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## Legislative Audit Council



# A REVIEW OF GRANTS RECEIVED BY THE S.C. DEPARTMENT OF INSURANCE UNDER THE AFFORDABLE CARE ACT

### BACKGROUND

In March 2010, the federal Patient Protection and Affordable Care Act of 2010 and the Health Care and Education Reconciliation Act of 2010 were both signed into law. The two laws are collectively referred to as the Affordable Care Act. This act includes a variety of provisions designed to promote a high-quality and high-value healthcare system. It also includes significant grant funding to assist states in working with the federal government to implement comprehensive health reform.

### SCOPE AND METHODOLOGY

The period of this review was generally from August 2010 (date of first grant award) through August 31, 2011, with consideration of earlier or more recent periods when relevant.

Information used as evidence in this report was obtained from a variety of sources including:

- Grant announcements.
- Grant applications.
- Documentation from the U.S. Department of Health and Human Services.
- Grant expenditure documentation.
- Interviews with S.C. Department of Insurance staff.

### AUDIT OBJECTIVES

Members of the S.C. General Assembly requested the Legislative Audit Council (LAC) to review the S.C. Department of Insurance's (DOI) use and expenditures of grants of federal assistance to implement the Affordable Care Act. Our objectives for this review were to:

- Obtain information about grants available to states from the Affordable Care Act.
- Review the expenditure of grant funds to determine compliance with the law and terms of the grants.
- Examine results of program activities funded by these grants to determine if they achieve the goals of the law and terms of the grants.
- Determine what the S.C. Department of Insurance plans for the use of the remaining grant funds.

### SUMMARY

The S.C. Department of Insurance applied for and was awarded three grants under the Affordable Care Act: the Consumer Assistance Grant (\$441,000); the State Planning and Establishment Grant for the Affordable Care Act's Exchanges (\$1,000,000); and the Health Insurance Premium Review Grant (\$1,000,000). These grants were made available by the federal government to help states implement health reform.

We found that the expenditures of these grants were handled in compliance with the law and terms of the grant. Each of the grants, as of August 31, 2011, had significant remaining balances; however, some of those funds are obligated for contracted studies or reviews. DOI has obtained extensions for the exchange and the rate review grants to December 31, 2011, and March 31, 2012, respectively; however, no extension was obtained for the consumer assistance grant.

DOI has made no decisions on how, or if, it will spend the remainder of the consumer assistance grant. A significant portion of the rate review grant will be spent for the actuarial review of premium rate data. The future plans for the exchange grant depend, in part, on what recommendations are made by the health exchange committee. The committee is charged with recommending whether or not South Carolina should establish a health insurance exchange. The committee's report is expected by October 28, 2011.

## BACKGROUND

As part of the Affordable Care Act (ACA), the federal government made various grants available to the states to help with the implementation of health reform. The S.C. Department of Insurance applied for and was awarded three grants:

GRANT	AWARD AMOUNT	INITIAL GRANT TERM
Consumer Assistance Program	\$441,000	10/15/2010 – 10/14/2011
State Planning and Establishment Grant for the Affordable Care Act's Exchanges	\$1,000,000	09/30/2010 – 09/29/2011
Health Insurance Premium Review	\$1,000,000	08/09/2010 – 09/30/2011

All 50 states and the District of Columbia (D.C.) were eligible for these three grants. Thirty-three states and D.C. were awarded consumer assistance grants totaling \$25,462,556. Forty-six states and D.C. were awarded a total amount of \$46,789,878 in exchange grant monies. Premium review grants totaling \$44,000,000 were awarded to 43 states and D.C.

The U.S. Department of Health and Human Services has awarded \$16.4 million in new grant funding in South Carolina since the enactment of the Affordable Care Act. In addition to DOI, funding was awarded to other state agencies, including the S.C. Department of Health and Environmental Control, the S.C. Department of Mental Health, the S.C. Department of Employment and Workforce, the S.C. Department of Social Services, and the Lt. Governor's Office. The University of South Carolina and the Medical University of South Carolina also received funding from this Act.

In addition to these agencies, at least 36 sponsors in South Carolina, including cities, banks, and private companies, received ACA funding for an early retiree reinsurance program. This program provides financial relief to employers, unions, and state and local governments to help maintain coverage for workers who retire before they are eligible for Medicare. For example, Blue Cross Blue Shield of South Carolina received over \$27 million in reinsurance payments for the state health insurance program.

## CONSUMER ASSISTANCE GRANT

In its application for the consumer assistance grant dated September 10, 2010, DOI stated that it was seeking funds to expand the services it currently offers to South Carolina consumers and to leverage existing services provided by the DOI, other agencies, and nonprofits. The DOI stated that it did not currently offer enrollment assistance to South Carolina consumers; however, with the grant, it planned to partner with organizations and others that provide enrollment assistance and to expand its consumer education and outreach services. A portion of the grant was to be used to enhance the IT systems that support the DOI's consumer complaint database. The updates would enable the department to track and report all complaints, inquiries, referrals, and other requests.

The DOI decided not to hire a project manager for this grant and used existing staff. As of August 31, 2011, the only expenditure was \$18,500 for computer enhancements paid to the National Association of Insurance Commissioners (NAIC). According to DOI staff, the computer enhancements were requested of all states by the NAIC.

The NAIC is the national standard-setting and regulatory support organization created and governed by the chief insurance regulators from the states, Washington, D.C., and five U.S. territories. The NAIC was created to regulate multistate insurers and develop a uniform financial reporting by insurance companies. One of NAIC's primary functions now is in data collection and delivery.

### Future Plans for Consumer Assistance Grant

According to a DOI official, no extension has been requested for this grant and no decisions have been made for the remainder of the \$422,500 in funds, which is approximately 96% of the grant award. The department has been working to form partnerships with various groups, such as churches, AccessHealth SC, and AARP, to provide outreach to insurance consumers.

## STATE PLANNING AND ESTABLISHMENT GRANT FOR THE AFFORDABLE CARE ACT'S EXCHANGES

In its application for the exchange grant dated August 31, 2010, DOI stated it was seeking \$1 million in funding to determine the feasibility of establishing a health insurance exchange or exchanges in this state in accordance with the provisions of the Affordable Care Act. The DOI stated that it intended to use the grant funds for:

- Background research, data collection, and analysis.
- Exchange formation and governance.
- Exchange implementation strategy.
- Policy recommendations.

DOI hired a project manager in March 2011 with an annual salary of \$102,000. On March 10, 2011, the Governor appointed twelve members to serve on a planning committee charged with conducting a thorough review and analysis of current and new data on the operation of health insurance exchanges and then completing an in-depth study of alternative approaches to establishing a health insurance exchange. Members include:

- Project Manager to serve as chairman in an ex officio capacity.
- Two members appointed by the President Pro Tempore of the Senate, with at least one being a member of the Senate.
- Two members appointed by the Speaker of the House of Representatives, at least one being a House member.
- Director of the S.C. Department of Health and Human Services or his designee.
- Director of the S.C. Department of Insurance or his designee.
- A consumer or not-for-profit representative appointed by the Governor.
- A small employer, as defined by S.C. Code §38-71-1330(18), appointed by the Governor.
- A health care provider appointed by the Governor.
- A licensed insurance producer authorized with accident and health insurance authority appointed by the Governor.
- A licensed health insurance issuer appointed by the Governor.

Four task groups were identified within the committee charged with meeting separately to report to the full committee. The task groups addressed:

- Competitiveness and transparency.
- Consumer-driven health plans.
- Consumer protection/medical liability.
- Information technology.

The committee is to submit a report to the Governor by October 28, 2011, with its recommendations whether the state should establish a health insurance exchange. If the committee determines that a health exchange should be established, it must recommend a plan for implementation and sustainability of a state-based health exchange. If the committee deems that a state health exchange should not be established, it must recommend alternate strategies and policies to improve the health insurance marketplace in South Carolina.

As of August 31, 2011, approximately \$63,000 of the \$1 million had been expended. These expenditures were within grant requirements and the budget submitted with the grant application. DOI has also contracted with the University of South Carolina for \$180,000 to study the implementation of the health insurance exchange through household surveys, focus groups, and stakeholder interviews. As of September 14, 2011, this study was ongoing and no payments had been made to the university.

### Future Plans for Health Exchange Grant

According to the project manager for the exchange grant, DOI is continuing to work with the health exchange committee to formulate recommendations by October 28, 2011. DOI obtained a no-cost extension for this grant until December 31, 2011. The project manager expects a report from the University of South Carolina regarding its study of the implementation of the health insurance exchange in October.

The project manager stated that he believes that South Carolina may be able to obtain additional grant funding if the committee recommends a state-operated exchange and the state proceeds with that recommendation. As of August 31, 2011, the state had \$936,694 (94%) of the grant award remaining, with at least \$180,000 obligated.

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*In Memory of  
Thomas J. Bardin, Jr.  
1957 – 2011*

## HEALTH INSURANCE PREMIUM REVIEW GRANT

DOI submitted a grant application for the health insurance premium grant on July 6, 2010, seeking \$1 million for South Carolina to review the status of the health insurance market to determine if the rates being charged for products that are not subject to prior approval are reasonable as required by law. In its application, DOI stated that these funds would be used to collect and analyze data, enhance process systems, formulate policy, and report its findings.

A project manager was hired on December 17, 2010, with an annual salary of \$100,000, to oversee the grant. From August 2010, the award date for the grant, and August 31, 2011, approximately \$199,000 had been expended. Expenditures complied with the grant requirements and the approved budget submitted with the application. The major expenditures were for contractual services for computer enhancements both through the NAIC and in-house for agency computer systems.

On June 15, 2011, DOI entered into a contract with an actuarial firm for \$375,000 to conduct a comprehensive review of health insurance rate increase filings in South Carolina to determine whether the rates being charged for health insurance coverage are reasonable. There was a Request for Proposals for this contract and the award was made according to state procurement requirements. As of September 15, 2011, no results from this review had been received by the DOI.

### Future Plans for Rate Review Grant

According to the project manager for the rate review grant, DOI obtained a no-cost extension for this grant until March 31, 2012. As of September 15, 2011, the data from carriers collected by DOI had not yet been transferred to the contracted actuarial firm for its review. The project manager projected that data would be transferred by the end of September. The contracted actuarial firm estimated that it would take approximately 20 weeks to review the data and make recommendations to the department. As of August 31, 2011, DOI had \$801,337 (80%) of this grant funding remaining, with at least \$375,000 obligated for the actuarial review.

The S. C. Department of Insurance was provided a draft of the report and had no comments.