



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

February 15, 2013

TRANSMITTED BY ELECTRONIC MAIL

Gary.Cohen@cms.hhs.gov

Mr. Gary Cohen, Director
Center for Consumer Information and Insurance Oversight

RE: Proposal to Perform Plan Management Functions for Federally Facilitated Exchange

Dear Mr. Cohen:

As you are probably aware, the State of Kansas will have a federally-facilitated exchange (FFE) in operation for the 2014 plan year. When it became clear that neither Governor Sam Brownback nor the majority of the members of the Kansas Legislature supported the development of a state-based exchange, the Kansas Insurance Department (KID) had hoped that Kansas might be able to enter into a partnership with the federal government to perform both the plan management and consumer assistance functions required for the FFE.

During the months leading up to the original November 16, 2012 deadline for declaring the intent to be a partnership FFE, KID staff spent countless hours preparing the Blueprint document required to accompany a partnership declaration letter. We participated in numerous phone calls and meetings with CCIIO officials and received tentative agreement that our Blueprint document met all of the legal and operational requirements established under the Affordable Care Act and the various regulations and guidance issued by CCIIO. We had also prepared a Level I Establishment Grant application. Unfortunately, we have now determined that there is no political support for a partnership arrangement and we are unable to secure the governor's letter of support required for a Level I grant.

At my direction KID staff have consistently communicated to CCIIO our desire that KID maintain its statutory and operational authority over those aspects of an exchange that are traditionally performed by state insurance regulators. Specifically, under the five core areas for an exchange, KID has a specific interest in both plan management and consumer assistance. Under Kansas law KID is obligated to review all health plans sold in Kansas and to ensure that the health plans issuing coverage in our state are complying with all laws affecting health insurance.

In conversations with various CCIIO officials over the past few months we understand the federal government remains interested in working closely with state insurance regulators who are unable to enter into a partnership arrangement but still wish to perform the review of health

plans and rates for purposes of certification as qualified health plans. Therefore, we ask that CCIIO consider this letter as our formal offer and request that KID be approved to perform the review necessary to certify qualified health plans for the federally-facilitated exchange that will be in operation in Kansas for the 2014 plan year. In addition, on behalf of KID, I attest that, to the best of my knowledge and belief, the Kansas Insurance Department:

- (1) Has the legal authority and operational capacity to conduct the plan management activities required to support certification of QHPs, as described in 45 CFR 155.1010(a);
- (2) Will collect and analyze information on plans and rates, covered benefits, and cost-sharing requirements pursuant to 45 CFR 155.1020;
- (3) Will help ensure ongoing plan compliance and resolve consumer complaints; provide issuer technical assistance as needed;
- (4) Will help manage decertification of issuers and associated appeals in compliance with 45 CFR 155.1080; and
- (5) Will participate in a one-day review of its operational plans and capacity to perform these functions prior to March 1, 2013.

In support of the above attestations KID is also providing the attached document, entitled Kansas QHP and Rate Review Authority, which includes a brief description of the various standards stated in the Guidance on the State Partnership Exchange issued on January 3, 2013, along with specific information regarding the statutory/regulatory authority granted to KID and held by me, in my official capacity as commissioner of insurance, as it relates to KID's performance of the stated plan management standards. Finally, we once again make our request that even though Kansas will be an FFE state KID be permitted to perform plan management through the use of the NAIC's SERFF system.

We are anxious to reach an agreement with HHS/CCIIO regarding KID's role in support of the FFE and look forward to speaking with you and/or other CCIIO officials as soon as possible to finalize this arrangement. Thank you for your attention to our request.

Sincerely,



Sandy Praeger
Commissioner of Insurance