# Small Employer Health Options Program (SHOP) Agent and General Agent Strategy

## Summary

The California Health Benefit Exchange is exploring approaches to assure the most effective outreach and enrollment in both its individual and SHOP exchanges, including how best to engage agents. Agent engagement and the structure of agent payments have important implications for sales and distribution of both the individual and SHOP exchange products. Based on prior market experience and the significant proportion of small group sales that are administered through agents, the role of agents is considered particularly critical for the SHOP exchange. Because of the wide agreement regarding the need for agent policies to be largely consistent with the small group marketplace, this "SHOP Agent Strategy" Board Recommendation Brief focuses on various options surrounding ***how*** to administer SHOP commission and compensation payments, rather than if they should be used. It should be noted that there are parallel issues and potentially different recommendations to consider for the Individual Exchange.

While not submitted for board action, the Exchange will also be considering the extent to which general agents participate in the SHOP Exchange. Currently, general agents contract directly with the plan issuers who also compensate them for services. This important relationship requires additional investigation before a board recommendation can be fairly prepared.

## Background

The structure of agent compensation in the California Health Benefits Exchange will have a major impact on the enrollment of small businesses in the SHOP. If the rate is above market norms the SHOP may attract some existing groups, but may raise concerns among participating carriers. Paying higher rates would also increase SHOP costs. If the rate is below market norms, agents will likely not promote the SHOP Exchange. These commissions and potential General Agent (GA) load affect the overall affordability of Exchange plans. Like the Exchange, General Agents aggregate information and products and considerably expand access to the agent community.

Small group plans in California generally compensate agents and general agents at the same level (currently 7% and approximately 2 to 3%, respectively), with some plans paying slightly less. Some issuers are also moving toward models that decrease commissions in later years, and that pay a flat fee that increases with general inflation rather than medical inflation. Agents are generally compensated at a higher percentage level for individual sales than small group, ranging from 9 to 15%, with increased rates linked to volume, and on a descending scale for renewals. Historically, these higher rates of compensation have been attributed to the wide variation in products, the individual health underwriting and more intense ongoing customer service provided. However, these rates have been trending lower in conjunction with the Medical Loss Ratio requirements and the anticipated standardization of products due to clarification of Essential Health Benefits and the actuarial valuation of the metal level designs under the Affordable Care Act.

General Agents assert that the turnover rate among agent-aided sales is lower than direct sales, often because consumers also rely on these agents for their property and casualty coverage.

Agents also function as benefits administration support for small businesses which often do not have dedicated human resources support. Beyond providing rate quotes, they may advise on benefit design options, contribution strategy, interpretation of benefit coverage rules, and resolution of administrative and claims payment issues. They may provide ongoing support for enrollment changes and process coverage status changes through health plan eligibility and enrollment Web portals.

While the agent load has a material effect on premium and overall affordability, prior attempts to eliminate or reduce commissions have had a severe impact on sales. In its initial implementation the Health Insurance Plan of California (HIPC) paid lower commissions and in a different structure than was common in the market and alienated many agents by attempting to limit fees, and then subsequently introduced flat rate fees that were much lower than the prevailing commissions paid directly by health plan. This ultimately reduced potential sales volume and may have adversely impacted the risk mix of the Exchange.

Among California plans, Anthem and Kaiser manage a considerable volume of direct individual sales through an embedded sales organization. Kaiser builds their commission costs into premium on a community-wide basis. Although PacAdvantage had direct sale accounts, it eventually established a policy to assign groups to agents as small groups required significant resource support during open enrollment and major provider/carrier terminations. CalChoice[1] also refers all potential direct sales to an agent. Attempts by carriers such as PacifiCare (subsequently acquired by UnitedHealthcare) to drive small employer business to online sales in the mid-1990s also met with great resistance. The Exchange will need to determine whether all small groups will be required to use agents, or whether direct sales will be an option for those who prefer not to work with an agent.

Payment to agents is generally issued on a monthly basis through electronic funds transfer with a summary remittance to the agent. When a General Agent is involved, payment is routed

[1] CalChoice is a small group purchasing pool operated by Choice Administrators, a subsidiary of the general agency Word and Brown.

through the General Agent, which aggregates information across carriers and issues a consolidated payment and report to the individual agents. All plans use General Agents, but the contracting relationships with Anthem Blue Cross and Blue Shield of California are held uniquely, such that a General Agent would contract with one or the other, but not both Blues. The General Agent load is typically an additional 2% to 3% on top of the agent commission. General Agents typically pass through the published agent fee for small group sales but split the commission on individual sales to account for support or other purchased services. Related to the discussion on small employer benefit administration services, General Agents may serve as an aggregator (e.g., LISI) or owner (e.g., Word and Brown) of such services and offer packaged products to agents and their small business clients. Depending on individual agent sales volume, the General Agent may absorb the fees for such services.

## Stakeholder Viewpoints

Health plans and agents are generally universal in the belief that the Exchange should assure continued use of agents in the small employer market "consistent" with market practices. Health plans and agents were very opposed to the Exchange having each plan pay agent commissions for members enrolled through Exchange. Due to the lag time in enrollment and eligibility confirmation, health plans would pay for Exchange enrollees at least one month behind payments to agents who sold their product directly. Agents and General Agents noted that such a payment process would be cumbersome and a disadvantage the Exchange. Both stakeholder groups cited reconciliation and bookkeeping challenges, with health plans noting that payment disputes may surface 6 months or more after the fact. Both stakeholder groups also felt that an Exchange role in paying producers was important for marketing purposes, and that the visibility of the Exchange as a payer would be lost in a remittance report.

Consumer advocates and others have noted that while agents play a critical role for the majority of small businesses, there is a significant portion of small businesses that do not use – and potentially do not trust – agents. In a survey conducted by Pacific Community Ventures among 804 small business owners, 27% of businesses say they will still continue to purchase insurance directly through their agent, and 43% anticipate a combination approach of using both the Exchange and their agent. Among the 25% that do not use agents, they trust small business organizations and non-profits as sources of information. The study notes also the need to provide alternative sources of information, particularly for businesses with a large portion of Hispanic employees.

The following issues have an important bearing on the design of agent payments:

- The Affordable Care Act and subsequent exchange regulations establish that health plan pricing outside the Exchange must match pricing inside the Exchange, which may have a bearing on how selling, general and administrative ("SG&A") expenses are spread across products.

- The Affordable Care Act also establishes that Navigators will be used to provide educational support to assist new enrollees in Individual plans and that Navigators cannot receive agent commissions.

While Navigators cannot receive payments from health plans for SHOP enrollment, they can be compensated by the Exchange. The Exchange could also facilitate referrals to agents to complete the sales process and provide programmatic information and orientation materials to the small business.

## Options

The table that follows the recommendations discussion details the options related to engaging agents and General Agents in the SHOP for consideration by the Board.

**Options for Agents**

- Option A1: Grant market competitive commissions with the Health Plans issuing payment to agents;
- Option A2: Grant market competitive commissions with the Exchange issuing payment to agents;
- Option A3: The Exchange sets rates and issues payment for agents.

**Options for General Agents:**

- Option B1: SHOP excludes General Agents from distribution;
- Option B2: SHOP contracts with some General Agents through a bid process (2-4 General Agents);
- Option B3: SHOP contracts with all qualified General Agents

## Recommended Approach

Staff recommends Option A2 (Exchange grants market competitive commission and pays) with additional considerations noted below. Both options include General Agents as part of the distribution channel. Options such as the exclusion of agents and the use of new group bonuses to encourage sales through the Exchange were considered and rejected due to their potential negative impact on stakeholders and distribution channels for the Exchange.

Under Option A2, the Exchange would reinforce its role as aggregator and could use the payment process to market its services and reinforce the value of the Exchange to its distribution channels. A key consideration under Option A2, whereby the Exchange pays commission consistent plan rates, is that it entails administrative resources and complexity of matching health plan fee schedules on a real time basis, including downgrades and occasional PMPM compensation structures. Additionally, to the extent that health plans hold direct contracts with agents and General Agents, it could be challenging for the Exchange to administer different practice standards across plans. Additionally, the Exchange would need to work with carriers to assure that agents are certified to meet each carrier's requirements or establish a mechanism to amend such agreements to allow agents to "accept assignment" from the Exchange.

Staff recommends Option B2 whereby the SHOP Exchange contracts with 2-4 General Agents through a bid process. Bidder criteria will be developed based on a series of factors like broad reach of agents (statewide or regionally); how they partner with the Exchange; General Agent override costs and technology, tools and value adds. While general agents currently play a significant role in the sales and enrollment of small business health insurance, the Exchange is also considering future needs and the challenges for plans issuers to meet new medical loss ratio requirements in 2014. Although the additional fee increases premium costs, the load on premium would hopefully be offset by the expanded access to agents and new enrollment volume. General agent compensation is expected to accrue toward health plan issuer's administrative expenses for MLR calculation, but how general agents are compensated by plan issuers may change between now and 2014.

## Next Steps

Staff recommends that the Exchange develop, in consultation with potentially participating Qualified Health Plans and agents the following:

- Bid criteria for selection of general agents to leverage relationships and the agent network.

In developing these recommendations, staff will seek to both assure effective involvement of general agents and to minimize the cost load on small businesses. Staff will further develop how to address:

- Whether to offer direct sales, or how to assist employers who prefer not to work with an agent;
- How to best assist unrepresented small businesses, including those in start-up mode;
- The role of navigators in assisting small businesses to either generally understand the SHOP exchange or to enroll in the SHOP.

In addition, staff will need to further develop a range of operational issues related to implementing an agent strategy. Table 4 "Operational Considerations" highlights some of these issues and their implication for the options considered.

[3] Historically, PacAdvantage sales through General Agencies also represented larger group sizes, which were beneficial to the overall risk mix. Furthermore, the General Agency communications and sales delivery system was effective in PacAdvantage despite the additional cost.

| Table 4: Summary of SHOP Agent Payment Options | | |
|---|---|---|
| **Option 1: Match Commissions (Plan Pays)** | **Option 2: Match Commissions (Exchange Pays)** | **Option 3: Exchange Sets and Pays Commissions** |
| **SUMMARY**<br>The Exchange would grant or require participating health plans to grant market completive commissions and have plans administer payments for members enrolled through Exchange plans | **SUMMARY**<br>The Exchange would grant market competitive health plan commissions and issue payments directly to agents | **SUMMARY**<br>The Exchange sets a rate based on prevailing health plan commission structures and issues payments directly to agents. |
| **PURPOSE**<br>The Exchange leverages the prevailing health plan commission structures and may reduce the level of infrastructure and ongoing resources to manage agent support | **PURPOSE**<br>The Exchange uses the prevailing health plan commission structures and leverages its visibility among agents by being the issuer of payment | **PURPOSE**<br>The Exchange sets a common rate across health plans and supplemental vendors that leverages its visibility among agents but simplifies the administration of payment |
| **DESCRIPTION**<br>The Exchange supports a level playing field among health plans and the SHOP program by granting market competitive rates or requiring participating plans to pay market competitive commissions. Any special incentive programs are simultaneously available through small groups sold under the Exchange, but the agent receives multiple payments from carriers depending on the distribution of the small group’s beneficiaries | **DESCRIPTION**<br>The Exchange supports a level playing field among health plans and the SHOP program by granting market competitive rates. The Exchange would require health plans to count Exchange enrollment towards individual agent incentive programs. By being the payer of record, the Exchange enhances its visibility among agents but also simplifies commission reconciliation by agents | **DESCRIPTION**<br>The Exchange promotes itself as a unique entity with a market rate-based commission schedule. By being the payer of record, the Exchange enhances its visibility among agents. The Exchange would require health plans to count Exchange enrollment towards individual agent incentive programs. Additionally, the Exchange would negotiate participation agreements with General Agents who receive a load and in turn aggregate payments to agents |

**Table 4: Summary of SHOP Agent Payment Options**

| Option 1: Match Commissions (Plan Pays) | Option 2: Match Commissions (Exchange Pays) | Option 3: Exchange Sets and Pays Commissions |
|---|---|---|
| **PROS**<br>▪ The Exchange minimizes its administrative burden; agent agreements and licensure verification are delegated to the plans<br>▪ The Exchange keeps health plans in the role of setting agent and General Agent commission levels and avoids the Exchange being viewed as the driver for any potential future payment changes<br>▪ Does not materially impact direct sales operations of health plans (Kaiser, Anthem), but potentially limits Exchange product exposure among the direct sellers<br>▪ Any vesting arrangements favored by agents and permitted by health plans would remain | **PROS**<br>▪ The Exchange increases its visibility among agents as the payer of record<br>▪ Using in-force commission rates limits potential gaming by agents to move business to optimize payment under incentive programs<br>▪ The Exchange reinforces its role as aggregator and simplifies billing administration and reconciliation for agents and General Agents<br>▪ The Exchange could build and reinforce agent relationships through referral of sales leads<br>▪ Any vesting arrangements favored by agents and permitted by health plans would remain | **PROS**<br>▪ The Exchange promotes itself and offers a simple payment design to agents and General Agents<br>▪ This approach reinforces the Exchange's role as aggregator and simplifies billing administration and reconciliation for agents and General Agents<br>▪ The Exchange could build and reinforce agent relationships through referral of sales leads<br>▪ The Exchange payment structure would likely supersede any vesting arrangements between health plans and agents<br>▪ The Exchange can require health plans to recognize Exchange volume as part of their incentive programs |

| Table 4: Summary of SHOP Agent Payment Options | | |
|---|---|---|
| **Option 1: Match Commissions (Plan Pays)** | **Option 2: Match Commissions (Exchange Pays)** | **Option 3: Exchange Sets and Pays Commissions** |
| **CONS**<br>▪ The stakeholder response to this approach was overwhelmingly negative from health plans and agents for SHOP but viewed as acceptable for the Individual Exchange<br>▪ Plan payment results in lag time due to eligibility reconciliation<br>▪ Agents receive multiple payments from carriers for the same group, potentially at different times and payment reconciliation is difficult<br>▪ This approach may be difficult to operate with General Agents due to additional data collection and transfer times | **CONS**<br>▪ While the Exchange may require health plans to count new sales towards the volume incentives of individual agents, it is uncertain whether this can feasibly be administered if the sales incentives are linked to other plan-based products<br>▪ Management of variable rates, downgrade schedules and PMPM fees adds administrative costs<br>▪ If the Exchange lags in implementing payment incentive programs, agents may focus new sales outside of the Exchange<br>▪ The Exchange must establish a process to execute agent agreements and verify their licensure and other requirements | **CONS**<br>▪ The Exchange functions as another distribution channel and would jeopardize sales if it were to seek to reduce or adjust agent payments to improve affordability<br>▪ The Exchange could disadvantage those health plans with effective direct sales units (assuming that common product pricing would require the carrier to raise its direct sales pricing)<br>▪ The Exchange may place one or two carriers at a disadvantage (Aetna and Anthem Blue Cross)<br>▪ The Exchange must establish a process to execute agent agreements and verify their licensure and other requirements |

| Table 5: Summary of SHOP General Agent Payment Options | | |
|---|---|---|
| **Option 1: Match Commissions (Plan Pays)** | **Option 2: Match Commissions (Exchange Pays)** | **Option 3: Exchange Sets and Pays Commissions** |
| **SUMMARY**<br>The Exchange would exclude General Agents from its distribution channels | **SUMMARY**<br>The Exchange would contract with 2-4 General Agents selected through a Bid Process | **SUMMARY**<br>The Exchange would contract with all qualified General Agents. |
| **PURPOSE**<br>The Exchange excludes General Agents from its distribution channels and provides more competitively priced SHOP products. | **PURPOSE**<br>The Exchange leverages an existing distribution channel which in turn expands sales and marketing options to a significant number of agents who are associated with the General Agents. | **PURPOSE**<br>The Exchange maximizes its available distribution channels by using all qualified General Agents. |
| **DESCRIPTION**<br>The Exchange excludes General Agents but relies on Agents and navigators to support SHOP marketing and sales. | **DESCRIPTION**<br>The Exchange selectively leverages an existing distribution channel. Bidder criteria will be developed based on a series of factors like broad reach of agents (statewide or regionally); how they partner with the Exchange; General Agent override costs and technology, tools and value-adds | **DESCRIPTION**<br>The Exchange recognizes all qualified General Agents and establishes a standard commission schedule for General Agents. This allows the Exchange products to be included in sales and bid proposals that are produced through General Agent systems. |
| **PROS**<br>▪ The Exchange avoids additional commission load on its SHOP products.<br>▪ The Exchange minimizes its administrative burden. | **PROS**<br>▪ The Exchange manages its distribution channels more closely and sets performance expectations through its bid criteria.<br>▪ The Exchange ensures its load for General Agents is priced competitively.<br>▪ The Exchange expands access to a broader pool of agents.<br>▪ Selective contracting limits administrative burden on the Exchange (data management, premium and commission audits, etc.) | **PROS**<br>▪ The Exchange maximizes all available distribution channels. |

| Table 5: Summary of SHOP General Agent Payment Options | | |
|---|---|---|
| **Option 1: Match Commissions (Plan Pays)** | **Option 2: Match Commissions (Exchange Pays)** | **Option 3: Exchange Sets and Pays Commissions** |
| **CONS**<br>▪ Limits access to a significant distribution channel for small group sales. | **CONS**<br>▪ Limiting the number of General Agents may result in exclusion of regional organizations that support underserved populations.<br>▪ Negative impact on General Agents who are not selected for the Exchange. | **CONS**<br>▪ Adds administrative and oversight burden on the Exchange.<br>▪ General Agents have significant variability in service capacity and systems support, which may add complexity to Exchange sales and marketing communications.<br>▪ May introduce quality control issues for the Exchange. |

| Table 6: Agent Payment[1] Operational Considerations | | | |
|---|---|---|---|
| **Issue** | **Option 1: Match Commissions (Plan Pays)** | **Option 2: Match Commissions (Exchange Pays)** | **Option 3: Exchange Sets and Pays Commissions** |
| **Vesting** (grandfathering historical contract arrangements and rate schedules which are higher than present market conditions) | Vesting would remain for legacy contracts. | While the Exchange could contractually limit new sales to current, in-force commission levels, it is not clear whether the Exchange could override direct plan-agent contracts if those contracts include vesting language. One policy approach could be that a legacy group moving into the Exchange would be subject to prevailing commission schedules, but this would be a disincentive for an agent to bring renewing business to the Exchange. If legacy fees were permitted, the Exchange would need to link individual members of the same employer group to different fee schedules. | The Exchange could establish as part of its contracts that only its in-force rates apply for all sales through the Exchange, and that fee schedules for new and renewing small groups are subject to modification by the Exchange.<br>Agents would only be incented to sell new groups in the Exchange. To the extent legacy fees are higher, agents would not be incented to move that business anyway. |
| **Role of health plans' captive agents** (Direct sales programs operated by health plans independent of GAs, external agents and the Exchange). | This option would be least disruptive to health plan-based agents. While the Exchange could establish contract terms to require equal representation of Exchange-based products, it might be challenging to reinforce this in practice. Additionally, the amount of administrative premium load for Exchange products' would create a differential premium disadvantage for the Exchange. | The Exchange would have limited ability to market itself through these captive agents as there would be no added incentive to refer cases to the Exchange. However for subsidy-eligible individuals, plans should be motivated to support enrollment in the Exchange if they felt there was a likelihood of retaining the prospective member. The Exchange needs to consider seeking "fair marketing" rules as part of its health plan contract. | The Exchange would create competition with the plan-based agents who would not benefit from an outside commission schedule, and arguably could offer a similar product without the added commission cost.<br>As part of its health plan contracts, the Exchange could formulate rules for referral of subsidy-eligible individuals and set expectations for training of internal agents on tax credits and Exchange options. |
| **Graded payment schedules** | This Option optimizes the ability to capture health plan-based schedules so as to not disadvantage Exchange products. | The Exchange would need to undertake potentially complex management of graded payment schedules and change payment based on the anniversary of subsequent renewal periods. | The Exchange could elect to adopt a graded payment schedule if that became common practice, but apply the schedule as a standard across all plans. |

**Table 6: Agent Payment[1] Operational Considerations**

[1]This table below describes a range of operational considerations and implications for policy and implementation under each option. The table includes topics discussed in stakeholder interviews and is not intended to be an exhaustive list of operational issues.

| Issue | Option 1: Match Commissions (Plan Pays) | Option 2: Match Commissions (Exchange Pays) | Option 3: Exchange Sets and Pays Commissions |
|---|---|---|---|
| **Adjusted payments based on agent volume** | This Option optimizes the ability to capture health plan-based schedules. However, to the extent that subscribers from a single employer group split among carriers, a agent will be paid at different rates within the same employer group if volume incentives are achieved with one carrier and not another. An unintended consequence may also be that agents will steer members towards plans to maximize their compensation.<br>This Option also allows the Exchange to best match agent payment designs in the Individual segment where tiered approaches are most common. | The Exchange would need to coordinate information with health plans to calculate the total volume of membership associated with the agent that may qualify that individual (or organization) for higher payment tiers. | The Exchange could establish incentive programs linked to Exchange volume or total plan volume. If linked to Exchange volume, health plans may have a concern about transfer of existing membership. The Exchange could also limit Exchange business to a fixed rate but require health plans to count SHOP volume in its internal reward programs for agents. |
| **Adjusted payments based on employer group volume** | This Option optimizes the ability to capture health plan-based schedules. However, to the extent that subscribers from a single employer group split among carriers, the Exchange would need to establish rules around premium thresholds and volume insofar as whether they apply at the plan level or employer group level. An unintended consequence may also be that agents will steer members towards plans to maximize their compensation. | If the Exchange permits groups that grow beyond 50 employees to remain in the Exchange prior to 2016, fee adjustments would need to be calculated for groups that produce more than $500,000 annual premium, if a plan has a total premium threshold trigger that reduces commissions. | The Exchange can establish a common policy for groups that grow beyond 50 beneficiaries consistent with general market practice. It should be noted that current practices vary with either a lower percentage commission or a rate that is triggered by $500,000 premium. |

| Table 6: Agent Payment[1] Operational Considerations | | | |
|---|---|---|---|
| **Issue** | **Option 1: Match Commissions (Plan Pays)** | **Option 2: Match Commissions (Exchange Pays)** | **Option 3: Exchange Sets and Pays Commissions** |
| **Recognition of high-performing agents** | The Exchange could channel new sales referrals to top Exchange sellers to reinforce its value with these agents. | The Exchange could channel new sales referrals to top sellers to reinforce its value with these agents independent of their volume of direct plan sales. | The Exchange could channel new sales referrals to top sellers to reinforce its value with these agents. |
| **Match special promotions** | This Option optimizes the ability to capture health plan-based special promotions in real time so as to not disadvantage Exchange products. | The Exchange would need to require prior notification from health plans. While it is desirable to automatically match special health plan promotions, these promotions often are linked to total volume and/or the sales of embedded supplemental dental, vision and life products. Because of the lag time in data transfer to reconcile step-based rewards based on volume and potential system programming resources to recognize commission changes, it would be difficult for the Exchange to administer a match program. | The Exchange would have flexibility in creating special promotional programs to market its programs or new products, but health plan concerns about transfer of existing membership needs to be recognized. |

| Table 6: Agent Payment[1] Operational Considerations | | | |
|---|---|---|---|
| **Issue** | **Option 1: Match Commissions (Plan Pays)** | **Option 2: Match Commissions (Exchange Pays)** | **Option 3: Exchange Sets and Pays Commissions** |
| **Establish agent participation rules** | The Exchange would need to encourage plans to standardize their agent participation rules and possibly facilitate global plan participation by requiring a "me-too" arrangement for transfer of licensure, financial and tax information. The difficulty is that some plans have more stringent requirements on bonding and E&O insurance at levels which could be problematic for small firm or individual agents. Additionally, there would need to be consistent rules for agent of record rules and adjudicating changes issued from the Exchange to occur in a common timeframe. | The Exchange could require that its contracted health plans maintain contracts with participating agents and validate licensure, continuing education or other requirements. To minimize burden additional among agents to contract with new QHPs, the Exchange could administer a common participation agreement and/or be delegated to hold such contracts by new QHPs. However, this would add administrative burden for the Exchange. Additionally, the Exchange would need to establish a financial relationship with agents, agencies and/or General Agencies for income-reporting. Additionally, the Exchange would need to manage reconciliation and audit processes to verify accuracy of payment, as well as address disputes about changes in the agent-of-record and accuracy of payment. | The Exchange would likely establish participation requirements and hold contracts with participating agents. As part of its contracting requirements, the Exchange could establish "fair marketing" requirements to represent all available plan options without bias. The Exchange would also undertake certification responsibilities such as license validation, W-9 reporting, etc. Additionally, the Exchange would need to manage reconciliation and audit processes to verify accuracy of payment, as well as address disputes about changes in the agent-of-record and accuracy of payment.<br><br>In the future the Exchange could establish minimum sales requirements for agents. |
| **Transparency of agent payment** | The Exchange could potentially publish in-force rates similar to General Agencies, but it would be confusing to small employers to see different loads at a subscriber level on premium billings. | To the extent that the Exchange produces an aggregated bill for the small employer, it would be challenging to reflect inconsistent agent fees at a member level. | A common fee schedule lends itself to disclosure requirements and transparency goals. |

| Table 6: Agent Payment[1] Operational Considerations | | | |
|---|---|---|---|
| **Issue** | **Option 1: Match Commissions (Plan Pays)** | **Option 2: Match Commissions (Exchange Pays)** | **Option 3: Exchange Sets and Pays Commissions** |
| **Role of General Agencies (GA)** | The Exchange would recognize existing health plan and GA contract rates but there could be transparency and consistency issues for agents who use GA-based IT systems to produce rate quotes. | Health plans likely have variable contract rates with GAs based on performance and historical alignment. The terms of these contracts may be held confidentially and likely, the higher paid GA contracts reflect greater direct sales. By matching these rates, the Exchange would potentially have a level playing field, but in direct completion with carriers for their high producers. | The Exchange would set selection criteria and either set a fixed rate or negotiate a rate with GAs. The transparency expectations point towards using a fixed rate, but the benefit of fostering competition among the GAs would potentially be lost. |
| **Impact on SHOP operations** | This strategy minimizes plan operational support after initial set-up for enrollment and retrospective reporting. Service support would be required to resolve agent of record and/or payment disputes. It also requires a service liaison with each carrier and a mechanism to access to health plan reporting and coordination of review requests. | This approach requires significant resources to program differences from plan to plan, and recognition of commission downgrade schedules upon renewal or total volume. Resources would be required to document financial relationship with agents and GAs, and produce tax reporting. The Exchange should require electronic funds transfer for payment and issue online notification of remittance reports available for review and download. Service support would also be required to resolve agent of record and/or payment disputes. | Resources required to certify, contract with and report income for agents and GAs. Assumes initial application documentation required, annual attestation of license in good standing, with sample audits, and process for de-certifying agents. Assumes bulk of transactions conducted via electronic fund transfer and online notification of remittance reports available for review and download. Service support required to resolve agent of record and/or payment disputes. |

| Table 6: Agent Payment[1] Operational Considerations | | | |
|---|---|---|---|
| **Issue** | **Option 1: Match Commissions (Plan Pays)** | **Option 2: Match Commissions (Exchange Pays)** | **Option 3: Exchange Sets and Pays Commissions** |
| **Impact on supplemental/ ancillary product sales** | Option 1 would support an approach to offer supplemental benefits through health plan-based products so agents may count sales towards their plan bonuses. If the Exchange established direct vendor relationships, agents could be incented to sell outside of Exchange to optimize their plan-based bonuses. | Plans should be required to provide the Exchange with pre-notification (30-60 days) of producer incentive changes. It may be difficult to track external commissions on ancillary products because of the various combinations that are available through carriers and types of commission incentives added for supplemental benefit sales (see special promotions above). This option would support an approach to offer supplemental benefits through health plan-based products so agents may count sales towards their plan bonuses. If the Exchange established direct vendor relationships, agents could be incented to sell outside of Exchange to optimize their plan-based bonuses. | There is more variability in commissions for supplemental products so the Exchange would likely be looking at an average percentage rate, which could affect sales up or down. However, the total commission dollars associated with supplemental benefits is much lower than for health plans, so may not have a material effect. |
| **Implications for internal Exchange-based agents** | The Exchange could consider different internal compensation structures that include base salary and a full or reduced commission payment or link a bonus independent of commissions to total sales. Plan contracts could be structured to pay the direct Exchange sales commissions to the Exchange in the aggregate. If a matched commission is fully paid to internal agents, there may be an unintended consequence of promoting the higher paying plans. | The Exchange could consider different internal compensation structures that include base salary and a reduced commission payment or link a bonus independent of commissions to total sales. If a matched commission is fully paid to internal agents, there may be an unintended consequence of promoting the higher paying plans. | The Exchange could consider different internal compensation structures that include base salary and a reduced commission payment or link a bonus independent of commissions to total sales. |
| **Implications for direct sales** | The Exchange may manage directly through an internal sales unit with licensed agents with payments to the Exchange for customer service support. | The Exchange may manage directly or provide sales leads to General Agencies and agents as part of its engagement strategy | The Exchange may manage directly or provide sales leads to General Agencies and agents as part of its engagement strategy |

| Table 6: Agent Payment[1] Operational Considerations | | | |
|---|---|---|---|
| **Issue** | **Option 1: Match Commissions (Plan Pays)** | **Option 2: Match Commissions (Exchange Pays)** | **Option 3: Exchange Sets and Pays Commissions** |
| **Implications for design of Individual product commissions** | This option could be feasibly implemented for the Individual Exchange product if the plan acts as initial entry point for premium collection. If the enrollment rules (e.g., effective date of hire, limits on retroactivity based on payment date) are the same for the Exchange as outside the Exchange, the timeliness or lag time in payment should be comparable. | If enrollment and premium collection is managed by the plan, then the Exchange may be in a situation of paying agents with a lag time, which would be negatively received. However, the value of the member subsidy in driving new sales may outweigh this concern. | Given the greater variability in the Individual market around volume and downgrades, an Exchange-specific rate would need to be competitive with major carriers' standalone products. However, this option also allows the Exchange to operate its own incentive design and special promotions. |

## Reference Material

Yegian JM, Buchmueller TC, Smith MD, et al. "The Health Insurance Plan of California: The First Five Years, Health Affairs, Vol. 19, No. 5. Accessed at http://stage.chcf.org/~/media/MEDIA%20LIBRARY%20Files/PDF/H/PDF%20HAsepoct2000YegianEtAl.pdf

Yegian JM, Buchmueller TC, Robinson JC, et al. "Health Insurance Purchasing Alliances for Small Firms: Lessons from the California Experience," May 1998. Accessed at http://dev.chcf.org/~/media/MEDIA%20LIBRARY%20Files/PDF/H/PDF%20HIPClessons.pdf

Shore, KK, Bertko, J. "Comparison of Small Group Rates in California: HIPC vs. Non-HIPC," September 1999. Accessed at http://www.chcf.org/~/media/MEDIA%20LIBRARY%20Files/PDF/H/PDF%20hipcrates.pdf

Small Business Majority. "Making California's new healthcare exchange work for small businesses," February 6, 2012. Accessed at http://www.smallbusinessmajority.org/policy/docs/020712_CA_SHOP_Exchange_Report.pdf

Pacific Community Ventures. "Health Care and Small Business: Understanding Health Care Decision Making in California," October 2011. Accessed at http://www.pacificcommunityventures.org/uploads/research/pdf/Heatlh_Care_and_Small_Business_2011.pdf