



DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

1818 East College Pkwy., Suite 103
Carson City, Nevada 89706
(775) 687-0700 • Fax (775) 687-0787
Website: doi.nv.gov
E-mail: insinfo@doi.state.nv.us

October 1, 2012

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

Re: Selection of Nevada's Benchmark Plan

Dear Secretary Sebelius:

The Department of Health and Human Services (DHHS) has set a deadline of October 1, 2012 for the 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 (PPACA). This deadline was issued in conjunction with an Essential Health Benefits Bulletin (Bulletin) issued by the Center for Consumer Information and Insurance Oversight (CCIIO) on December 16, 2011. The Bulletin laid out a general framework by which a State could select a benchmark insurance plan, which would then dictate the State's EHB package.

After the release of the Bulletin many states, including Nevada, inquired about more detailed and official rulemaking to supplement the general instructions. These rules are crucial to Nevada's ability to select an EHB package that:

- 1) Does no harm to Nevadans;
- 2) Expands Nevadans' access to important health insurance resources; and
- 3) Is compliant with federal and state law.

The Division of Insurance's staff has spent months analyzing our options and asking for more formal rules, to which we have been told that answers were coming "soon." As of this writing, no answers have come, and the Division has been told that if Nevada's selection does not conform to the rules, which do not yet exist, the selection may be preempted.

Regulations and final rules on a multitude of topics related to EHBs remain conspicuously absent and, in their place, Division staff has received only informal bulletins and verbal guidance. The health of our citizens and the stability of our insurance market are contingent upon open communications and timely rulemaking. Faced with the lack of transparency and formal rules, Nevada is unable to select an appropriate EHB package.

Nevada believes it is important to work toward a resolution that best suits Nevadans. Further guidance is required not only in the matter of EHB rulemaking, but also as it concerns many other topics, including the various nondiscrimination provisions contained in PPACA. Until such time as formal rules and regulations are promulgated, Nevada cannot rely on informal guidance as the law. The Division requests that all future decision points be accompanied by greater transparency from DHHS and the Center for Consumer Information and Insurance Oversight than has been seen with the selection of EHB.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott J. Kipper", written in a cursive style.

SCOTT J. KIPPER
Commissioner of Insurance