

April 30, 2014

President Barack Obama
The White House
1600 Pennsylvania Ave, NW
Washington, DC 20500

Dear Mr. President:

We write on behalf of the members of the National Association of Insurance Commissioners (NAIC) to thank you for meeting with us last week to address a number of important issues related to the implementation of the Affordable Care Act (ACA) that are of mutual concern to state and federal regulators. As the chief insurance regulators in our respective jurisdictions and those charged with the primary enforcement of all laws governing the health insurance industry we look forward to working with you and your Administration in reaching our mutual goals of protecting consumers and promoting healthy, competitive health insurance markets. While you were extremely generous with your time on April 17th, there were several additional questions that we did not have the opportunity to raise, and which you requested we provide to you in writing.

Network Adequacy

We noted with concern that CMS' 2015 Letter to Issuers in Federally Facilitated Marketplaces proposes to apply a reasonable access review standard and to collect data in preparation for formulating time and distance standards in 2016. While commissioners have raised questions about some features of limited networks in 2014 – such as, lack coverage for services outside the state, exclusions of teaching hospitals or specialty hospitals from networks, and the creation of narrower networks for qualified health plans – we believe that states are best equipped to balance the access, cost, and geographic variables that exist in their distinct markets.

The NAIC, through its open and transparent model law development process, is currently reviewing its network adequacy model and will be updating it to better meet the needs of consumers in today's insurance markets. We would like to know, is the federal government planning to set national standards for network adequacy, or is it willing to continue to base its standards on the NAIC model, which takes into account the differences among the states and is based on input from all stakeholders?

Administrative Efficiency

Insurance Commissioners share your Administration's concerns regarding the affordability of health insurance coverage and believe that when there are simple ways to reduce the administrative costs that consume premium dollars without returning value to the consumer we ought to pursue them. One of source of administrative cost that could be eliminated without harming consumers or impacting oversight is the duplicative submission of identical data to state and federal systems. Requiring insurers to enter plan and rate review data into the new federal Health Insurance Oversight System (HIOS), as well as the existing System for Electronic Rate and Form Filing (SERFF), adds expense to the federal government, insurers, and ultimately consumers and taxpayers, without additional benefit to any. Additionally, frequent changes to enrollment and subsidy processes increase insurers' reliance upon expensive and error-prone manual work-arounds and should be avoided when possible. We therefore ask, is your Administration willing to work with the states to streamline data submission processes to ensure that state and federal regulators both obtain the information they need without requiring duplicative submissions, redundant oversight and added administrative burdens to the greatest extent possible?

Open Enrollment Periods

While the text of the ACA allows sufficient flexibility for states to extend the open enrollment periods in their Exchanges, and the preamble to the Exchange regulation mentions such flexibility, a ruling by the HHS General Counsel's Office has prohibited this option. Extending the open enrollment period in states that wish to do so would be an added consumer protection and would not prevent the application of the federal law. We request that your Administration restore this option for states by clarifying in regulation that states have the authority to set a broader open enrollment period.

Essential Health Benefits for 2016 and Beyond

The current framework for setting Essential Health Benefits (EHBs), under which each state has the opportunity to designate an EHB-benchmark plan, is only applicable through plan year 2015. States and health insurance carriers are currently working without any knowledge of what the EHB standards will be for plan year 2016 and beyond. Both need to know this as soon as possible.

Carriers will be submitting plan information for plan year 2016 in just over one year. States will need sufficient time to carefully consider their options and set EHB packages while leaving insurers enough time to develop and price plans before submitting them for approval next spring. The need for prompt guidance is particularly important in states with biennial legislatures, many of whom must act to set or ratify EHB selections. If any changes are to be made for 2016 the states must continue to be part of the process and should be granted greater authority to design a package that is consistent with the needs of their markets and of their consumers. When can states and carriers expect guidance on this issue?

Partnership Exchanges

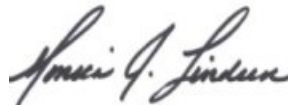
Finally, we would like to urge you to retain the option for states to elect to enter into a formal agreement with the federal government to jointly operate a State Partnership Exchange. This has been an important option for several states that lack the size to realize the economies of scale necessary to establish a self-sufficient State-Based Exchange and provides an intermediate step for states interested in transitioning from a Federally Facilitated Exchange to a State-Based Exchange. Maintaining a funding stream to offset any additional costs incurred by the state for those Exchange functions it assumes as part of this agreement, but cannot recoup through user fees, will help ensure that states are able to take on as much oversight responsibility as possible and provide a more stable glide path for states that choose to pursue the transition to a State-Based Exchange. Will this continue to be an option in the coming years and what funding will be available?

We very much appreciate the opportunity we were afforded to discuss our questions and concerns with you and with members of your Administration on April 17th, and thank you for your willingness to address the additional items above. We look forward to your reply and to continuing to work to protect consumers and ensure healthy, competitive insurance markets, as we have for over 135 years.

Sincerely,



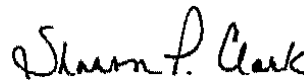
Adam Hamm
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Sharon P. Clark
NAIC Secretary-Treasurer
Kentucky Insurance Commissioner



Senator E. Benjamin Nelson
Chief Executive Officer
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Cc: Hon. Kathleen Sebelius, Secretary of Health and Human Services
Hon. Marilyn Tavenner, Administrator, Centers for Medicare and Medicaid Services
Dr. Mandy Cohen, Interim Director, Center for Consumer Information and Insurance Oversight
Hon. Denis McDonough, Chief of Staff to the President
Ms. Valerie Jarrett, Senior Advisor to the President