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Dan Crippen  
Executive Director

November 2, 2011

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

Dear Secretary Sebelius:

On behalf of the nation's governors, we appreciate the opportunity to submit comments on the Proposed Rule regarding Establishment of Exchanges and Qualified Health Plans of the Patient Protection and Affordable Care Act (PPACA), which was published in the Federal Register on July 15, 2011. States are taking very diverse approaches to health care exchanges, including a wide variety of models and some states that are not pursuing exchanges. As such, individual states will submit wide-ranging comments on many aspects of the Proposed Rule. This letter seeks to comment on only the design of the state-federal partnership health insurance exchange models.

Many states continue to study exchange options, but those considering a partnership model generally fall into two categories: 1) Those that view the partnership as a way to implement an exchange in the short term while building capacity to fully run the exchange themselves; and 2) Those planning to operate a state-based exchange while the federal government continues to handle functions the states view as naturally federal.

Under the proposed partnership models, states would be required to cede many operations that have been traditionally handled at the state level, such as Medicaid eligibility, regardless of whether they implement a state-based exchange, implement a state-federal partnership model or turn over responsibility for the exchange entirely to the federal government. States have invested taxpayer resources in state-based eligibility systems since the Medicaid program began and want to avoid duplication of effort.

The proposals also appear to preclude states interested in exchanges from obtaining funding to establish new state exchange functions after 2012. States are concerned that this construction would lock states into an all-or-nothing approach where the state's role in operating the exchange would be limited with little opportunity to gain additional operational authority if a state so chooses at a later date. As previously mentioned, many states are undecided on implementation strategies because of various uncertainties, including the lack of final rules and regulations.

To best facilitate a state-federal partnership, we suggest the federal government offer states the option of assigning functions where states have little or no current operational role such as: determination of eligibility and appeals for federal tax credits and subsidies; facilitation of advance payment of premium tax credits by the Department of the Treasury to insurers; enforcement of the individual responsibility provisions; and reporting of user and employer data to the Department of the Treasury. In addition, federal assistance in pre-certifying and identifying information technology products and services that meet PPACA requirements could facilitate some states' efforts to design information technology systems necessary to operate an exchange.

For example, federal development of software that could be provided to states, such as a benefit calculator, would be very helpful. Alternatively, some states not considering a partnership model will offer their own unique state-run health exchanges and will not want to rely on the federal government for any aspect of its functionality.


The decision to implement health insurance exchanges requires a number of complex policy decisions amid aggressive timelines. States can only make suitable decisions if provided with complete and timely information regarding the structure of a state-federal partnership, essential health benefits and the design of a federal exchange. In addition, governors and legislators are still weighing the various exchange models and cannot fully consider their options without knowing the costs associated with choosing a state-based exchange versus a partnership or federal model.

Thank you for your consideration of our comments. We look forward to continued dialogue and timely guidance on critical issues related to health insurance exchanges.

Sincerely,

A handwritten signature in blue ink that reads "Terry E. Branstad". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Governor Terry Branstad  
Chair  
Health & Human Services Committee

A handwritten signature in black ink that reads "Pat Quinn". The signature is cursive and somewhat stylized.

Governor Pat Quinn  
Vice Chair  
Health & Human Services Committee