Health Insurance Exchange (HIX) compliance
How health plans are navigating complex regulatory challenges
Managed Care Compliance Conference
February 16, 2015
10:00am – 11:30am

Today’s discussion
Meet your speakers
Background
Our experience-based perspectives
Five steps to consider when launching your HIX compliance program
The future state
Measuring compliance program effectiveness
Wrap-up
There is a “new normal” in health plan regulation

Health plans will continue to operate in a highly regulated environment with increased scrutiny and continuous regulatory change; organizations should evaluate their readiness to operate in this evolving “new normal”

### Current challenges

- ACA regulations continue through 2018 and changes/updates to existing regulations are expected
- Unprecedented fines and penalties now exist for non-compliance
- Pace of regulatory change and/or clarification is expected to remain intense
- Compliance process is undefined but likely to mimic the more intense Medicaid/Medicare process
- Regulations will have cross-functional impacts for implementation and operations

### Considerations

- What capabilities are required within my organization’s future state operating model?
- Do we have risk mitigation and contingency plans prepared and do we know our current risk exposure?
- How can we leverage synergies and best practices to create a repeatable playbook to respond to regulatory change?
- How can an effective response to the “New Normal” optimize our business and position us for growth?
- How does the size and internal complexities of my organization influence a future state operating model?

### Capabilities required

- Management of heightened risk with business controls and standardization
- Efficient and compliant implementation of complex regulations
- Understanding of business impacts/needs and alignment to enterprise strategy
- Ability to coordinate across all functional areas of the enterprise
Introduction to HIX compliance
Our experience-based perspectives

The advent of HIX introduces significant regulatory-related complexity to health plans

Plans must adhere to expansive and divergent Federal and state-level regulatory requirements—those that are known and many more that are still emerging and evolving

- Federal (CMS) audit and oversight protocols will drive the regulatory standard on the Federally-Facilitate Marketplace (FFM)
- States will have a good deal of autonomy to customize local regulatory schemes
- Participation in both Federal and state exchanges is driving diversity in the requirements

Regulators have expressed that 2014 is a "learning year"—using interactions with Plans as an opportunity to help shape their future-state audit protocols

- Plans should be proactive, establishing a foundation for strong compliance today
- They should monitor and adjust to government enforcement and oversight activities over the next few years

In our prior experience, we have learned invaluable lessons—through assisting clients in managing regulatory oversight related to Medicare, Medicaid, and now exchange-based programs

Don’t wait for additional guidance as regulatory enforcement is coming and regulators will be inconsistent, opaque, and demanding

- There may be conflicting Federal/state approaches to compliance/requirements
- No need to reinvent the infrastructure wheel—collaborate with Medicare and Medicaid compliance colleagues to leverage successful government programs compliance
- It is important to get it right the first time you tell regulators that the problems are fixed

Health plan staff cannot run compliance off of the corner of their desk

- Investing time and resources to develop and maintain compliance evidence documentation will pay great dividends
- Disciplined and coordinated risk assessments add considerable value in prioritizing your focus

Five steps to consider when launching your HIX compliance program
Getting started

1. Know your requirements—Federal and state
2. Assess levels of compliance in your business operations
3. While you are at it, review the overall HIX business process and identify process improvements
4. Prioritize those risks and opportunities for improvement
5. Establish your system to monitor ongoing compliance
## Five steps to consider when launching your HIX compliance program

### Step 1—Know your requirements

Development of a comprehensive regulatory requirements framework is essential to establishing and maintaining ongoing compliance with HIX regulations.

**Challenge 1** Completeness

**Challenge 2** Ambiguity

**Challenge 3** Volatility

**Challenge 4** Organizational responsibility

<table>
<thead>
<tr>
<th>Sub-process</th>
<th>Plan Type</th>
<th>Step</th>
<th>Type of Market</th>
<th>Individual and Group market</th>
<th>CPE Section</th>
<th>Requirement Section</th>
<th>Requirement Description</th>
<th>FFM Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enrollment</td>
<td>Fixed</td>
<td>No</td>
<td>Individual and Group market</td>
<td>Individual and Group market</td>
<td>147.104</td>
<td>147.104</td>
<td>No HMO shall cancel or terminate coverage of services provided an enrollee under an HMO group or individual contract except for one or more of the following reasons:</td>
<td>No HMO shall cancel or terminate coverage of services provided an enrollee under an HMO group or individual contract except for one or more of the following reasons:</td>
</tr>
</tbody>
</table>

Despite the seemingly boundless challenges, regulators will expect to see evidence that the plan has documented a single reference for all relevant mandates.

### Five steps to consider when launching your HIX compliance program (cont.)

Navigating the requirements in multiple jurisdictions, plus the interaction between CMS and State-level regulators, adds complexity and confusion:

- Are you operating on the FFM, State-Based Exchanges (SBE), or both?
- What are the regulatory expectations in each state?
- **How much divergence is there between states and between states and Federal regulators?**

<table>
<thead>
<tr>
<th>Sub-process</th>
<th>Plan Type</th>
<th>Step</th>
<th>Type of Market</th>
<th>Individual and Group market</th>
<th>CPE Section</th>
<th>Requirement Section</th>
<th>Requirement Description</th>
<th>FFM Exchange Requirement</th>
</tr>
</thead>
</table>

Your requirements framework should allow side-by-side comparisons of regulations across regulatory bodies.
Five steps to consider when launching your HIX compliance program

Step 2—Assess compliance

Develop auditing protocols and establish a baseline compliance readout by conducting mock interviews, reviewing process documents, and testing transactions against regulatory requirements
• Existing business processes and sub-processes documentation
• Analyze each against relevant regulatory requirements, identify gaps
• Identify contributing risk factors and root causes
• Review and evaluate current controls

### Process details

<table>
<thead>
<tr>
<th>Function</th>
<th>Process</th>
<th>Sub-process</th>
<th>Objective</th>
<th>Does process adhere to documentation?</th>
<th>Process flows</th>
<th>Regulatory requirements criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Customer</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### Process inventory

- Establish an end-to-end view of business processes and sub-processes

#### SIPOC

- Define process objectives and capture inputs, outputs, and all stakeholders

#### Process flows

- Illustrate process inefficiencies, gaps, and other improvement opportunities

---

The goal is to establish traceability of compliance requirements to business processes and to set a baseline against which to monitor ongoing compliance

---

Step 3—Review the overall HIX business process

To complement the regulatory review, conducting an end-to-end business process analysis will raise issues and opportunities to contribute to the long-term health of HIX operations
• Consider process improvement tools such as SIPOC and swim lane diagrams
• Compare documented workflows to observed front-line performance
• Clarify interdependencies between stakeholders
• Identify bottlenecks, inefficiencies, and quality improvements

---

Health Insurance Exchange (HIX) Compliance

Copyright © 2014 Deloitte Development LLC. All rights reserved.
Five steps to consider when launching your HIX compliance program

Step 4—Prioritize risks and opportunities for improvement

Facilitating cross-functional workshops with executive leadership assesses the impact and relative priorities for remediating the risks; scheduling and tracking remediation efforts helps to gauge audit readiness:

- Define the risk universe
- Engage leadership through interviews and a risk assessment workshop
- Develop a prioritized view of the most critical risks
- Make recommendations to improve business processes and mitigate risks
- Set implementation timeline based on potential impact, vulnerability, and urgency to resolve

Risk universe
Inventory of risk categories, sub-categories, risks and detailed risk descriptions

Risk priorities (Heat map)
Visualization of top risk priorities, based on potential impact, likelihood and current levels of preparedness

Implementation road map
Action plan to remediate, monitor and report on the entity's top risks

Five steps to consider when launching your HIX compliance program

Step 5—Monitoring ongoing compliance

Embedding compliance requirements into metrics and reporting of each process owner and communicating results to all stakeholders will help build awareness of risks and provide early indicators of potential compliance violations.

Measure performance
- Compliance metrics are very much like performance guarantees
- Process owners design processes to achieve the required objectives and track performance as part of day-to-day operations
- Specifying, designing, and implementing system and data capabilities will improve data integrity and scalability

Report results
- Reporting frequency will depend on the underlying requirement
- At-risk metrics should be highlighted and mitigation plans included with report
- Key stakeholders to be included on distribution
- Compliance team to consolidate all compliance metrics

Mitigate risks
- Compliance to actively monitor risks and track remediation efforts
- Interventions to improve performance need to be carried out within specific timeframes to affect the results
- Contingency plans should be developed in cases where the risk is significant and/or mitigation is unlikely
Health Insurance Exchange (HIX) Compliance

© 2014 Deloitte Development LLC. All rights reserved.

Future-state operating model options

There are many options for operating model design. Consider the pros and cons of each model and your own corporate culture to determine the optimal operating model.

- **Option 1**: Centralized coordination unit
  - Business unit design: Business unit
  - Enterprise coordination: Easy
  - Speed & flexibility: Slower/Complex
  - When it works: Heightened concern for penalties or risk to business
  - Need highly standardized approach

- **Option 2**: Center-led
  - Business unit design: Program/project management drive implementation
  - Enterprise coordination: Moderate
  - Speed & flexibility: More flexible
  - When it works: Desire central coordination and accountability while avoiding high investment
  - Moderate concern for penalties or risk to business

- **Option 3**: Decentralized responsibility
  - Business unit design: Executive level owns coordination
  - Enterprise coordination: Challenging
  - Speed & flexibility: Most flexible
  - When it works: Mature business area with a clear track record of effective, independent management
  - Small, flat organizations with diffused responsibility among business owners

Compliance program capabilities

According to the Office of Inspector General (OIG) of the Department of Health and Human Services (HHS)*, compliance programs should include eight common, overarching capabilities, customized to the specific program areas where regulators will conduct their compliance reviews.

Element I: Written policies and procedures
Element II: Compliance officer and committee
Element III: Training and education
Element IV: Effective lines of communication
Element V: Enforcement of standards
Element VI: Monitoring and auditing
Element VII: Prompt responses to detected offenses and corrective action plans
Element VIII: First Tier Downstream and Related entity (FDR) oversight


Measuring compliance program effectiveness

<table>
<thead>
<tr>
<th>What is the goal?</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Measure the effectiveness of the compliance program using established or well-developed auditing processes and protocols developed based on regulatory guidance</td>
</tr>
<tr>
<td>• Identify opportunities to improve the compliance program structure and processes and address any gaps identified during the assessment</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>How do you achieve the goal?</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Perform sample or tracer audits</td>
</tr>
<tr>
<td>• Identify the implementation of regulatory communications</td>
</tr>
<tr>
<td>• Manage compliance issues (FWA, compliance inquiries, compliance issues, as captured by the hotline)</td>
</tr>
<tr>
<td>• Assess employee training programs and results</td>
</tr>
<tr>
<td>• Evaluate the process for escalating issues to the board and other external entities</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>When should you do it?</th>
</tr>
</thead>
<tbody>
<tr>
<td>• An annual compliance program assessment is recommended</td>
</tr>
</tbody>
</table>

Repercussions of failing to adapt

Not taking action to adapt to the "new normal" is a risky proposition; imagine the potential fallout if your organization is not positioned to respond to regulatory changes and sustain compliance

Imagine If...

- States continue to release state-specific regulations on top of the ACA, further complicating implementations and extending the impact of ACA regulations
- Your organization is audited and has not completed a comprehensive implementation of regulations—regulatory fines and negative media coverage could total millions of dollars in damages
- Your organization fails to create profitable business on the public exchange—opportunity to capture a growing market segment could be lost or huge loss could be seen in this segment
Questions and wrap-up

Ian Waxman
Deloitte & Touche LLP
Governance, Regulatory & Risk Services
Health Plans Sector
+1 516 639 8638
iwaxman@deloitte.com

HIX Compliance: Primary Point-of-Contact
Visit us at: www.deloitte.com/us/healthplans
Follow Deloitte Health on Twitter: @DeloitteHealth