§ 155.120 Non-interference with Federal law and non-discrimination standards.

(a) Non-interference with Federal law. An Exchange must not establish rules that conflict with or prevent the application of regulations promulgated by HHS under subtitile D of title I of the Affordable Care Act.

(b) Non-interference with State law. Nothing in parts 155, 156, or 157 of this subchapter shall be construed to preempt any State law that does not prevent the application of the provisions of title I of the Affordable Care Act.

(c) Non-discrimination. (1) In carrying out the requirements of this part, the State and the Exchange must:

(i) Comply with applicable non-discrimination statutes; and

(ii) Not discriminate based on race, color, national origin, disability, age, sex, gender identity or sexual orientation.

(2) Notwithstanding the provisions of paragraph (c)(1)(ii) of this section, an organization that receives Federal funds to provide services to a defined population under the terms of Federal legal authorities that participates in the certified application counselor program under §155.225 may limit its provision of certified application counselor services to the same defined population, but must comply with paragraph (c)(1)(i) of this section with respect to the provision of certified application counselor services pursuant to this exception, but is approached for certified application counselor services by an individual who is not included in the defined population that the organization serves, the organization must refer the individual to other Exchange-approved resources that can provide assistance. If the organization does not limit its provision of certified application counselor services pursuant to this exception, the organization must comply with paragraph (c)(1)(i) of this section.


§ 155.130 Stakeholder consultation.

The Exchange must regularly consult on an ongoing basis with the following stakeholders:

(a) Educated health care consumers who are enrollees in QHPs;

(b) Individuals and entities with experience in facilitating enrollment in health coverage;

(c) Advocates for enrolling hard to reach populations, which include individuals with mental health or substance abuse disorders;

(d) Small businesses and self-employed individuals;
§ 155.170 Additional required benefits.

(a) Additional required benefits. (1) A State may require a QHP to offer benefits in addition to the essential health benefits.

(B) In the case of a subsidiary Exchange established pursuant to §155.100(a)(2), the combined geographic area of all subsidiary SHOPs established in the State must encompass the geographic area of the individual market Exchange established to serve the State.


§ 155.150 Transition process for existing State health insurance exchanges.

(a) Presumption. Unless an exchange is determined to be non-compliant through the process in paragraph (b) of this section, HHS will otherwise presume that an existing State exchange meets the standards under this part if:

(1) The exchange was in operation prior to January 1, 2010; and

(2) The State has insured a percentage of its population not less than the percentage of the population projected to be covered nationally after the implementation of the Affordable Care Act, according to the Congressional Budget Office estimates for projected coverage in 2016 that were published on March 30, 2011.

(b) Process for determining non-compliance. Any State described in paragraph (a) of this section must work with HHS to identify areas of non-compliance with the standards under this part.

§ 155.160 Financial support for continued operations.

(a) Definition. For purposes of this section, participating issuers has the meaning provided in §156.50.

(b) Funding for ongoing operations. A State must ensure that its Exchange has sufficient funding in order to support its ongoing operations beginning January 1, 2015, as follows:

(1) States may generate funding, such as through user fees on participating issuers, for Exchange operations; and

(2) No Federal grants under section 1311 of the Affordable Care Act will be awarded for State Exchange establishment after January 1, 2015.

§ 155.170 Additional required benefits.

(a) Additional required benefits. (1) A State may require a QHP to offer benefits in addition to the essential health benefits.

(B) In the case of a subsidiary Exchange established pursuant to §155.100(a)(2), the combined geographic area of all subsidiary SHOPs established in the State must encompass the geographic area of the individual market Exchange established to serve the State.