

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Consumer Information & Insurance Oversight
200 Independence Avenue SW
Washington, DC 20201



July 27, 2023

VIA ELECTRONIC MAIL: CGardner@GeorgiaAccess.ga.gov

Cheryl S. Gardner
Exchange Director
Georgia Access
2 Martin Luther King Jr. Dr.
West Tower, Suite 702
Atlanta, GA 30334

Dear Director Gardner:

Thank you for submitting an Exchange Declaration of Intent on February 13, 2023 and Blueprint Application on February 14, 2023, seeking approval for the State of Georgia (“Georgia” or “the State”) to establish and operate a State-based Exchange (“SBE”) within Georgia’s Office of Commissioner of Insurance and Safety Fire (“OCI”). This letter conditionally approves Georgia’s Blueprint Application to operate an SBE for plan year (“PY”) 2025, and to operate a State-Based Exchange on the Federal Platform (SBE-FP) for PY 2024.

The Centers for Medicare & Medicaid Services (“CMS”) is committed to working with state partners, like Georgia, to ensure access to high-quality, affordable, comprehensive health coverage. CMS’s decision to conditionally approve Georgia’s establishment of an SBE-FP for PY 2024 and an SBE for PY 2025 is a recognition of the successful work and partnership that Georgia has already conducted toward implementation of an SBE. Specifically, CMS is approving Georgia’s establishment of an SBE-FP for PY 2024, subject to the below conditions, based on Georgia’s progress in meeting two core and complex components of an SBE-FP - the Navigator and assister program, and Qualified Health Plan (“QHP”) certification - as follows:

- Navigator and assister program: Georgia published a Navigator funding application on May 12, 2023 and submitted Navigator and assister training plans to CMS on June 12, 2023. Georgia is on track to award Navigator grants by Open Enrollment and have Navigators and assisters in place during Open Enrollment.
- Plan Management: Georgia successfully undertook plan certification responsibilities for PY 2024. Georgia reported on June 8, 2023 that QHP application submissions by issuers were completed.

Conditional approval for Georgia to implement an SBE-FP for PY 2024 is contingent upon the State, by August 4, 2023, notifying CMS of its intent to operate an SBE-FP for PY 2024 and submitting a revised Blueprint Application attesting that it will implement the required functions of an SBE-FP under 45

C.F.R. § 155.200(f).¹ August 4, 2023 is the final date CMS can prepare the applicable systems to support a new SBE-FP in time for PY 2024 Open Enrollment.

Conditional approval for Georgia to implement an SBE-FP for PY 2024 and an SBE for PY 2025 is also contingent upon the following conditions: 1. Continued demonstration of the ability to perform required Exchange activities consistent with the attestations Georgia has made in its State-based Exchange Blueprint Application submission and any items listed as described in this letter; and 2. Continued compliance with federal regulations and completion of remaining progress milestones by Georgia. CMS will work with Georgia to develop a list of remaining Exchange activity milestones and expected timeline, depending on Georgia's decision regarding its Exchange operations for PY 2024 and PY 2025. We look forward to working with the State to support these transitions.

Georgia's Blueprint Application requested that its transition from a Federally-facilitated Exchange ("FFE") to an SBE begin for PY 2024, or November 1, 2023. CMS expressed concerns to Georgia about the State's ability to implement the required functions of an SBE under 45 C.F.R. § 155.105(b) within this proposed timeframe, particularly as Georgia had not transitioned first to an SBE-FP (as other SBEs have done prior), planned to implement additional functionality through Enhanced Direct Enrollment ("EDE"), and would make the transition during Georgia's Medicaid unwinding and other program implementation work. CMS is not approving Georgia's establishment of an SBE for PY 2024 for the following reasons:

- **Georgia did not submit its Blueprint Application within the required regulatory timeframe to implement an SBE for plan year 2024.** Pursuant to 45 C.F.R. § 155.106(a)(2), states that seek to operate an SBE must submit a Blueprint Application to the Department of Health and Human Services ("HHS") for approval at least 15 months prior to the beginning of an SBE's first open enrollment (November 1 prior to the plan year).² Georgia submitted its Blueprint Application on February 14, 2023, which is less than nine months prior to the start of open enrollment for PY 2024 (November 1, 2023), and thus six months later than the required 15-month regulatory deadline. Missing the regulatory deadline presents particular concerns where, as here, the State is seeking to transition from a FFE directly to an SBE, and not an SBE-FP. A transition from a FFE to an SBE is more complex given the Exchange responsibilities than a transition from a FFE to SBE-FP or SBE-FP to SBE, and the 15-month regulatory deadline is necessary for CMS to ensure a state's operational readiness. Further, Georgia's February 14, 2023 submission date of its Blueprint Application meets the regulatory deadline requirements for implementation of an SBE-FP for PY 2024 and SBE for PY 2025. CMS will work with Georgia on making any necessary updates to its Blueprint Application, contingent on Georgia's decision regarding Exchange operations for PY 2024 and PY 2025.
- **Georgia was delayed in receiving its state legislative authority to operate an SBE, which impacted its ability to meet its hiring plan benchmarks, a key indicator of a state's ability to meet the functional requirements for an Exchange as specified in 45 C.F.R. § 155.105(b).** As

¹ Under 45 C.F.R. § 155.106(c) states seeking to operate an SBE-FP must submit a Blueprint Application at least three months prior to the beginning of an SBE's first open enrollment (November 1 prior to the plan year). For purposes of Georgia's conditional approval, its Blueprint Application submission on February 14, 2023 to operate an SBE in PY 2024 will serve as its official Blueprint Application submission date for the revised Blueprint Application attesting that it will implement the required functions of an SBE-FP under 45 C.F.R. § 155.200(f).

² Note that CMS also recommends that a state submit a letter declaring its intent to establish an SBE approximately 21 months prior to the beginning of the SBE's first annual open enrollment. Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2017, 81 FR 12204, 12241 (Mar. 8, 2016). *See also* Blueprint For Approval Of Affordable State-Based Exchanges – FAQs, Q9.

<https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/2019-FAQ-Blueprint-for-exchanges.pdf>.

noted in Georgia's Exchange Declaration of Intent and Blueprint Application, Georgia required passage of authorizing legislation to establish and operate an SBE, which was expected to be enacted by March 30, 2023. Without this authority, Georgia was not able to hire staff dedicated to Exchange implementation and operations. The required legislative authority to operate as an SBE was not enacted until May 2, 2023. While Georgia was able to hire an Executive Director on May 9, 2023, it has remained significantly behind in meeting the hiring plan benchmarks that the State provided CMS on May 5. As of July 25, Georgia hired six of the estimated 17 full-time employees ("FTEs") which the State had originally expected to fill by July 3, 2023 (out of a total estimated 38-48 FTEs expected to hire by early August). CMS will work with Georgia to develop an agreed-upon staffing plan that will fully staff its SBE-FP and SBE operations, contingent on Georgia's decision regarding Exchange operations for PY 2024 and PY 2025.

- **Georgia has not fully demonstrated its capability, within a compressed timeline, to implement consumer-facing outreach and education strategies required under 45 C.F.R. § 155.105(b) and 45 C.F.R. § 155.205(b) and (e).** Due to the delay in obtaining the Exchange's authority to operate and hire dedicated staff, Georgia has not provided CMS with the necessary assurances of its readiness to implement a satisfactory internet Web site and robust consumer outreach and education program. As part of the operational readiness review, Georgia provided CMS with its intended consumer facing SBE website content, including its consumer portal landing page. CMS provided Georgia with substantive feedback regarding consumer usability, comprehension, and navigation of the presented website. Georgia's consumer outreach and education program, including plans for outreach to consumers regarding the transition to an SBE and consumer-facing content to be used by its assisters and new call center, is still being developed. Georgia has also only recently hired its Engagement Director, who will begin on August 1, 2023.

Additionally, Georgia is the first state to propose utilizing EDE partners as part of its SBE implementation and operations. This functionality requires additional time for Georgia, its EDE partners, and stakeholders to work in coordination to develop consumer communications and engage with consumers, to ensure that the transition of consumers from the FFE to the SBE does not result in significant consumer confusion or unnecessary losses in coverage. Additional implementation time will provide Georgia with the opportunity to conduct additional critical consumer testing, continue work on consumer and partner communications, and hold further implementation discussions with issuers, EDE partners, consumer groups, and other stakeholders

All of these factors are even more critical given the backdrop of historic volumes of Medicaid redeterminations currently underway. Georgia estimates that there could be as many as 650,000 Medicaid disenrollments during the unwinding process and that 40 percent to 60 percent of these consumers will be eligible for enrollment in an Exchange QHP. CMS and Georgia have a joint interest in ensuring these individuals can obtain affordable, comprehensive coverage which, based on CMS's experience to date, requires an advanced level of coordination between Medicaid and an Exchange, and a significant dedication of resources (including staff) to consumer outreach. The coordination effort between Georgia's Medicaid and Exchange staff may be further strained by Georgia Medicaid's concurrent implementation of its new Section 1115 Pathways to Coverage program, which began on July 1.

CMS will work with Georgia to update Georgia's consumer outreach and education milestones as necessary, depending on Georgia's decision regarding Exchange operations for PY 2024 and PY 2025.

CMS believes that Georgia's establishment of an SBE-FP in PY 2024 will only strengthen Georgia's transition to an SBE in PY 2025 by allowing Georgia to gain critical experience in Exchange operations, particularly with regard to conducting outreach activities. As noted, due to the need to prepare the applicable systems in time for Open Enrollment, Georgia has until August 4th to notify CMS that it will pursue the transition to an SBE-FP for PY 2024, and to submit its revised Blueprint Application. If Georgia does not provide CMS with this notice by August 4th, CMS will continue to operate an FFE in Georgia for PY 2024. CMS encourages Georgia to consider undertaking this approach if it intends to fully transition to an SBE for PY 2025. Since PY 2020, all states that transitioned to an SBE first operated as an SBE-FP. Further, this approach allows Georgia an opportunity to establish its own SBE-FP user fee, enabling the State to support the financial sustainability of its future SBE operations.

CMS remains committed to working with Georgia on activities to implement a successful SBE and providing technical assistance and recognizes the State's and its staff's progress thus far toward establishment of an SBE. We look forward to working with you as we continue to ensure the residents of Georgia have access to quality, affordable health care coverage.

Sincerely,

A handwritten signature in black ink, appearing to read "Ellen Montz". The signature is fluid and cursive, with the first name "Ellen" and the last name "Montz" clearly distinguishable.

Ellen Montz, Ph.D.

Director, Center for Consumer Information & Insurance Oversight
Deputy Administrator, Centers for Medicare & Medicaid Services

Cc: The Honorable Brian Kemp, Governor, State of Georgia
Gen. John F. King, Commissioner, Georgia Office of the Commissioner of Insurance and Safety
Fire
Gregg Conley, Executive Counsel, OCI