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Office of the Governor

January 5, 2017

Dear House Leadership,

Thank you for reaching out to Nevada for our response and comments regarding Congress' effort to improve healthcare. I agree with you that the states deserve more choices, fewer federal mandates and the freedom and flexibility to create options that are best for our citizen-patients. I, like you, always put our citizen-patients first when crafting healthcare policy.

I appreciate your recognition of the critical and central role states will have as you begin discussing health care legislation in the new congress and beyond. The management of state health programs and the costs associated with delivery have significant impacts on our residents, state budgets and statewide services. These costs along with the uncertainty of funding and program integrity at the federal level, affects states' ability to plan and pursue other important initiatives. States are integral players in this conversation and the decisions that are made going forward will have a profound impact on our citizens' lives and the healthcare providers who serve them.

We have made monumental changes to our healthcare delivery system in the past four years as a result of the implementation of the Affordable Care Act ("ACA"). To again embark on significant changes to health care law will require a great deal of coordination between state agencies and our available resources. Since the passage of the ACA, my administration undertook years of research and planning to implement health care reform. My priority as Governor was to make health care accessible and affordable. I chose to expand the Medicaid Program, to require managed care for most enrollees and to implement a state based health insurance exchange. These decisions made health care accessible to many Nevadans who had never had coverage options before. They also allowed thousands of Nevadans needing mental health treatment to receive care. With increased enrollment in Medicaid, SCHIP, and through the Nevada Health Insurance Exchange, Nevada increased health care coverage to more than 400,000 of our residents.

The implementation of these policy changes decreased Nevada's uninsured rate from one of the worst in the country, 23%, to approximately 12%, making Nevada one of the most improved states in this regard.

Nevada also saw one of the most significant decreases in child uninsured rates in the country from 16% in 2012 to 8% in 2015. This means over 92% of the children in Nevada have health care coverage...32% of them by Nevada Medicaid.

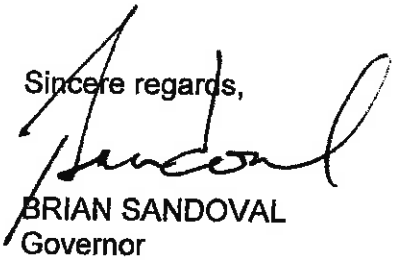
In addition to the policy decision made to ensure health care coverage to Nevadans, my administration has made substantial technology investments to implement ACA reforms. The Nevada Department of Health and Human Services invested approximately $95 million dollars to upgrade eligibility determination systems, and the state's Medicaid Management Information System. These costs, while the result of federal mandates under the ACA, have resulted in administrative efficiencies and enhanced data sharing capabilities for our state agencies. To adopt another system that disregards these investments will have an adverse effect on our healthcare system, waste millions of dollars and cost hundreds of Nevadans their jobs.

Going forward, we must ensure first that any new reforms do not mandate additional costs, and second leverage the advancements already made and paid for under the ACA. Moreover, you must ensure that individuals, families, children, aged, blind, disabled and mentally ill are not suddenly left without the care they need to live healthy, productive lives.

There will be great challenges and many opportunities in front of the new congress as you debate and consider reforms to our health care system. The information provided to you by states must play a central role in those discussions and be part of a very careful and thoughtful process. State health care systems, providers, and especially our citizen-patients must have certainty, and as this process goes forward, your willingness to communicate with the states is thus critical.

Attached to this letter you will find information provided by my cabinet agencies addressing the questions posed in your letter. Please contact me if you have any questions regarding the information provided. I look forward to the ongoing discussions on how we can better deliver health care in the State of Nevada and across the nation.

Sincere regards,



BRIAN SANDOVAL
Governor

Enclosure

Questions to States on Healthcare Reform

1. **What changes should Congress consider to grant more flexibility to states to provide insurance options that expand choices and lower premiums?**

   To grant more flexibility to states regarding insurance options, Congress should defer to states the ability to:

   - Establish market rules, including allowance for some rating (implicit or explicit) based upon health status;
   - Determine what plans work for their markets by re-defining the benchmarks for Essential Health Benefits and revising EHB rules;
   - Set filing timelines;
   - Perform plan management functions;
   - Determine the reasonability of rates and plans pursuant to their own regulations and without Federal oversight; and
   - Determine the adequacy of network plans pursuant to their own regulations and without Federal oversight.

   If the current optional state health exchange model is retained, Congress could allow further flexibility by:

   - Limiting the number of Special Enrollment Periods;
   - Adjusting the grace period from 90 days to 30 days;
   - Waiving the federal technology fee until a federal replacement plan is implemented; and
   - Allowing Exchanges to purchase exchange technology without the requirement that Medicaid eligibility be integrated into Exchange eligibility.

2. **What legislative and regulatory reforms should Congress and the incoming administration consider to stabilize your individual, small group, and large group health insurance markets?**

   To stabilize the individual, small group, and large group health insurance markets Congress should:

   - Establish a system for verification of Special Enrollment Period qualifications in 2017;
   - Reduce SEP qualifying events;
   - Modify risk adjustment methodology to create a more level playing field and reflect state-specific considerations;
   - Reduce the mandatory 90-day grace period for individual products on the exchanges;
   - Consider establishing an additional metal tier/coverage option;
   - Establish /re-establish state-customizable risk mitigation programs to stabilize the individual health insurance market while it continues to transition to the new rules;
   - Guarantee the funding of any federal programs authorized;
   - Where appropriate, allow for monies targeted for federal programs to be shifted to the states to encourage the implementation of more effective state-specific solutions; and

- Support states in the establishment, and assist with costs, associated with state based reinsurance programs.

3. **What are key administrative, regulatory, or legislative changes you believe would help you reduce costs and improve health outcomes in your Medicaid program, while still delivering high quality care for the most vulnerable?**

   It is necessary to provide states more flexibility in managing the current Title XIX and XXI programs and allow states to be more innovative in the application of section 1115 waivers. States face a cumbersome application and approval process from the Centers for Medicare and Medicaid services which create significant delays in approvals of Medicaid and Children's Health Insurance Program's State Plans, Waivers, Managed Care Contracts, and Managed Care rate setting.

   In regards to Title XIX program eligibility Congress should:

   - Maintain the Modified Adjusted Gross Income (MAGI) Eligibility Standard
   - Remove the rule prohibiting the transfer of asset penalty to be served while an individual is on home and community based services to allow the state to serve more individuals in the community;
   - Develop a consistent and set federal reimbursement rate (or federal match rate) for all programs, regardless of which population, and align with Medicare to reduce administrative burden on providers;
   - Discontinue CMS' practice of creating unfunded mandates to the states and/or the temporary funding of programs as a pathway to turning the program over to the state (e.g the physician rate bump);
   - Eliminate the IMD exclusion in Title XIX to allow free standing psychiatric hospitals to be part of the Medicaid program;
   - Increase state flexibility over cost sharing, freedom of choice requirements, and home and community based service models;
   - Revise regulations regarding expedited hearings and access to care reviews to allow states some flexibility; and
   - Allow the use of supplemental payments processes for the managed care delivery model similar to the fee for service coverage model.

   In regards to Title XXI program eligibility Congress should:

   - Implement long term funding for the Title XXI program to provide security and allow for improvement and development activities.

4. **What can Congress do to preserve employer-sponsored insurance coverage and reduce costs for the millions of Americans who receive health coverage through their jobs?**

   To preserve employer-sponsored insurance coverage that reduces costs to Americans who receive coverage through their jobs, Congress should:

   - Avoid funding any potential ACA replacement programs and services with new regulations and taxes on large group employers and insurance carriers providing plans.

- Allow each State the ability to determine minimal levels of employer sponsored healthcare to ensure location opportunities and barriers are accounted for and applied appropriately.
- Ensure the Excise Tax ("Cadillac Tax") is repealed to allow large group employers the flexibility to design health care plans meeting the needs of their employees.
- Exempt small group markets from the federal Essential Health Benefits requirement plans to allow for more state flexibility
- Exempt small group markets from federal risk adjustment

5. **What key long-term reforms would improve affordability for patients?**

   Congress should consider the following long-term reforms to help improve affordability for patients:

   - Mandate transparency in provider prices;
   - Mandate transparency in drug prices and drug efficacy;
   - Relax current limitations on the availability of health savings accounts (HSAs) for individuals;

6. **Does your state currently have or plan to enact authority to utilize a Section 1332 Waivers for State Innovation beginning January 1,2017?**

   Nevada is currently exploring this option.

7. **As part of returning more choice, control and access to the states and your constituents, would your state pursue the establishment of a high-risk pool if federal law were changed to allow one?**

   The State would consider establishing a high-risk pool if there is adequate funding (federal or otherwise) and State authority to assess all health plans.

8. **What timing issues, such as budget deadlines, your legislative calendar, and any consumer notification and insurance rate and form review requirements, should we consider while making changes?**

   Regarding timelines, Congress should consider the following when making changes:

   - States should be allowed to set all specific rate and form review requirements, including timelines. Any federal requirements should be limited to providing a broad framework rather than specific rules; and
   - System limitations associated with use of the federal IT platform should not limit a state's regulatory authority.

9. **Has your state adopted any of the 2010 federal reforms into state law? If so, which ones? What impact would repeal have on these state law changes?**

   Nevada has adopted guaranteed availability, guaranteed renewability, Federal market rules, small employer definition and components of an effective rate review within Title 57 of NRS. Laws related to individual market guaranteed availability and market rules would need to be amended within NRS if the ACA is repealed.

The state also transitioned its eligibility process from the Division of Health Care Financing and Policy to the Division of Welfare and Supportive Services for the Children's Health Insurance Program. This was done to allow for a single application process with application able to be made through the State's Health Insurance Exchange. This regulation should not change if the law is repealed.