competing with qualified health plans in 2019: Associated Health Plans (AHP), Short Term Limited Duration Plans (STLD), and Health Sharing Ministries (HSM). While Nevada AHPs offer some of the protections afforded by the ACA, STLDs and

HSMs offer limited benefits and are not subject to ACA rules. The Exchange's outreach around competing plans aims to educate consumers while providing assistance and resources to connect them with comprehensive affordable health plans that are right for their individual and family's specific needs.

Associated Health Plans allow small businesses and employers to band together by geography or industry to obtain health coverage as if they were a single large employer. Several Chambers of Commerce in Nevada have formed AHPs. The Nevada Division of Insurance regulates the benefit design for these plans, however they do not regulate the rates nor the networks. These plans may offer consumers who are ineligible for subsidies a more affordable option, however the Exchange encourages consumers to work with an enrollment professional to determine if these plans are right for their individual needs and reminds consumers that there are affordable plans available on the Exchange with subsidized premium payment assistance.

The U.S. Department of Health and Human Services issued a new rule expanding the length of STLD plans from 90 days to 364 days with the option for 36 months of renewability. Current Nevada Administrative Code (NAC) limits the sale of these plans to 185 days and bans renewability.

STLDs are useful in some circumstances, for instance when an individual has missed the open enrollment period and needs emergency coverage for a short period of time until they're eligible to purchase a qualified health plan or obtain insurance through another means.

These plans do not provide comprehensive coverage nor do they provide minimum essential coverage (MEC). Most STLD plans have high deductibles and do not cover prescriptions, behavioral health, maternity care, etc. SLTDs allow for medical underwriting and discrimination against individuals with pre-existing conditions. When a consumer applies for one of these plans they fill out a health assessment/application and indicate whether they have any medical issues. If they do, the carrier can refuse to cover them, or charge them more based on that medical issue.

Aside from the skimpy benefit package, many STLD carriers engage in post-claim underwriting which can leave consumers on the hook for medical care and the associated costs. A carrier receives an insurance claim and researches the consumer's medical history to determine if the consumer had any indicators of illness prior to the application. If the carrier finds that the consumer had health issues that were not disclosed on their application, they can retroactively terminate their coverage and/or deny the claim leaving the consumer fully responsible for the costs. Even more concerning is that once a consumer is retroactively terminated from their STLD policy they are not eligible for a special enrollment period to enroll in a qualified health plan on the Exchange because the SLTD plan did not provide MEC. This leaves the consumer who has medical needs, without insurance.

There are multiple insurance carriers currently selling STLD plans in Nevada, with large broker commissions; high commission structures incentivize some brokers to push consumers into STLDs when it may not be in their best long term interest. STLD plans also have a history of misleading marketing tactics convincing consumers they are purchasing comprehensive health

benefits. The Nevada Exchange has launched an educational outreach campaign warning consumers to read the fine print while highlighting the differences between STLDs and qualified health plans.

Health Sharing Ministries are not actually insurance, despite aggressive marketing asserting otherwise. HSMs are a form of health coverage in which members – who typically share a religious belief – make monthly payments to cover the expenses of other members. HSMs are not insurance and do not guarantee the payment of claims, but because their products closely mimic insurance products they can be confusing at first glance. They are largely unregulated and provide limited benefits and may prove to be disproportionately attractive to healthy individuals. The Exchange is working to educate partners and stakeholders on the limitations of HSMs while identifying fraudulent actors and reporting them to the Division of Insurance as appropriate. Consumers are encouraged to work with licensed enrollment professionals to connect them to comprehensive benefits that best meet their medical and budgetary needs.

Marketing and Outreach

While the Centers for Medicare and Medicaid Services (CMS) cut deeper into funding for marketing and outreach for federal facilitated states, the Nevada Exchange continues to invest significant portions of its budget into these critical functions with year-over-year increases in enrollment as a return on investment. For this OEP, the Exchange has granted funds to five brokers and twelve Navigator entities in order to outreach and enroll consumers on the Exchange. The Exchange provides training, program monitoring, and technical assistance for broker and Navigator partners who submit comprehensive reporting on their activities.

Penna Powers and the Exchange's Communication team have enhanced our campaign message from last year: "You Can't Afford Not To Be Insured" with new advertisements and scenarios, a robust marketing strategy and an aggressive public relations campaign. In addition to our affordability message, the Exchange is focusing on educating consumers about working with licensed enrollment professionals to navigate the confusion of competing health insurance products.

The Exchange recently hosted two "Prep" rallies in the North and the South with Exchange grantees, broker partners and community stakeholders in attendance. The Exchange provided attendees with in-depth insight into plan year 2019 with details around plan offerings, rates, and messaging. Attendees were fortunate to hear from Roy Tuscany, a millennial, with an inspiring story about how insurance helped him afford to triumph over tragedy. Attendees in Las Vegas were fortunate to also hear from Desiree Reed Francois, the UNLV Athletic Director who shared her inspirational story surrounding her successful career and hit on the importance of working with an enrollment professional when purchasing health insurance. Our partners were provided with marketing tools to promote and educate consumers about the upcoming open enrollment period.

Agency Updates

The Exchange has spent a significant amount of time working on our state fiscal year (SFY) 2020-2021 budget. The Agency Request budget was submitted on August 31st. It included 18 enhancements, most of which are related to the transition to a state-based exchange, and totaled $22,977,659 for SFY 2020 and $15,312,723 for SFY 2021. We have requested a total of 11 new positions to support our operations as a state-based exchange, anticipated to start between August 2019 and October 2019. The Governor's Office and the Budget Division are currently reviewing the Agency Request budget and will compile the Governor Recommends Budget for submission to the Legislature on or about January 15, 2019.

In addition to developing our next biennium's budget, the agency is preparing for the upcoming 80th (2019) Session of the Nevada Legislature which begins February 4, 2019. The Exchange has monitored the Interim Committee on Health and Human Services with a close focus on the bill draft requests the Committee plans to put forward. The Legislative Council Bureau has begun posting next session's Bill Draft Requests (BDRs) on the NELIS webpage and the Exchange will monitor and analyze applicable bills and provide technical assistance, fiscal notes, and analysis as appropriate.

Transition Updates

On August 14, 2018 the State Board of Examiners approved of the Exchange's contract with Get Insured, a decision that will allow for the transition of the Exchange from a State Based Marketplace using the Federal Platform (SBM-FP) to a State Based Exchange (SBE). Our Project Manager, Eric Watt, started on August 15, 2018 and has been working with the Get Insured project team and the Exchange's project team at full speed since. The Exchange's executive board will get to hear from Eric in more detail later in today's meeting.

The SBE Transition Project is multifaceted and complex and the Exchange's transition timeline allows for little error; Get Insured has thus far met all required milestones on-time with approved deliverables. The Exchange is in regular contact with our stakeholders, Get Insured, CMS, Exchange Carriers, and the Division of Welfare and Supportive Services. A successful transition is only attainable with the on-going mutual commitment to success from our partners, all of whom have expressed deep interest in the Exchange meeting established goals.

As the Exchange's Project Management team develops intricate transition plans, Exchange staff remain laser-focused on the upcoming OEP. Establishing Nevada Health Link as *the* resource for Nevadans looking for affordable health insurance is our number one priority and will be critical infrastructure to developing a fully operation SBE.

Affordable Care Act Updates

With the 2018 midterm elections a few weeks away, the ACA remains a divisive and political topic. It is unlikely that any substantive bills will be introduced prior to the election, however the

Executive branch of the federal government continues to introduce rule changes that will impact the marketplace both locally and nationally. Several lawsuits are pending court decisions and could have broad and dramatic implications for the Exchange.

The U.S. Department of Health and Human Services is expected to release the annual Notice of Benefits and Payment Parameters for plan year 2020 in the impending future. The "payment notice" is an annual CMS omnibus rule that pulls together all the major changes that HHS intends to implement for the next plan year for the exchange marketplaces, particularly the federal facilitated exchanges. The rule will layout changes to policy for plan year 2020 and is widely rumored to include changes that may negatively impact all Exchanges. The Nevada Exchange is monitoring the rule and will provide comments once it is posted for public consumption and comment.

The Department of Homeland Security has announced a proposed rule change that could require immigrants seeking to the United States ineligible for visas or green cards if they are deemed likely to receive certain public benefits once they come to the country. Immigrants could be denied a change in legal status once if in the United States they received—or are likely to receive public benefits such as public housing and food stamps—equivalent to a certain monetary threshold. The rule broadens the assumption on what is considered a "public charge," or someone dependent or likely to become dependent on the government. If the rule is promulgated as written, immigrants could be rejected from citizenship if they do not forgo benefits that they or their family members would otherwise be eligible to receive. The subsidies Exchange consumers receive are not included in the proposed rule change, meaning immigrant consumers will be able to receive Exchange subsidies without impact to their immigration status; however, the change could serve as a deterrent with consumers being fearful of backlash resulting from the acceptance of any public benefit.

There are several ACA court cases pending decisions with the Texas vs. United States case having the most immediate and profound implications for the Exchange. On September 5, 2018 a Texas Federal District Court heard arguments in a case led by the Texas Attorney General and 18 Republican state attorney generals. The plaintiffs are urging the court to overturn the ACA now that the individual mandate is no longer being enforced. In a rare move the Trump Administration is not defending the law, instead they are arguing that pieces of the law associated with protections for individuals with pre-existing conditions should be struck down as these protections were directly tied to the tax penalty. California's attorney general, along with 17 democratic attorney generals, have intervened to defend the law. Health advocacy groups, patient organizations, health care providers, scholars, and consumers have filed amicus briefs outlining their opposition and the significant impact the court's decision could have on health care systems and millions of consumers.

The plaintiffs are urging the court to strike down the ACA immediately, but if the judge rules in their favor, the case will likely head to the Supreme Court for consideration. The provisions of the ACA that protect people with pre-existing conditions are the most popular part of the ACA and if overturned, could have the potential to create chaos throughout the entire health care system including Medicare, Medicaid and the employer insurance market.

It is projected that an estimated 25 percent of Nevadans under the age of 65 have pre-existing conditions. Some states have enacted their own laws to protect consumers with pre-existing conditions including rules with guaranteed issue, adjusted community rating and prohibition on pre-existing condition exclusions. The Exchange is monitoring this case and working with stakeholders to analyze the impact on Nevada.

Conclusion

Open enrollment success is made up of big and small wins; whether it's connecting someone to their first affordable health insurance plan or setting enrollment records in the face of adversity, the Exchange and our partners receive recognition for our critical work. What doesn't get publicized is the year of intense labor that goes into developing and implementing messaging, engaging stakeholders and grant partners, providing outreach and education to consumers, working with partner agencies, certifying plans, analyzing policy, engaging lawmakers, and operating a state agency. The success of the Exchange is only achievable if built on top of this fundamental work.

For the reasons outlined in this report, the Exchange may not see an increase in enrollment in the coming OEP, however I can confidently say that the dedicated work of Exchange staff over this past year has already resulted in success. I am proud of the effort and mission driven determination of our staff and grant partners. It is a pleasure to work among this team of committed individuals and a true honor to lead this organization.