



STATE OF UTAH

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GARY R. HERBERT
GOVERNOR

GREG BELL
LIEUTENANT GOVERNOR

December 22, 2010

The Honorable Kathleen Sebelius
Secretary
U. S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Secretary Sebelius:

After considerable technical analysis and internal discussion among state leaders, we have decided that Utah will not submit an application for the Health Exchange Early Innovator Grant.

As mentioned in the grant announcement, this funding opportunity was for “states that lead the race to develop IT systems for state exchanges.” It would seem this grant opportunity was custom-made for Utah, given our advanced progress in implementing a health exchange. Utah’s exchange is the only functioning market-based health insurance exchange in the country. From a technical perspective, there is no other state as qualified as Utah. In addition, as the grant announcement suggests, Utah is very committed to pursuing a multi-state partnership with like-minded states in order to develop a solution that is modular and adaptable to the local conditions in each state.

However, I am deeply concerned about the timing of the grant announcement and the deadline for grant submission because they seriously impede our ability to create multi-state partnerships. The grant announcement was made at the end of October, just a few days before 29 new governors were elected and the December 22, 2010 deadline effectively precludes any input from these new governors in the development of this proposal.

It is my understanding that the deadline is not statutory, but was chosen arbitrarily. Several states, including Utah asked for flexibility on the deadline to allow us a better opportunity to organize a multi-state response. My staff spoke to several other states who were seriously interested in jointly pursuing a grant with Utah. However, they all withdrew because they saw the December 22 deadline as impossible for them to meet.

As you are well aware, Utah was working on a state-designed solution for health system reform long before the election of the current Administration. Our efforts pre-date the provisions of the Affordable Care Act by several years. We are continuing the process of designing and implementing additional functionality in our current system. While it would definitely be helpful to have additional resources to implement these updates to our system and improve our exchange, the unrealistic timeline and its negative impact on states makes it impossible for us to develop the necessary relationships with other states. This issue was compounded by the fact that we could not get a firm answer from HHS staff as to what constituted a multi-state partnership under the terms of the grant.

For the time being, Utah will continue to develop our exchange on our own timetable. If HHS sincerely wants to foster multi-state partnerships, states need much more flexibility in the funding process. I strongly encourage you to direct your staff to work with us and our partner states to develop a funding process and timeframe that is more realistic. At a bare minimum, the deadline for this grant application should be postponed until July of 2011.

Furthermore the current timeline for state-designed reforms to be implemented is unrealistic for most states. States trying to create exchanges will need at least an extra three years beyond the current January 2014 deadline to have a reasonable chance at developing a successful exchange. It is arbitrary and capricious to cut short those state efforts and replace them with a federal solution without giving them a realistic opportunity to succeed.

Thank you for your attention to these very important matters. Please feel free to contact me directly or you may contact members of my staff at 801-538-1000 if you would like to discuss this further.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary R. Herbert". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gary R. Herbert
Governor