



*The Commonwealth of Massachusetts
Commonwealth Health Insurance Connector Authority
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JOSEPH G. MURPHY
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December 26, 2012

National Healthcare Operations
Healthcare and Insurance
U.S. Office of Personnel Management
1900 E Street NW, Room 2347
Washington, DC 20415

**Re: 3206-AM47:
Establishment of Multi-State Plan Program for the Affordable Insurance Exchanges**

To Whom It May Concern:

On behalf of the Commonwealth of Massachusetts, we appreciate the opportunity to provide comments on the Notice of Proposed Rule Making (NPRM) regarding the establishment of the Multi-State Plan Program (MSPP) for the Affordable Insurance Exchanges (Exchanges) consistent with § 1334 of the Patient Protection and Affordable Care Act (ACA), published in the Federal Register on December 5, 2012. We refer to our previous letter, and reiterate our support for an approach to Multi-State Plans that will ensure a level playing field between Multi-State Plans and other health plans in the Commonwealth. In this letter, we offer a few additional comments for your consideration, in the following areas:

MSPP Issuer Participation Requirements

Section 800.104 of the NPRM provides MSPP issuers a four-year period to phase-in coverage in state Exchanges, providing that coverage is offered through Exchanges in all states and the District of Columbia by the fourth year. OPM has requested comment on whether to allow MSPP issuers the flexibility to offer coverage in the individual Exchange only, and not the Small Business Health Options Program (SHOP) Exchange, during this phase-in period. We believe that, in order to promote parity across all issuers participating in an Exchange, state Exchanges should have the flexibility to define participation rules applicable to all Qualified Health Plan (QHP) issuers, including MSPPs.

45 CFR Parts 155, 156, and 157 provides state Exchanges the flexibility to require QHP issuers to participate in both the non-group and small-group markets as a condition of certification. The Health Connector is in the process of defining Exchange QHP issuer participation requirements. While we appreciate the unique nature of Multi-State Plans (MSPs), we are concerned that exempting MSPP issuers from these requirements could result in unequal treatment relative to other issuers participating in the Exchange.

State Exchange participation requirements should be applied consistently to all participating issuers. Therefore, we recommend MSPP issuers be required to offer coverage in the SHOP in addition to the individual Exchange through any state Exchange that has implemented a similar requirement as part of its issuer participation requirements.

MSPP Application and Contract Negotiation Processes

Section 1324 of the Affordable Care Act ensures parity and a level playing field in terms of the application of requirements on all private health insurance issuers, including MSPP issuers. This provision provides that MSPs will be subject to the same State and Federal laws as private issuers related to one of the 13 categories under Section 1324(b) of the Affordable Care Act. Level playing field requirements are necessary to ensure the preservation of Massachusetts' strong consumer protections, especially those requiring the inclusion of Massachusetts' mandated benefits, managed care protections and consumer disclosures and adherence to its merged non-group/small group health insurance rating rules. If MSPs are not subject to Massachusetts' laws, it will create consumer confusion and an un-level playing field among those offering health coverage in the state.

Subpart D, 800.301 through 800.306 of the NPRM grants broad authority to OPM to review MSPP applications and engage in contract negotiations. We appreciate that OPM intends to work with states when evaluating benefits and rate proposal; however, the Health Connector is concerned that, without strong state involvement throughout this process, there is the potential that state-based insurance rules and Exchange participation requirements will not be consistently applied to MSPP issuers. In order to ensure a level playing field is maintained, we recommend and respectfully request robust state involvement in these processes.

MSPP Issuer User Fees

In section 800.108, OPM has reserved the right to assess a user fee on MSPP issuers to pay for the administrative expenses associated with operating the MSPP. We request flexibility for a state Exchange to determine how best to generate financial support for continued operations, including through the assessment of user fees on all participating issuers.

Section 156.50(b) of the proposed HHS Notice of Benefit and Payment Parameters for 2014 states that "a participating issuer must remit user fee payments, or any other payments, charges, or fees, if assessed by a State-based Exchange." We respectfully request that, as a participating issuer, MSPP issuers are considered as also subject to these requirements.

We thank you for consideration of our comments and look forward to continuing to work with the federal government in implementation of the ACA.

Sincerely,

A handwritten signature in black ink, appearing to read "Glen Shor". The signature is fluid and cursive, with the first name "Glen" written in a larger, more prominent script than the last name "Shor".

Glen Shor
Executive Director
Commonwealth Health Connector

A handwritten signature in black ink, appearing to read "Joseph G. Murphy". The signature is highly stylized and cursive, with a large, looping initial "J" and a long, sweeping tail that extends to the right.

Joseph G. Murphy
Commissioner of Insurance