



**DON GAETZ**  
*The Florida Senate*  
*Republican President-designate*

## THE FLORIDA LEGISLATURE



**WILL WEATHERFORD**  
*The Florida House of*  
*Representatives*  
*Speaker-designate*

November 15, 2012

The Honorable Kathleen Sebelius, Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Secretary Sebelius:

The State of Florida has not made a decision on how to proceed with the implementation of the Patient Protection and Affordable Care Act (PPACA), and the state is unable to provide a Declaration Letter in accordance with the timeframe outlined by the U.S. Department of Health and Human Services. The purpose of this letter is to explain the reasons the deadline cannot be met and outline the process by which Florida will make decisions about any future participation in operation of an exchange.

Two factors prevent immediate state action on the establishment of an exchange. First, the Legislature has not authorized the Governor or any state agency or other entity to develop and operate an exchange, and no such authority can be established until the Legislature convenes in March. Second, the state lacks sufficient information to fully evaluate the potential impact of choosing one exchange model over another. The first issue will be addressed through the debate and decisions expected to occur during the 2013 legislative session. However, resolution of the second issue depends on the ability of your agency to provide answers to numerous critical questions.

PPACA is a complex and comprehensive law that will touch almost every aspect of health care financing and service delivery. With implementation now inevitable, it is time for Florida to focus on determining the manner and extent of state participation.

Our consideration of the options available to states will be framed by our shared commitment to the following goals:

- Increases in costs for health insurance should be mitigated to the extent possible;
- The health insurance market for individuals and small groups should continue to be a robust competitive environment that offers choice and reliable coverage for consumers; and,
- Consumer protections must be meaningful and enforceable.

Our ability to set a course for achieving these goals depends on access to and analysis of complete information about how the various exchange models will operate. Therefore, we are requesting your assistance in responding to the concerns and questions included in the attachment in this letter. Additionally, we hope to begin working with your agency to secure such federal resources as may be available for detailed planning related to possible state operations of exchange functions in Florida.

Thank you for your immediate attention to these important questions.

Sincerely,



Don Gaetz  
President-designate  
The Florida Senate

Sincerely,



Will Weatherford  
Speaker-designate  
The Florida House of Representatives

Attachment

## Attachment - Information Necessary for Florida Exchange Decisions

Because structural and operational details for the federally-facilitated exchange (FFE) are unknown, the state cannot compare and contrast the FFE with a state-based exchange (SBE) or Partnership Exchange. The states are waiting on more than 100 rules and guidelines on important details of the operation of all types of exchanges, interaction between the federal government and the exchange, and the regulation of health plans. The affected industries and state agencies are left to speculate as to what those federal choices will be.

To make exchange decisions, Florida needs the department's final rules, definitive guidance, financial information, timelines, and other information in all the areas for which the department has not yet provided them, as follows.

There are no rules on minimum essential coverage, essential health benefits, actuarial values, rate calculation, and rating areas. There is no guidance on the interaction of state rating laws and the new federal requirements. There is no guidance clarifying the role of navigators, agents, and brokers, or on the consumer's application process, including privacy and security protections. There is no information on the FFE's web portal, toll-free hotline, and outreach plan to ensure interested parties have information and knowledge concerning the exchange.

There is no guidance on the process for a state to transition from an FFE to a state-based exchange or Partnership Exchange, including any costs to the state for taking over functions of the FFE. There is no information on a projected long-term operations cost and budget for the FFE. There is no information on whether it would be more cost effective for the state or the FFE to provide plan management or consumer assistance.

There are no details on the State Partnership Exchange, including specific duties of the states and costs to the state. The state does not know what would be expected of it in its role of plan management or consumer assistance. The state does not know what cost it would incur in performing these functions.

The Office of Personnel Management has not released the requirements of the multi-state plans. These plans could have a significant impact on Florida's insurance market and will affect the choices we make about the exchange model.

It is unclear whether the FFE will have the capacity and infrastructure to begin operations in 2014. It is unclear whether the FFE will have the capacity and infrastructure to certify, review, and oversee Qualified Health Plans in a timely manner. It is unclear when the Federal data hub will be finished and whether it will be finished on time. The procedural and technical requirements for linking to the hub are still unknown.

In addition to the broad administrative action necessary to address the above-listed information gaps, the Florida Legislature requests specific answers to the following questions on FFEs:

- Would a Florida FFE be an active purchaser, limiting the number or type of plans to participate in the exchange, or would it certify all Qualified Health Plans?
- Would plans be allowed to participate by regions, or must they provide coverage for the entire state?
- What fee would the FFE charge to QHPs to participate in the exchange, and would the fee be Florida-specific or based on a national formula?
- How would the FFE review rates? Would Florida be considered one region for rating purposes, or will the state be divided into several regions?
- How would the FFE determine network adequacy?
- Would the Affordable Insurance Exchange and Small Business Health Options Program risk pools be combined or separated?
- Would the FFE's offices, call center, or other operations serving Floridians be located in Florida or another state?



**RICK SCOTT**  
GOVERNOR

November 16, 2012

Secretary Kathleen Sebelius  
Department of Health and Human Services  
200 Independence Avenue  
Washington, DC 20201

**Re: Meeting request to discuss lowering health care costs and increasing the access to quality health care for all Florida families**

Dear Madam Secretary:

As I travel the great State of Florida, families tell me they are concerned about their ability to follow their dreams by getting a great job and a quality education for their children and grandchildren and keeping their cost of living low. As we continue to work toward these goals, we have a responsibility to address the ever-increasing cost of health care and the need for better access to quality health care for all Florida families. However, we also have a responsibility to work toward these goals without making things worse for Florida families by driving up costs without doing anything to increase access or quality. The citizens of our state are hopeful that you will accept our offer to partner with you to work together on solutions that will address the ever-increasing cost of health care and the need for better access by all Florida families to quality health care. We would respectfully request a meeting to discuss possible solutions for Florida families at your earliest opportunity.

While I continue to be concerned with the unanswered questions regarding the implementation of PPACA, I know that we share the same goals when it comes to lowering the costs of health care and addressing the need for better access to quality health care for not only Floridians, but for all Americans. I am hopeful it is possible for us to work together to lower costs and improve access and quality. Under the current regulatory requirements and the information we have been provided, however, Florida does not have evidence that a PPACA exchange can accomplish these goals.

While I am appreciative of the additional time offered in your November 9, 2012 letter for states who wish to submit a blueprint for approval of state-based exchanges, I remain hopeful that the Department of Health and Human Services will be able to issue the critical guidance we need to make the necessary

decisions by the deadlines set out in the PPACA. Current information available to us does not offer any indication that a PPACA exchange lowers health care costs for Floridians. As we continue to analyze what decision would be best for Florida families, estimates for Illinois, the state with the largest population after Florida, show

(s)tart-up costs for the Exchange from 2011 through 2013 are projected at \$92.3 million. Operating costs for 2014 are projected to be between \$32.1 million and \$46.7 million (depending on enrollment). For 2015, costs are expected to increase along with enrollment to \$57.4 million to \$88.6 million.<sup>1</sup>

Moreover, we realize that the actual costs of most government healthcare programs prove to be greater than the early projections. For example, in 1966 the initial estimate for the cost of Medicare was \$12 billion by 1990, but it actually cost \$107 billion that year. The Congressional Budget Office already estimates that families will pay \$2,100 more for their health insurance in the non-group market under PPACA because of the new rules<sup>2</sup>, although many of those rules are still very unclear. Further, we continue to hear concerns from private insurers in Florida that the new federal requirements and taxes will force more and more costs onto families in the coming years. In weighing the benefits and risks to Florida families associated with PPACA, it is important that we can fully understand the impacts of the decisions facing our state. Florida families expect me to help them get a job and a great education for their children and grandchildren and keep our cost of living low.

Despite these challenges, there are many policies that we can pursue together that can have an immediate and positive impact on the costs that families must bear to afford health care coverage. First and foremost, we can attack the best way for families to overcome this obstacle — through employment. By controlling spending, reducing regulatory burdens and encouraging

---

<sup>1</sup> *State Planning and Establishment Grants for the Affordable Care Act's Exchanges: State of Illinois – Quarter 4 Report*. Office of Consumer Information and Insurance Oversight. October 31, 2011. <http://insurance.illinois.gov/hiric/resources/q4grantreporthhs.pdf>.

<sup>2</sup> *An Analysis of Health Insurance Premiums Under the Patient Protection and Affordable Care Act*. Congressional Budget Office. November 30, 2009. <http://cbo.gov/sites/default/files/cbofiles/ftpdocs/107xx/doc10781/11-30-premiums.pdf>.

Secretary Kathleen Sebelius  
November 16, 2012  
Page Three

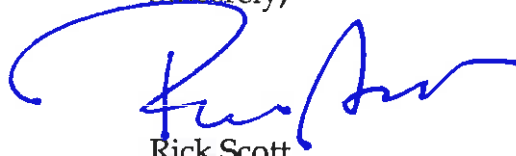
American businesses to grow and create jobs, we can help millions of hardworking families get jobs and access to the health care they need.

As a part of our meeting, I would also propose discussing ways that the administration in Washington can work in partnership with us to enact reforms that are proven to lower costs for families. For instance, through a Medicaid waiver, Florida has been providing innovative care to individuals through managed care. An evaluation of the project showed that consumers had choices and found improved access to care. Health plans scored higher on quality measures and improved their quality scores more rapidly, while allowing taxpayers to save money. Statewide Medicaid Managed Care is one way we can act immediately to encourage more competition in health care which would drive down costs and increase outcomes and services. We appreciate all the work your staff has done on the current Medicaid waiver request for Statewide Managed Care and look forward to your approval.

Together, we can also work to offer individuals the same tax benefits for buying insurance coverage as employers which will prevent individuals from losing their health insurance when changing jobs, along with price incentives for healthy behaviors like eating right, exercising and not smoking. I would also propose allowing individuals to have the flexibility to buy the coverage that is right for them, rather than requiring health care plans to cover services that Florida families do not desire. If we can enact a reform agenda that will increase competition and choices and incentivize personal responsibility for families, we can achieve our goal of lowering costs and increasing access to and quality of care, all for the benefit of Florida families.

I look forward to your response to my invitation. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rick Scott", with a large, sweeping initial "R".

Rick Scott  
Governor