



STATE OF NEW YORK  
INSURANCE DEPARTMENT  
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ALBANY, NEW YORK 12257

David A. Paterson  
Governor

James J. Wrynn  
Superintendent

April 30, 2010

Honorable Kathleen Sebelius, Secretary  
United State Department of Health and Human Services  
200 Independence Avenue  
Washington, DC 20201-004

**Re: Temporary High Risk Health Insurance Pool – Letter of Intent**

Honorable Secretary Sebelius:

On behalf of Governor David Paterson and Insurance Superintendent James Wrynn, I hereby give notice of New York's intention to submit an application to contract with the United States Department of Health and Human Services (HHS) to operate a program, using funds available under the Temporary High Risk Health Insurance Pool provisions of the Patient Protection and Affordable Care Act ("PPACA"), to provide coverage to eligible individuals as defined in PPACA. New York anticipates either: (1) building on our existing coverage program designed to cover high risk individuals; or (2) contracting with one or more carriers to provide subsidized coverage for the PPACA eligible population.

New York's decision regarding the final structure of this temporary mechanism is dependent upon ongoing analysis, additional guidance from HHS regarding the parameters of the federal law and the possible need for passage of state legislation. We have consulted with a broad range of stakeholders, including consumers, businesses, providers and insurers. We have concluded that it is important for New York to design its own program because of the unique characteristics of our existing guarantee issue, community rated market. In particular, we want to ensure that the design of the Temporary High Risk Health Insurance Pool program be sensitive to, and avoid damaging, our fragile guaranteed issue individual market. We further wish to ensure that the available federal funds are used as efficiently and effectively as possible for the benefit of vulnerable New Yorkers in a way that will facilitate transition to the Exchange.

**Potential Options Being Explored**

New York is actively examining options to meet the needs of eligible New Yorkers. Two basic approaches have emerged that appear to be the most viable and efficient.

The first approach relies on New York's current infrastructure for those purchasing coverage on an individual basis, including high risk individuals. New York has a guaranteed issue, community rated, standardized individual marketplace. State law requires all health maintenance organizations to offer two comprehensive benefit packages in each county of operation. New York designed this standardized market to serve as the single market to meet the needs of those who are either healthy or sick. Therefore, the benefit package is comprehensive, meeting or exceeding the 65% minimum actuarial value standard set forth in the PPACA. To offset the premium impact of high risk individuals in these community rated pools, New York has

established a stop loss mechanism which could also be used to direct this temporary federal funding towards those most in need. By using the existing individual market place, or a variation on it, New York – in partnership with HHS – can leverage a fully operational program to ensure rapid implementation to meet the needs of the federally eligible population.

The second approach under active consideration involves contracting with a limited number of administrators or insurers to provide subsidized coverage for the PPACA eligible population. We envision working to put in place a statewide network of participating providers to ensure that the program benefits from effective care management features. The benefit package or packages would be designed to meet the needs of the eligible population, also meeting or exceeding PPACA's 65% standard and likely based off of the current products in New York's individual market. This approach would have the benefit of concentrating this eligible population with a smaller number of contractors and establishing a distinct risk pool.

The Temporary High Risk Health Insurance Pool funding would be applied to cover the excess claims costs and subsidy costs, and enrollment would be controlled to ensure that available funding covers the expenses.

### **Other Considerations**

We anticipate that state legislation will likely be required to implement this program on an expedited basis. Our Legislature is currently in session and will remain so until June 2010. We intend to strive for broad consensus among stakeholders in support of the outlines of the program to avoid any significant obstacles to enacting such legislation in a timely fashion. Our goal is to have this program in place by July 1, 2010. However, several potential impediments could well delay full implementation until at least late summer, including further federal guidance, procurement restrictions and necessary state legislation.

Numerous critical decisions must be made to determine which structure New York ultimately chooses for implementation. We appreciate HHS's efforts to actively engage the states, HHS's recognition of the distinct challenges faced by guaranteed issue states, and HHS's commitment to flexibility. We feel HHS's flexibility will be particularly important to ensure that this program fits with New York's existing private insurance markets and public programs. We also feel such flexibility will be critical to effectively migrate this population into the Exchange in 2014. Our options will ultimately be guided by HHS's further guidance.

We look forward to an ongoing dialogue regarding implementation of the requirements of the PPACA and to working with HHS to establish this program as quickly as possible in a way that meets our shared goals.

Very truly yours,



Eileen Hayes

New York State Insurance Department