



STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
1900 KANAWHA BOULEVARD, EAST
CHARLESTON, WV 25305
(304) 558-2000

EARL RAY TOMBLIN
GOVERNOR

July 15, 2013

The Honorable Kathleen Sebelius
United States Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Secretary Sebelius:

Since my letter to you dated September 28, 2012, my administration has continued to evaluate ramifications to West Virginia related to the federally mandated Patient Protection and Affordable Care Act (PPACA). As we have communicated in past correspondence, we are not undertaking this evaluation lightly. We take seriously the implications of the PPACA on our citizens, business community, health industry, and state finances.

It is imperative that West Virginia be given flexibility to implement the federally mandated PPACA so as to best serve the long term interests of our state. Furthermore, it is vital that several remaining unknown issues related to enactment of the PPACA be resolved as expeditiously as possible. To that end, we seek prompt answers to several questions concerning the implementation of the PPACA.

1. The codified rules related to notices appear to lack details at this point in time. West Virginia is rapidly moving toward implementing the required processes for open enrollment to begin on October 1, 2013. Can you please verify that there will be no additional rules related to notices that will require implementation for October 1, 2013 or January 1, 2014 above and beyond those identified at §435.4 and 435.917 outlining coordinated content?
2. As we move toward the implementation of the Affordable Care Act in West Virginia, we are facing tight timelines for completing required documentation that may ultimately impact our ability to be in compliance on October 1, 2013 and January 1, 2014. These required documents include, but are not limited to, state plan amendments and waivers. As we work through this documentation, who at Health and Human Services can my administration work with to expeditiously resolve any issues?

OFFICE OF THE GOVERNOR

The Honorable Kathleen Sebelius

July 15, 2013

Page 2

3. West Virginia expects that there will be new reporting required for the open enrollment period and beyond. This expectation has been reinforced by communications and learning collaborative supported by CMS. We are dangerously close to the point in time that any new reporting requirements will not be able to be met for October 1, 2013 or January 1, 2014. When will any final guidance related to new reporting requirements be released so that we may prepare for compliance?
4. It was noted in the Medicaid eligibility rule released on July 5, 2013, that there is consideration, for the purposes of the initial open enrollment period for enrollment in a qualified health plan through the Exchange, whether various provisions of the Medicaid and CHIP regulations should be effective October 1, 2013 or whether a later effective date is appropriate. In lieu of this comment, what considerations are being given to the actual implementation dates of provisions of PPACA that impact Medicaid and CHIP?
5. Will the federal health benefit exchange portal be ready for open enrollment on October 1, 2013? When will this portal be released for assessment by industry and consumers?
6. Many West Virginia families have expressed frustration at the lack of information pertaining to future eligibility determination for Medicaid-CHIP and QHP subsidies. Where can West Virginia citizens find more information concerning eligibility determination for new federal health insurance coverage expansion?
7. When will final guidance be released concerning how health insurance agents will access the federal health benefit exchange? When will the federal exchange agent certification process be made available?
8. West Virginia stakeholders seek to leverage and reuse as much federal training and outreach material. When will training for community partners, In Person Assistors and Navigators be made available? What education, outreach, and marketing efforts will be undertaken by the federal government in West Virginia concerning the federal health benefit exchange and other PPACA related provisions?
9. Will bona fide associations with mixed large and small groups be permitted to transition to a single employer large group coverage model and therefore be

OFFICE OF THE GOVERNOR

The Honorable Kathleen Sebelius

July 15, 2013

Page 3

permitted to continue to provide historical coverage that employers would like to continue? If the Washington State approach, which has been approved by DOL, is accepted, will the bona fide association and carrier be insulated from HHS regulatory penalties?

10. Due in part to the lengthy federal rule making process, the timeline for implementation is limited. In lieu of several recent announcements concerning implementation delays for various components of the PPACA, are other anticipated policy or functional postponements expected? Furthermore, what additional final guidance, rules, or other official announcements can be expected from HHS, DOL, or the IRS, that may impact West Virginia stakeholders or state agencies for implementation on October 1, 2013, and January 1, 2014?

In closing, my administration remains committed to sound fiscal stewardship and the furtherance of efforts to improve the health system in West Virginia. It remains a critical concern that the currently incomplete rules and guidance will not support a successful implementation of the federal mandated PPACA. We look forward to continually working with you to ensure that efforts currently underway by your office serve the best interests of our great State.

Thank you for your consideration in addressing our questions and concerns.

Sincerely,



Earl Ray Tomblin
Governor

ERT/cjn