



State of West Virginia

Earl Ray Tomblin

Governor

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The Honorable Kathleen Sebelius
Secretary
United States Department of Health and Human Services
200 Independence Ave, SW
Washington, DC 20201

Dear Secretary Sebelius:

My administration is continuing to evaluate options available to the State of West Virginia under the Patient Protection and Affordable Care Act (PPACA), in light of guidance issued by the United States Department of Health and Human Services related to essential health benefits. As has been highlighted in previous correspondence, the recommendation being requested of states concerning the essential health benefits requirement is one with far reaching consequences for medical providers, the health insurance industry, small businesses, and individual citizens in West Virginia. I hope that you can be of assistance as we continue to undertake our analysis and proceed through a decision-making process that weighs the fiscal and health policy impacts of the federally mandated essential health benefits on our state.

We take very seriously the potential implications of the essential health benefit decision for West Virginia. While we continue to analyze the essential health benefit benchmark options, we are constrained by the lack of answers to several questions we have posed related to the process, including questions asked in correspondence dated, July 19, 2012. I am also concerned that a request for recommendation related to essential health benefits is being made of the states absent final federal rules related to the essential health benefit package. It is critical for a decision of this importance that we have clearly defined regulations stipulating precisely how the essential health benefit package is to be aligned with federal law.

Moreover, due to the potentially significant fiscal ramifications for the state and for our private health insurance marketplace, and the serious impact on benefits available in our private health insurance marketplace stemming from the final essential health benefit decision, we must have clarity

from the federal government in the form of final federal rules before committing to a recommendation. My administration is committed to maintaining the sound fiscal stewardship that has been the hallmark of our State for 25 years. We are also committed to continuing our successful efforts to grow private sector jobs that result in quality private health insurance for our citizens. It is critical to our analysis of essential health benefits that we measure the impact of this federal requirement on our citizens in as accurate a manner as possible, which can only happen through the clarity of final federal rules. I request response to the questions outlined below and release of federal rules codifying the processes and requirements of the essential health benefit mandate so that I can make an informed recommendation on what essential health benefit benchmark is in the best interest of all West Virginians.

We hope that you can be of assistance to us by providing more information on the following:

1. How are the ten PPACA required benefits identified in Section 1302(b)(1) to be defined?
2. What level of benefit is required in a specific benchmark to satisfy the ten PPACA basement categories identified in Section 1302(b)(1) of PPACA?
3. What process will be undertaken by DHHS to select backfilling benefit options in the scenario that the state defaults to the largest small group product in the West Virginia marketplace?
4. How will Medicaid and CHIP be impacted by the selection of essential health benefits for the private marketplace?
5. If the state makes a decision to expand Medicaid coverage per the PPACA and recent Supreme Court decision stipulating that Medicaid expansion is an option, when must a decision be provided pertaining to the essential health benefits that must be covered by Medicaid?
6. For the purpose of long term planning, what process will be undertaken during the reevaluation of federally required essential health benefits as outlined in the December 2011 federal guidance in 2016?
7. Under what perceived authority does the federal government anticipate to exercise the requirement that state governments pay for state mandated benefits that exceed the federally required essential health benefit package? Through what federal agency will this be administered?

Best regards,



Earl Ray Tomblin
Governor