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# Silver State Health Insurance Exchange

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## AGENDA ITEM

<input checked="" type="checkbox"/>	For Possible Action
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**Date:** February 27, 2014  
**Item Number:** V  
**Title:** Implementation Recovery Plan Options

### PURPOSE

The purpose of this report is to provide the Board information on the options to continue with the implementation of a marketplace in Nevada.

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### BACKGROUND

In June 2012, the Board approved the first version of the Silver State Health Insurance Exchange's Strategic Plan. That plan was amended in August 2012 and then again in April 2013. The Exchange's mission:

“To increase the number of insured Nevadans by facilitating the purchase and sale of health insurance that provides quality health care through the creation of a transparent, simplified marketplace of qualified health plans.”

The first goal of the Strategic Plan is to increase the number of uninsured persons in Nevada. The target for enrollment in a Qualified Health Plan (QHP) was aimed at 118,000 members by May

1<sup>st</sup>, 2014. In January 2014, that figure was publicly lowered to 50,000, and the confidence to hit that number wasn't high. That announcement led to a series of Board member comments declaring the Exchange has failed, and that lowering the goal now and admitting that the new lower enrollment target may not be attainable was unacceptable to the uninsured in Nevada. As of February 25<sup>th</sup>, a total of 19,157 individuals have successfully paid and have been transmitted to the Carriers for enrollment in a QHP since October 1, 2013. This number has been trending upwards approximately 1,000 per week over the last few weeks. If this trend continues, the Exchange will enroll approximately 4,000 more individuals over the remaining 4 weeks of open enrollment ending with a projected 2014 enrollment of 23,000. 23,000 enrollments will represent only 19.5% of the targeted 118,000 enrollments for 2014. That leaves a potential 95,000 targeted Nevadans without health insurance this year.

The Board requested Exchange staff members develop a "Disaster Recovery Plan" to get the implementation back on track and assist Nevadans to enroll in health insurance. Staff has developed a series of options for the Board to meet this requirement.

The ACA requires Exchanges to provide a mechanism to enroll individuals, families, and employers in QHPs, and the following options represent different paths the Exchange can take to continue to implement this marketplace in Nevada.

#### **OPTION #1: BECOME A FEDERALLY FACILITATED MARKETPLACE**

[Section 1311\(b\)\(1\)](#) of the Affordable Care Act and [45 CFR §155.410\(c\)\(i\)](#) require Marketplaces in every state to begin offering coverage that is effective starting no later than January 1, 2014. [Section 1321\(c\)\(1\)](#) of the Affordable Care Act directs the Secretary of Health and Human Services (the Secretary) to establish and operate a Federally-facilitated Marketplace (FFM) in any state that does not elect to operate a State-based Marketplace (SBM), or that the Secretary determines will not have an operable Marketplace for the 2014 coverage year.

The choice to implement a State-Based Marketplace was decided by the Legislature in the 76<sup>th</sup> Session. [NRS 695I](#) was developed through Senate Bill 440 to establish the Silver State Health Insurance Exchange. [Per 45 CFR §155.160\(b\)](#), a State must ensure that its Exchange has sufficient funding in order to support its ongoing operations beginning January 1, 2015.

Therefore, it appears if the Exchange can show that it does not have the ability to be self-sustaining by 2015, the Secretary of Health and Human Services (HHS) may be able to establish a Federally Facilitated Marketplace in Nevada. There is no specific language in the ACA or the Code of Federal Regulations that describes the process of returning the responsibility of implementing an Exchange from a state to HHS. If this option is to be considered, the Exchange will need to discuss the process with HHS and HHS may not allow it to occur.

#### ***Pros***

The FFM has been established in 27 states that all use [Healthcare.gov](http://Healthcare.gov). Their system was riddled with issues early on, but they have partially recovered and now boast close to 2 million plan selections from October 1, 2013 – January 31, 2014. Nevadans could begin enrolling through this system as early as Plan Year 2016. The development of the back end processing is unknown at this time, including payments, appeals, and QLE's. This development process is not transparent to the States.

### ***Cons***

The FFM uses a one-size-fits-all approach to managing health insurance enrollment that does not necessarily work for Nevadans. Additionally, a significant amount of Nevada Medicaid clients utilize Nevada Health Link's website to apply for public assistance and the FFM would need to find a way to tie into our developed Eligibility Engine housed at the Division of Welfare and Supportive Services for pre-determined Medicaid/CHIP eligibility. If they can't (or refuse to), then Medicaid would need to receive all eligibility decisions manually causing a massive uptake in processing resources.

In addition, the ability of the Exchange to be self-sustaining is not in question at this point. The Exchange is utilizing federal funding through 2014, and has the ability to set rates in the coming months that will cover the operational expenses of the Exchange in 2015. The low enrollment in 2014 has undermined the growth of the operational reserve, but it has not stopped the Exchange from fulfilling its operational obligations in 2015.

### **OPTION #2: XEROX CONTINUES TO IMPLEMENT THE PROJECT**

Staff members at the Exchange have reported monthly status updates on the implementation of the web portal, the call center statistics, the enrollment figures, and the marketing campaign. To date, the marketing campaign has been more than successful at generating interest and driving Nevadans to our web site. The call center has gone from hours of wait time to under ten minutes a call, establishing special teams of Consumer Service Representatives (CSRs) for brokers and navigators in an effort to boost their success at enrollments. Although the website is still experiencing errors and the process to enroll an individual cannot be completed at times, the errors are lessening and enrollments are increasing. We can continue to allow Xerox to work on the system, make the fixes, and provide updates as they have been doing over the past few months.

Xerox has made strides in the Project Management of the Exchange by bringing in Buck Consultants to organize and oversee the operational side of the implementation. While Buck Consultants is a Xerox company, their history of innovative HR programs and services, including the management of Xerox's internal pension and benefits issues, gives them a unique viewpoint into how the Exchange should be operated. Buck Consultants have been on board for the last month, and have made strides in dealing with the backlog of issues plaguing the implementation of the Exchange. In addition, they have a plan in place to work on the distinct "buckets", and have staff in charge of each team working the separate topics.

On the development side of the implementation, Xerox has contracted with Cognizant, who brings in over 100 development staff to help manage the “buckets” of creating the code, testing, and implementing the production of the BOS. This development team has created a release schedule to meet the contract required functionality.

***Pros***

The system is working better from the start of the application through the eligibility determination, so focusing on fixing the plan display, payment processing, and electronic file transfers to the carriers can reasonably be expected to improve by next open enrollment. All of the Board’s decisions have been placed into the processes. Staff members and the contracted vendor, Xerox, know what needs to be fixed and are working to fix issues daily with successful results on each weekly build. Momentum is building on a weekly basis.

***Cons***

While a plan of action has been provided to Exchange staff, the timeline for the fixes exceeds the length of the current open enrollment and the consequences if those corrections are not implemented has not been defined. The confidence in Xerox is at an all-time low, and the slow response time for individual constituent issue resolution makes it hard to see the progress in the project as a whole.

The systemic issues within the Finance and Electronic Data Interface “buckets” spread out to every other area of the BOS. Payment processing is unreliable, and the information provided to the Carriers is not timely nor is it reconciled.

Nevadans have lost faith in the Exchange and are purposely avoiding the web site opting to accept the tax penalty over dealing with the flawed and frustrating system. The mission of the Silver State Health Insurance Exchange has failed. Therefore a major course correction is warranted.

**OPTION #3: INTERNAL PROJECT MANAGEMENT AND ANALYSIS**

The Department of Health and Human Services (DHHS) and the Department of Administration have provided staff resources with expertise in IT projects and Project Management to support us through the next few months. With internal staff from both the Exchange and those sister agencies assigned to each of the “buckets” mentioned above, along with Director Willden and Administrator Gustafson providing assistance and oversight, the state has the expertise and resources to watch over the project and Xerox’s progress. Reports will be made to the Board weekly, and the Board could recognize that the situation would be reported in an unbiased and impartial manner.

***Pros***

The Exchange staff can identify where the systemic problems are, and can bring the sister agency staff up-to-date quickly. State staff would remain on each assigned “bucket” until the project or their particular assignment had been completed to the satisfaction of the State. This is a cost-

effective solution and may be combined with one or more of the other options in this report; or stand alone as a solution until the Board deems further action is necessary.

***Cons***

Each of these offered resources has a full-time job within the State that may be left largely unattended during this period. DHHS and Admin will have to juggle staff and projects internally to support the Exchange.

**OPTION #4: EXTERNAL ANALYSIS OF THE ENTIRE SYSTEM**

The Exchange has the ability to leverage current grant funding to bring in an outside contractor to analyze the Business Operations System (BOS) and make recommendations. This process would take approximately 3 weeks to execute a contract, and then up to another 8 weeks for an in-depth analysis of the entire system. Specific recommendations with proposed milestones and timelines for completion would be required in which the Exchange could then re-evaluate the list of options presented here in this report or develop additional options to meet any desired results.

***Pros***

Utilizing a third party vendor provides additional outside validation and credibility to proposed options for improvement. A vendor can be carefully selected, and recommended next-steps can be provided in a relatively short period of time (1 – 3 months). The vendor may provide other options with expedited timeframes that are not presented here that can be implemented immediately.

***Cons***

Adding another layer of review before taking action may result in another delay in a long line of delays to date. The patience and faith of Nevadans in the Exchange is waning, and the results will need to provide a concrete path for success or be viewed as another misstep. Xerox may be hesitant to allow a potential competitor to access proprietary system designs which can provide barriers to the success of this option. Also, the perception of a substantial payout to yet another vendor for a list of recommendations, not actual solutions, would need to be considered.

**OPTION #5: CHANGE OUT OF PARTS OF THE SOLUTION**

Staff members at the Exchange and Xerox are familiar with what parts of the process have failed. Xerox is the awarded vendor; however, they have subcontracted out various functions of the enrollment process to entities that have not delivered as promised. As reported earlier, Choice Administrators was subcontracted to develop and utilize a similar platform they have used in the past on private exchanges. That platform initially developed did not meet the requirements of the ACA, nor the Exchange, and significant modifications have been required and results have been lackluster. Additionally, as mentioned above, the financial systems emplaced by Xerox subcontractors have not been successful, delaying critical health care to some of Nevada's most needy citizens. Failing processes could be replaced, while keeping the components that work. After this initial open enrollment, malfunctioning systems could be replaced with more appropriate and better producing processes from different subcontractors.

***Pros***

Keeping what works and replacing what doesn't may prove to be the fastest solution to the current issues plaguing the implementation of the Exchange. Contract agreements between the Exchange and Xerox can remain in force, eliminating the need for lengthy and time critical processes to provide rapid improvement. Additionally Xerox would be forced to absorb the costs of this process and all administrative challenges that occur. This option keeps the responsibility on the awarded vendor to produce the contracted requirements.

***Cons***

Xerox has already proven once that they are not successful at selecting the appropriate vendors to achieve the needed results. There is no guarantee that Xerox will not replace one failing subcontractor with another continuing the pattern of failure. Additionally, adding new players to the field may be quick, but their knowledge of Exchange processes and intuitively solving issues before they occur will be minimal. The learning curve may lead to minor glitches and bumps as their processes get worked out. The Exchange, and Nevadans, may not have the patience, faith or time for this process.

**OPTION #6: TERMINATE THE CONTRACT, EITHER IN WHOLE OR IN PART**

If the Exchange has completely lost faith in Xerox, the Exchange can pursue the removal of Xerox, either in whole or in part, by exercising the various options in the contract. Staff would work closely with its Deputy Attorney General to formulate a plan of action. Termination can be accomplished either with or without cause, and the timelines differ in each instance. Alternatively, the state may request a change order to the contract to reduce the services provided. For example, the State could negotiate to keep the Call Center operational while terminating the rest of the Solution.

At the highest, most simplistic level, if the Board decides to pursue termination, either in whole or in part, there will need to be a plan in place to:

1. Transfer responsibility of the Exchange to the Federally Facilitated Marketplace; or
2. Move account management functions to another contracted vendor.

***Pros***

Sending a termination notice to Xerox sends the hard message that contractors who receive contracts from the State of Nevada will be held accountable to the fullest extent of the terms and conditions of the contract. Nevadans will be made aware of the Exchange's expectations and willingness to take action on this critical issue. Whether termination is utilized or not, Xerox will recognize the seriousness of their failures and accountability that follows. It will be up to them if they succeed or fail.

***Cons***

Although taking the hard line is allowable, it may actually deteriorate the relationship between the Exchange, State of Nevada, and Xerox to a point that Xerox accepts the termination and leaves, even if the Exchange wanted to maintain a portion of the services.

Additionally, it would be virtually impossible at this late date to finalize termination of the contract and bring in another vendor in time for the second open enrollment, starting October 2014.

**RECOMMENDATION**

Staff members of the Exchange, DHHS and Administration have reviewed the options above and were requested to provide a recommendation. Our recommendation is as follows:

Implement Option 2: Xerox Continues to Implement the Project in conjunction with Option 3: Internal Project Management and Analysis while continuing to explore Option 4: External Analysis of the Entire System.

In this manner, Xerox does not lose the momentum they have gained by bringing in additional resources, and the State will provide expert oversight to bring recommendations back to the Board for future action. An External Analysis may still be sought, once effort, timing and cost can be determined.