STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

GREG BELL
LIEUTENANT GOVERNOR

December 14, 2012

Kathleen Sebelius
Secretary of the Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Madame Secretary,

Thank you for your prompt reply to my letter addressed to President Obama. I am encouraged by your offer to work together to find ways to succeed. I also appreciate your agency's release of guidance, proposed rules, and answers to questions since my letter dated November 19, 2012. While it has been informative and helpful, I continue to have questions and major concerns about the level of state flexibility under either a federal or state-based exchange approach.

It is becoming increasingly clear that there are many potentially detrimental federal exchange features. Generally, I would prefer a state-based approach if I were to have the flexibility to stay true to Utah principles. Consequently, I intend to move forward with Utah's version of an exchange and am requesting that you certify Utah's version of an exchange as ACA compliant. In fact, Utah's version should serve as the minimum standard for all federally compliant health exchanges.

I have instructed Patty Conner from our team to prepare and submit detailed documentation of the Utah version so you can see how it compares to the requirements of the Affordable Care Act (ACA). I hope you will closely examine what we are doing, Madame Secretary. I am confident that when you do, you will find it meets the broad goals and objectives of the ACA. (An executive summary of that documentation is attached.)

As you noted, I referenced our pre-ACA exchange in my letter to the President. Utah is indeed atypical because we had already developed a working, consumer-focused, free market-based plan for health reform, including our version of an exchange that addresses Utah's unique demographics, systems, and needs before the ACA was passed. While our small business

defined contribution program is still in its infancy, the principles on which it is founded give this approach great potential. Our plan encompasses several key areas, some of which are also covered by the ACA.

Key features of Utah's plan:

1. Insurance Markets - Our reform efforts are intended to provide the general market effective protection from adverse selection and premium spirals, such as maintaining an effective high risk pool and appropriate rating guidelines.
2. Individual Insurance - We want to encourage consumer engagement and competition by facilitating online shopping tools that provide consumers side-by-side comparisons and allow them to apply and enroll electronically in their plan of choice.
3. Small Businesses - For our small businesses, we have created Avenue H, an online, market-based tool that incorporates the concepts of defined contribution and consumer choice. We are making significant progress on our goal of helping this entity become a self-sustaining, private sector-based solution.
4. Medicaid - In addition to the general goal of reforming the core Medicaid program through waiver requests, we have automated the application process, using electronic databases and information to provide a much faster and more accurate eligibility determination. We also intend to provide a simple pre-screening tool to help people know if they might qualify for public assistance before they complete a full application. This pre-screening tool could be made available through the individual market's online shopping tool to help ensure access for those needing assistance to pay for coverage.
5. Premium Aggregation - We intend to build the functionality to allow people to pull together funding from various sources in order to purchase a single policy for their families, including premium assistance programs.
6. Consumer Assistance - The most efficient outcomes are achieved when informed and empowered consumers participate in the marketplace. It is our goal to provide consumers with information, enabling them to make informed decisions about what is best for their families. At the same time, we wish to provide opportunities for insurance producers and other qualified sales entities to serve the public and compete for their business.

I believe that if you consider the Utah version of an exchange in its entirety, you will see we can provide the services Utah needs in a manner that reflects our local markets, people, and needs.

Cordially,

Gary R. Herbert

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Governor