



TED STRICKLAND
GOVERNOR
STATE OF OHIO

April 29, 2010

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

Dear Secretary Sebelius,

Ohio is ready to work diligently to implement the Patient Protection and Affordable Care Act (PPACA), and I would like to share some of the immediate steps we will take to move forward with the changes enacted in the legislation.

Ohio's state implementation team, comprised of representatives from many state agencies and convened by staff in my office, is analyzing the legislation and determining next steps so that Ohio takes full advantage of all of the opportunities that will benefit Ohioans. We have designated state team leads for every provision of the bill and look forward to working with your agency as further guidance and regulations are crafted.

Over a year ago I created the Ohio Health Care Coverage and Quality Council, a public/private entity housed within the Ohio Department of Insurance, charged with implementation of strategies to expand coverage, improve quality and reduce cost. We plan to tap into the expertise of the council members as needed as we take the necessary steps to increase health insurance options and work to strengthen the health system. We will unveil a public website, www.healthcarereform.ohio.gov, on Friday, April 30, that provides information about Ohio's implementation of the Act and offers a listserv mechanism to keep interested parties engaged in our progress on key provisions.

Ohio would also like to express interest in working with your agency to implement a temporary high risk pool program. There are many Ohioans who are uninsured and need help now. Many Ohioans have pre-existing health conditions which makes coverage unaffordable. Even if they are able to purchase an insurance policy, the policy usually contains pre-existing condition exclusions, which prevents them from getting services covered for up to one year. The temporary high risk pool program is a necessary first step, and I applaud the work of the Department of Health and Human Services (HHS) to get this coverage to Americans as soon as possible.

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I have asked the Ohio Department of Insurance to follow up with your agency to discuss the details of the various options we are exploring in order to implement a temporary high risk pool and to explain the preliminary steps we have taken to investigate them. We appreciate the cooperation, support and flexibility HHS has offered in order to address the issues and challenges we will face in getting the program up and running.

I applaud Congress for standing up for Ohioans' right to affordable, quality health care. I admire President Obama for his leadership in achieving comprehensive health care reform, and we are eager to work in partnership with you to implement this important legislation.

Sincerely,

A handwritten signature in black ink that reads "Ted Strickland". The signature is written in a cursive, flowing style.

Ted Strickland
Governor, State of Ohio



April 30, 2010

Secretary Kathleen Sebelius
U.S. Department of Health and Human Services
Washington, DC 20201

Re: Ohio Is Interested in Participating in the Temporary High Risk Pool Program –
Follow Up Information from the Ohio Department of Insurance

Dear Secretary Sebelius,

I understand that Ohio Governor Ted Strickland sent you a letter today indicating Ohio's interest in participating in the temporary high risk pool program established by Section 1101 of the Patient Protection and Affordable Care Act. I wanted to follow up with you with more information about the options Ohio is considering to implement this program and to explain the preliminary due diligence we have done as to those options. Regardless of the approach for implementing this program, Ohio will need the help, support and flexibility of HHS to get the program up and running.

As you may know, Ohio currently has a program to cover uninsured residents with pre-existing conditions. This program is known as "open enrollment" and it serves as Ohio's alternative mechanism under HIPAA. Ohio's open enrollment program requires carriers in the individual market to offer coverage on a guaranteed issue basis to individuals without other available coverage. Rates charged by carriers are limited by statute and the benefits are established by administrative rule. Governor Strickland worked with the Ohio General Assembly last year to make rates in this program more affordable as part of our health care coverage reform efforts.

One of the options Ohio is considering to implement a temporary high risk pool program is to work with HHS to determine if federal funding could be used for premium subsidy in Ohio's current open enrollment program. Ohio's program serves the same purpose as the high risk pool program, but currently operates under parameters that are similar to, but different from, the federal criteria issued thus far. We understand that HHS will provide states with flexibility to develop compliant programs and we want to investigate whether our current program can be transformed into a compliant program without the need for state legislation or imposing risk on the state. This approach poses the fewest obstacles for Ohio and could be implemented relatively quickly, so we are hopeful that HHS will have the flexibility to approve this approach.

If it is determined that Ohio's open enrollment program is not compliant with the federal criteria, Ohio is considering a number of other options. One option is to amend Ohio's open enrollment to require carriers in the individual market to offer the eligible population the federal benefit at the standard rate. Federal funding would be utilized to subsidize premiums for eligible individuals through the state or a non-profit entity created by state law. Enrollment would be limited to the extent of the available funding. This approach is attractive because it would build upon Ohio's current program for high risk individuals, but it presents challenges because state legislation would be required in a very short time frame. Our state legislature plans to be in session briefly in May and the first week of June – prior to issuance of federal regulations -- but may not return to session until mid-November.

A second option is for Ohio to create a program similar to high risk pool programs in other states. This approach would also require legislation along with creation of a new organization or transformation of an existing organization to administer the program. The Ohio reinsurance board, which is a non-profit entity created by state law, has expressed interest in transforming itself into an entity that could operate a high risk pool program. However, in order for this approach to work, the entity operating the program would have to get up and running very quickly. In addition, the entity which would accept the risk must be adequately capitalized or appropriately reinsured to ensure that all claims are paid. The State of Ohio must be insulated from potential liability. This approach is also challenging because it would require state legislation.

A third alternative approach we are considering is to facilitate a contract with an insurance carrier in which the carrier would agree to provide the subsidized coverage to the required population at the required rate. This approach is similar to the approach being taken by states that have insurers of last resort as their HIPAA alternative mechanisms (Ohio is not one of these states). The Ohio Department of Insurance recently issued a "Request for Information" to gauge the interest and capability of Ohio's insurance carriers to take on such a program. Responses to the Request for Information showed that several non-profit carriers with statewide networks, or the capability to establish statewide networks, expressed interest in pursuing further discussions. This approach would not require legislation but presents questions from carriers about the risk profile of the eligible population, assurance that carriers would be reimbursed for costs, and uncertainty about the contents of federal regulations soon to be issued, including the essential benefits. As to Ohio's timeline to establish a temporary high risk pool program, Ohio will need to begin discussions with HHS as soon as possible to establish a program. We are looking forward to additional details to be contained in the contracting packet and the draft regulations to be issued the first week in June. In order to establish a program in a short time frame, we will need the cooperation, support and flexibility of HHS to address the issues and challenges Ohio faces in getting such a program up and running. We appreciate HHS's offer to work individually with Ohio both in its preparation of an application and during the application review process.

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Thank you for reaching out to Ohio and helping us implement this program. If you have questions or need additional information, please contact Doug Anderson at douglas.anderson@ins.state.oh.us or (614) 728-1006.

Best regards,

A handwritten signature in blue ink that reads "Mary Jo Hudson". The signature is written in a cursive style with a large initial "M" and a long, sweeping underline.

Mary Jo Hudson
Director