

November 07, 2011

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

Dear Madame Secretary:

We are writing on behalf of the National Association of Insurance Commissioners (NAIC) to comment on the State Partnership Model for Affordable Health Benefit Exchanges. By providing these comments on the specifics of the State Partnership Model, neither the NAIC nor its individual members are hereby expressing a position on the underlying law.

The NAIC is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia, and five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight. NAIC staff supports these efforts and represents the collective views of state regulators domestically and internationally. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the U.S.

We appreciate HHS' commitment to work with the states to coordinate the operation of federally-facilitated Exchanges with the underlying state regulation of insurance markets. State insurance regulators have, and will retain responsibility for overseeing the licensure, solvency, market conduct, form approval, and other operations of qualified health plans. Since plans sold on the Exchange must be approved for sale by state insurance regulators and comply with state laws and regulations no matter who operates the Exchange, coordination with the various affected parties will be vital to protect consumers, stabilize markets and avoid adverse selection.

As we understand the State Partnership Model outlined at the State Exchange Grantee Meeting held in Washington, DC on September 19 and in materials posted on the website of the Center for Consumer Information and Insurance Oversight (CCIIO), states not electing to operate the Exchange could elect to perform some functions related to plan management, consumer assistance, or both. While we appreciate the options outlined in the model, the lack of flexibility in allowing the states to select which elements of the five core functions they would like to perform may prevent some states from participating in the partnership. We urge you to provide more options for the states to ensure the greatest amount of coordination and a seamless integration of regulatory processes.

In addition to the functions that have been outlined in the State Partnership Model, we also believe that it would be helpful to create an opportunity for the states that have elected to establish Exchanges to have some functions of the Exchange performed by the federal government. In particular, we believe that many states would be interested in the federal government assuming responsibility for some information technology functions, as well as subsidy eligibility and administration functions. These additional partnership opportunities would be particularly useful to the states that are committed to establishing and operating Exchanges, but are encountering challenges meeting the 2013 certification deadline.

We appreciate the opportunity to comment on this proposed model, as well as the Department's commitment to working with the states to ensure that Exchanges are implemented in a way that are sensitive to differences in markets from state to state. Please do not hesitate to call upon us if you have any questions or if we can be of any assistance.

Sincerely,



Susan E. Voss
NAIC President
Iowa Insurance Commissioner



Kevin M. McCarty
NAIC President-Elect
Florida Insurance Commissioner



James J. Donelon
NAIC Vice-President
Louisiana Insurance Commissioner



Adam Hamm
NAIC Secretary-Treasurer
North Dakota Insurance Commissioner