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TRISH RILEY
DIRECTOR

VIA EMAIL – highriskpools@cms.hhs.gov

April 26, 2010

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

Re: Notice of Intent

Dear Secretary Sebelius:

This letter serves as Maine's Notice of Intent to apply for funding to cover persons uninsured for six months with pre-existing conditions, pursuant to Section 1101 of the Patient Protection and Affordable Care Act (Public Law 111-148). We could establish our program as early as July 1, 2010, or earlier, should federal funds be available. We deeply appreciate the flexibility that the U.S. HHS is granting states to design a program that will permit successful and expeditious implementation of the program in our State. This action will provide immediate relief to those now uninsured.

We propose to build on our existing Dirigo Health program, which currently covers uninsured persons with pre-existing conditions through its subsidized insurance program. Maine will assure maintenance of effort in our current program and use federal funds to extend coverage to those uninsured for at least six months who also have pre-existing conditions.

1. Proposed approach to develop an alternative to the high-risk pool

The Patient Protection and Affordable Care Act establishes a high-risk pool program to accomplish these goals:

- 1) Provide immediate health insurance coverage for more Americans until the PPACA is fully implemented in 2014; and
- 2) Provide states with federal subsidies to facilitate the coverage of uninsured individuals with pre-existing conditions.

Maine can meet these two goals immediately and with minimal administrative expense by using its current structure, the Dirigo Health Agency (DHA), as an alternative to a high risk pool.

Enacted in 2003 and implemented in 2005, the Dirigo Health program is the only plan in the individual market that has no waiting period for pre-existing conditions, assures mental health parity and covers preventive services with no cost sharing. Through guaranteed issue protection and subsidies for premiums and out-of-pocket costs, we have established a program that serves the same individuals targeted under the high-risk pool program. Maine has also achieved most of the rate reforms proposed in the PPACA. We believe our current Dirigo Health program meets the requirements in the Act because it:

- a) Does not impose any pre-existing condition limitations on coverage for eligible individuals;
- b) The issuer's share of cost is not less than 65% of the actuarial costs of benefits;
- c) Out-of-pocket limits are no greater than those permitted under the rules for health savings accounts (\$5,950 for individual coverage; \$11,900 for family coverage);
- d) Premiums will be the standard premiums for the Dirigo individual population;
- e) Age rating is less than 4 to 1.

Unlike traditional high risk pools which tend to have restrictive benefits, high costs and low enrollment, the Dirigo Health program has significant enrollment and offers affordable, comprehensive coverage in a cost effective manner to the population identified in the Act. This alternative provides us the opportunity to implement the provisions of the Act immediately and cover those uninsured for six months with pre-existing conditions. Requiring a state like Maine to create a high-risk pool would result in unnecessary and high administrative expenses and significant time delays.

2. Legislative Authority to Implement the Plan

No additional legislation is required to establish the Dirigo Health Agency as the entity to cover uninsured with pre-existing conditions. The enabling legislation that created the program includes these references:

Dirigo Health Purpose:

“Dirigo Health is established as an independent executive agency to arrange for the provision of comprehensive, affordable health care coverage to eligible small employers, including the self-employed, their employees and dependents, and individuals on a voluntary basis.” 24-A MRSA § 6092.

Powers and Duties:

- Have and exercise all powers necessary or convenient to effect the purposes for which Dirigo Health is organized. 24-A MRSA § 6908 (1)(C);
- Enter into contracts with qualified 3rd parties both private and public for any service necessary to carry out purposes of this chapter. 24-A MRSA § 6908 (1)(F);
- Apply for and receive funds, grants or contracts from public or private sources. 24-A MRSA § 6908 (1)(I).

Coordination of Federal, State and Local Health Care Systems:

“Dirigo Health shall institute a system to coordinate activities of Dirigo Health with health care programs of the federal government and state and municipal governments.”
24-A MRSA § 6908(9).

3. Outline of the program and potential mechanisms to provide coverage

DirigoChoice is the State of Maine’s existing coverage program that has been providing uninsured, high risk individuals access to a comprehensive health insurance plan and income-based subsidies for both individuals and small group employees up to 300% FPL since 2005.

The Dirigo Health Agency (DHA) contracts with the non-profit Harvard Pilgrim Health Care, Inc., who provides the DirigoChoice health insurance product. Appendix 1 provides a description of the DirigoChoice benefits. In addition, sliding scale subsidies are available to assist members with household incomes under 300% FPL to pay their monthly premiums and out-of-pocket costs.

Since the inception of the program, approximately 80% of the DirigoChoice members receive subsidy (household incomes under 300% FPL) and 20% of the membership is unsubsidized (household incomes over 300% FPL).

However, the subsidy program has been capped because of limits on funding. The Legislature provided new funding that allows the DirigoChoice program to reopen to new subsidized enrollment this summer. The program has always operated on a fixed budget and effectively manages caseload to budget to assure reliable, continuous coverage to members within that budget.

DirigoChoice covers underinsured and uninsured individuals with pre-existing conditions today. Because the program is guaranteed issue and has no waiting period for pre-existing conditions, there is little difference between our current members and those who will be

eligible through the temporary high risk pool program, since many of our members enter the program with pre-existing conditions. To date, however, we have not documented those conditions nor do we apply a 6 month test of uninsured status. Our enrollment and eligibility procedures will be modified to assure we effectively enroll and track new members who meet these requirements. Federal funds will be used solely to support the costs of the members eligible for the temporary high risk pool program. Maintenance of effort in Dirigo funding will support other new enrollment. With additional funding from the federal government as part of the temporary high risk health insurance pool program, we will be able to expand our reach to cover more uninsured, high risk people in need.

We believe that there is alignment in the objective of the high risk health insurance pool program and DirigoChoice and that is why building on our existing coverage program is the way to immediately implement this important access expansion initiative.

We have reviewed the HHS Fact Sheet, and will be developing a budget consistent with the available funding.

Dirigo Health Agency and Harvard Pilgrim Health Care have agreed to expand access in the individual segment of the DirigoChoice program to implement the temporary high risk pool program for Maine. The details of the agreement will be determined as other details are better understood. The general approach, pending approval from HHS, is to increase the number of uninsured individuals with pre-existing conditions that the DirigoChoice program would otherwise be able to cover but for funding limitations. We will maintain our funding for Dirigo's current population. We will use the DirigoChoice non-group rates and benefits that are in place today (all of which we believe meet the requirements described in Section 1101).

When DirigoChoice launched, we developed an initiative with our carrier to protect the program against adverse selection. We propose to do so again for this population, with the approval of HHS.

A portion of the federal funding will be used to offset any adverse claims experience above and beyond the general DirigoChoice individual population, which is priced at a 90% MLR. We propose to do this through an arrangement known as an experience modification program (EMP). The EMP is a form of experience underwriting not uncommon in plans where the risk of the population is unknown. We do not anticipate adverse enrollment, given our experience with this population, but want to assure program integrity.

The EMP will protect the program from the impact of any adverse selection. If the experience outcome is more favorable for this population in the DirigoChoice plan and the loss ratio is at or close to 90%, DHA will not send EMP payments to HPHC.

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The final structure of this arrangement is contingent upon the specific amount of funding for the State of Maine and must be agreed to by both parties, DHA and HPHC, and reviewed by our Bureau of Insurance. We will be re-opening DirigoChoice to new enrollment as well. Our plan is to include the temporary high risk enrollees in the same pool as the Dirigo Choice members but to track their eligibility and claims experience separately.

The State of Maine looks forward to further guidance from you to complete an application that will allow us to initiate this program July 1, 2010, or sooner if funds are available, in order to cover those with pre-existing conditions who have been uninsured for six months.

Thank you.

Sincerely

A handwritten signature in cursive script that reads "Trish Riley". The signature is written in dark ink and is positioned above the typed name and title.

Trish Riley
Director
Governor's Office of Health Policy and Finance

Enclosure: Appendix 1: DirigoChoice PPO Plan – A Summary of Benefits

cc: Karynlee Harrington, Executive Director, Dirigo Health Agency