



Agents Coalition for Health Care Reform

Respond to Agents Coalition
c/o NAIFA-MN
1405 Lilac Dr No, #121, Golden Valley MN 55422

September 4, 2012

Mr. Michael Rothman
Commissioner
Minnesota Department of Commerce
85 Seventh Place East
Saint Paul, MN 55101

Dear Commissioner Rothman:

Thank you for your August 2, 2012 response to our Agents' Coalition letter of May 29, 2012. We appreciated hearing your thoughts. We are concerned, however, while the Health Insurance Exchange Task Force engages in discussion of vague generalities, that the administration appears to be moving forward with a specific plan to meet the requirements of the CMS Blueprint of August 13, 2012. We are also concerned that citizens and other interested parties will not be made aware of that plan until it is too late for serious debate. We would, therefore, ask you to respond specifically to the policy points noted below and to share with us the timeline and process for decisions to be made for each item.

The Agents' Coalition recognizes that federal law has been enacted. As its requirements are implemented, we must make every effort to protect the robust market that Minnesota consumers have enjoyed for years. As such, the Agents' Coalition has adopted certain requirements for our support of an Exchange that protect consumer choices and preserve Minnesota's history of innovation.

Critical Factors:

- 1) **There must be an independent private insurance market outside of the Exchange.** A private market must be allowed to exist to compete with the Exchange without being subject to the same limitations of plans marketed inside of the Exchange. The rules on plans offered outside the Exchange must conform to those currently required by Minnesota statute so that the market can offer non-qualified health plans. Without this, consumers will truly lose the freedom to choose the policy that is best for their individual situations. Allowing a competitive market to exist outside of the Exchange will ensure that the rules inside the Exchange do not become too restrictive. There are no true adverse selection issues with this approach since all carriers must have one risk pool for plans sold inside and outside of the Exchange. Please let us know if consumers will have the freedom they currently enjoy to purchase products outside of the Exchange with benefit designs that meet current Minnesota statutes.



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2) **The Exchange must not create an “active purchaser” model.** An “active purchaser” negotiates directly with insurance companies, limits consumer choices, and, thereby, takes away Minnesotans’ current health insurance plans. While some special interest groups have strongly advocated for this model with the Dayton Administration, Minnesotans would be greatly disturbed to find fewer choices in the Exchange than they presently enjoy in our state’s current competitive market. We know from experience that the best value for consumers comes about through a multitude of competing insurance plans, rather than plans that Exchange officials decide are best for the public.

We support a facilitator model that allows free entry of any competitive product that meets broad and inclusive guidelines. Please let us know if the Dayton Administration will be adopting the restrictive active purchaser model or keeping the market open to allow consumer demand to drive the marketplace.

3) **The Exchange must not assume risk by contracting directly with health care providers, thereby creating a government-run plan.** A government-run health plan would create a moral hazard putting the taxpayers at risk by creating a plan that would never be allowed to fail, resulting in limited consumer choice, rationing, and delayed delivery of health care services. Additionally, tens of thousands of private sector jobs of our Minnesota insurance companies would be eliminated. We ask that the Dayton Administration immediately adopt a statement that the Exchange will not assume any insurance risk.

4) **Consumers’ must have the right to have access to representation by licensed health insurance agents both inside and outside of the Exchange.** Agent representation is threatened by special interest groups who seek to restrict consumer choice by limiting the number and diversity of health insurance products available in the Exchange. There is a valid reason that Minnesota requires health insurance agents to be licensed. It takes a well-educated person to help select the right insurance policy for our individual clients’ diverse needs from among the hundreds of available products in our competitive market. When special interest groups push to limit the number of health insurance plans and limit flexibility and design of these plans, they advance their own interest at the expense of consumer choice.

According to the Salter-Mitchel report commissioned by your department, 88 percent of the public trusts health insurance agents to help them select



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the right plan, even when agents are compensated by insurance carriers. The manner and value of this compensation, including renewals for ongoing services, should be negotiated between the insurance companies and agents.

In an economic environment where jobs are the biggest issue, we must be able to plan for the staffing of our agencies. Like most businesses and government agencies, we are currently planning our 2013 budgets. Our employees would like to know if your plans will eliminate their jobs next year or thereafter. Settling the compensation question now is critical to determining whether or not consumers continue to receive the professional advice that they have come to trust and rely on, and employers need to make staffing decisions for 2013.

5) The Exchange must be restricted from selling all insurance products other than health and dental insurance as required by the Affordable Care Act. Congress did not include an ACA provision extending the Exchange offerings to ancillary insurance products, and we are unaware of any official on-the-record discussions of the same. There is no reason for the Exchange to further crowd-out the private sector. We are disturbed that this question has not been definitively settled and request a final statement of policy in writing that the Exchange will be limited to health and dental plans.

6) Insurance companies must be free to decide to offer individual and/or group insurance. Insurance companies must also be allowed to determine themselves whether or not any of their products will be offered inside the Exchange or offered outside of the Exchange. This is a key decision that will ensure that the administration of the Exchange does not become too bureaucratic as to become a disincentive to participation in the Exchange. Please confirm for us whether insurance companies will be free to determine the distribution method of their products and the market segments in which they choose participate.

7) The Exchange must be financially self-sustaining and must not generate revenue by imposing fees on policies purchased outside the Exchange. Further, the Exchange must disclose its administrative fees and all expenses to each enrolled participant. The Exchange should not be allowed to pass its costs on to Minnesotans who choose to purchase health insurance outside of the Exchange. Exchange sub-groups have discussed that Minnesotans purchasing outside the Exchange could benefit from the price and product comparisons offered through the Ex-



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change. The problem with this belief is that those same price and coverage comparisons have been offered by agents for years and are already available on-line. In addition, Minnesota Community Measurement's www.mn-healthscores.org has provided price comparisons among providers for years at no cost to the taxpayers. We believe that externalizing the cost of the Exchange onto policyholders who do not purchase through the Exchange will create a huge incentive for inefficiency in the Exchange itself by reducing competitive pressure. Please confirm whether the Exchange will be financially self-sustaining or whether it will project its costs onto consumers who receive little or no benefit from the Exchange. We also request that the Administration clarify how it intends to cover financial shortfalls should they arise.

8) The Exchange board must include representation from insurance carriers and health insurance agents. Special interest groups who support a government-run system have advocated for virtually no insurance industry representation on the board. We feel this is misguided. As the chief regulator of the insurance industry, you understand the dangers of running a health insurance operation without the necessary experience and expertise at the table. These special interest groups have a narrow view of conflict of interest that extends to the insurance industry only. Everyone involved will have some level of conflict, as all special interest groups advocate for benefits and their own ideological interests. Please confirm that the Dayton Administration will support sound management practices by having sufficient insurance industry expertise on the governing board of the Exchange.

9) The Dayton Administration must clear up the source of its legal authority necessary to implement the Exchange without specific affirmative legislative votes. The CMS Blueprint requires that the State cite its enabling authority. Specifically, the State must provide a copy of the current law and/or regulation it plans to draw upon to establish an Exchange. If the authority is not clear, the State must provide a statement from the legal counsel of the Exchange or the Governor's Office, or the State Attorney General certifying the State is authorized under State law to establish an Exchange. It is not clear whether the Administration believes that it can implement an Exchange by either executive order or through some interpretation of current statute. We feel the public has the right to know whether the Dayton Administration feels it already has such authority or whether they must seek legislative approval. Legislators will have little reason to engage if they feel the Administration is simply consulting them and not seeking legislative approval to build a consensus model. Governor Day-



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ton's August 23, 2012 letter to legislative leaders shed no light on this subject due to his use of the vague phrase referring to legislators "opportunity thereafter to review and participate in the final decisions." Please provide in writing a citation of the Dayton Administration's authority to implement the Exchange without a legislative vote on the administration's plan.

We are dismayed that Governor Dayton's letter indicated that "no final decisions can be made by my administration prior to the upcoming elections." There is no legal reason that we are aware of that would prevent the administration from making their plans public before the election, so the public and stakeholders can provide input to make this Exchange work for all Minnesotans. The ten days between the election and the November 16, 2012 deadline do not provide sufficient time for the public to explore and debate the Administration's decisions. We favor transparency. We demand that you make the written plan that you will submit to the Federal Department of Health and Human services for the Minnesota Exchange available for public scrutiny no later than October 1, 2012.

In closing, we have stated these critical factors to assist in making decisions to preserve Minnesota's national-leading health care delivery and health insurance marketplace. We look forward to receiving your timely response to our requests and hearing the timeline and process that will be used for these decisions.

Sincerely,

Chris Schneeman

Chair

Agents Coalition for Health Care Reform