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December 14, 2012

Secretary Kathleen Sebelius
United States Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Re: Selection of Nevada's Benchmark Plan

Dear Secretary Sebelius:

This letter will serve as Nevada's notification to you of its selection of the Nevada-specific Essential Health Benefits benchmark plan. On behalf of the State of Nevada, I want to express my appreciation for the opportunity to provide to you our thoughts and the background leading to the selection from the State of Nevada.

The United States Department of Health and Human Services (HHS) set a deadline of September 30, 2012, for states to submit their selections of benchmark insurance plans, which will define the state-specific Essential Health Benefits (EHB) offered in conjunction with the Patient Protection and Affordable Care Act (ACA). States that failed to submit a selection by that date will have a default plan selected by you using insurance plan market and plan enrollment as the only factors.

The task of selecting an EHB benchmark plan was a challenging task. In December 2011, HHS issued guidance on the EHB default plan selection methodology entitled, "Essential Health Benefits Bulletin" (Bulletin). The Bulletin indicated that plan enrollment data would be solicited from the health insurance issuers in each state to compile a list of ten potential benchmark health insurance plans from which a state may choose. If a state were to default on the plan selection, HHS would make the largest (by enrollment) small group insurance plan the benchmark plan for that state.

Following publication of the Bulletin, HHS released the guidance entitled, "Essential Health Benefits: Illustrative List of the Largest Three Small Group Products by State" (Illustrative List). This Illustrative List laid out the three largest small group products in each state, ostensibly

indicating that, per the Bulletin, the largest of the three would be considered the state's default benchmark plan. In June 2012, HHS personnel contacted staff at the Nevada Division of Insurance (DOI) and Silver State Health Insurance Exchange (SSHIX) in preparation for the release of a final list of small group products in each state. In July 2012, HHS released the final list of small group products in guidance entitled, "Essential Health Benefits: List of the Three Largest Small Group Products by State" (List). In October 2012, HHS personnel conducted another conference call with DOI and SSHIX staff, during which HHS was asked which plan would be Nevada's EHB default plan as a result of the State's declination to make an EHB selection. In November 2012, HHS published proposed regulation CMS-9980-P entitled, "Standards Related to Essential Health Benefits, Actuarial Value, and Accreditation" (Standards). In each instance, Illustrative List, conference call, List, second conference call, and Standards, the largest small group product for Nevada was misidentified despite repeated communications on the state's behalf.

In September 2012, HHS distributed pre-filled Microsoft Excel templates for the three largest small group insurance plans in each state, to be used in loading states' EHB benchmark selections into the federal Health Insurance Oversight System (HIOS). Accompanying these templates were the documents for each of the template plans, as well as a blank template to be used if the state selected one of the seven other EHB benchmark plans. The template and documentation for Nevada's largest small group insurance plan was provided for the correct *product* but for the wrong *plan* within that product.

The State of Nevada has long maintained that if the ACA is to be implemented in the State it will be done by Nevada for the benefit of Nevadans. The events of the past six months only serve to strengthen our belief that a state-based solution is in our citizens' best interests. To that end, in consideration of Section 1302(b) of the Patient Protection and Affordable Care Act, as amended, and as clarified in the Essential Health Benefits Bulletin of December 16, 2011, **the State of Nevada hereby selects the Health Plan of Nevada Point-of-Service Small Group insurance plan (HPN Plan) as our benchmark health insurance plan.** It is important to clarify that selection of the HPN Plan is selection of the HPN Plan denoted "Group 1 POS C-XV-500 – HCR" (Group 1) as opposed to the HIOS template HHS provided, which was for the HPN Plan denoted "Sierra 2006 POS D-XX-1000-1500 – HCR" (Sierra). While both plans exist under the Health Plan of Nevada product published in the List, Group 1 is the plan with the larger enrollment. The submission in HIOS reflects the appropriate product and plan.

The selection of the HPN Plan as our benchmark health insurance plan is supplemented by the selection of Nevada Check-Up (CHIP) as our benchmark pediatric dental plan and FEDVIP BlueVision-High as our benchmark pediatric vision plan. Nevada also acknowledges that the benchmark plan selected will require a supplement to the habilitative services benefit; Nevada has chosen habilitative services to be offered at parity with rehabilitative services.

Sincerely,



SCOTT J. KIPPER
Commissioner of Insurance