



June 11, 2010

Dear State Official:

The Patient Protection and Affordable Care Act (P.L. 111-148), known as the Affordable Care Act, requires the Secretary of Health and Human Services to establish a temporary high risk pool 90 days after enactment and ending January 1, 2014. The program can be administered either directly by the federal government or through contracts to States or eligible nonprofit entities. Your State submitted a signed indication of intent April 30<sup>th</sup> to submit a proposal to administer a High Risk Pool.

To date, over a dozen proposals have been received by HHS for administration of the temporary high risk pool. In addition, progress is steadily being made with the development of the National Transitional High Risk Pool for the states that do not intend to administer the program. Applications for potentially eligible individuals from these states will begin to be accepted starting July 1, 2010, and coverage will begin on August 1.

We believe that it is important that Americans with pre-existing conditions have a meaningful and affordable health insurance option regardless of the state in which they live. To the extent that your State remains interested in administering the new program for such individuals, the Secretary requests your proposal by June 25, 2010. This will ensure that eligible individuals have access to affordable health care coverage in your State within a reasonable time frame.

HHS will be using the enclosed model contract that sets forth the formal terms and conditions needed to execute a contractual agreement with each state. As detailed in the attached model contract, the state's final approved proposal also will become a part of the contract. Please note that the attached contract includes a set of standard terms and conditions (see Section G) that are a necessary part of each contract. States should plan on implementation and initial operation of state-administered transitional federal high risk pool under the terms of the enclosed contract and their approved proposals, since federal regulations may not be issued prior to implementation. In addition, Section A of the model contract includes a set of additional questions that states will be asked to complete along with those in the May 10<sup>th</sup> solicitation, for final proposal review. These questions include the actual premium structure being proposed, plan deductibles, disenrollment grace periods, and other basic elements of the proposal.

As noted above, we want to take all possible measures to ensure that state high risk pools can begin to accept enrollments and provide coverage as soon as possible. We recognize that accomplishing this goal necessitates that states continue to move forward with preparing for implementation at the same time that we conclude the contracting process. Thus, in addition to sharing with you the model contractual provisions, we also wanted to take this opportunity to make clear that implementation costs incurred prior to entering into formal contracts with HHS may be considered allowable and reimbursable expenses, consistent with existing Federal

contract law. Specifically, allowable costs could include administrative costs incurred before the effective date of the contract that are directly pursuant to negotiation and in anticipation of contract award, when such incurrence is necessary to comply with the proposed contract delivery schedule. (Acceptance of the attached terms and conditions would constitute the required “negotiation.”) These costs, such as the costs of developing or modifying accounting systems, or developing or modifying enrollment systems, applications or procedures, are allowable to the same extent that they would have been allowable if incurred after the date of the contract. Actual payment for reasonable, allowable pre-contract administrative expenses can begin as soon as a contractual agreement is signed between HHS and the state or its designated entity.

Finally, please note that the National Transitional High Risk Pool is available to those states which prefer not to administer a high risk pool themselves. Should your state determine that it is in its best interest to offer the national option, we ask that you inform us of your intention as soon as possible so that we may make arrangements for your State’s eligible residents.

We will be reaching out again to each state during the week beginning June 14 to discuss issues particular to each state.

Sincerely,

/s/

Jay Angoff  
Director