



Thursday, November 1, 2012

Governor Mark B. Dayton  
130 State Capitol  
75 Rev Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

Dear Governor Mark B. Dayton,

The U.S. Department of Health and Human Services has given you a deadline to respond on the Affordable Care Act (ACA)'s government health insurance exchanges: Friday, November 16, 2012. Only 15 states have responded.

**We recommend and are requesting that you do not respond to the HHS exchange decision deadline, and that you do not in any way comply with their request for a decision.**

Our reasons are simple:

- All exchanges under the ACA are federal exchanges under federal law and federal regulatory control, including federal regulations yet to be written and those already written (ie. final exchange rule, the costly final risk adjustment rule and proposed “essential health benefits” rule, and the “extra-legal” IRS premium subsidies/tax credits rule as U.S. Congressman Darrell Issa has called it). There is no state control.
- The ACA does not and cannot require you to set up a state-funded federal exchange, or any kind of an exchange. Like the Medicaid expansion mandate, that would be unconstitutional commandeering of the State. This is why the ACA contains a “fallback” Federally-Facilitated Exchange (FFE).
- The ACA exchange is not a simple one-stop-shopping “marketplace.” It is the central key to the federal takeover of health care in each State:
  - *“The ACA cannot be implemented without an insurance exchange in each state. It’s a go or it’s a no-go. It’s that simple.”* – Robert Laszewski, president of Health Policy and Strategy Associates, September 19, HealthDay News.
  - *“The exchange is the foundation of health care...Without these exchanges we’re really not going to reform anything...”* – Terry Gardinar, national policy director, Small Business Majority, Inside Business, June 25, 2010.
- State-funded exchanges will cost states \$10 - \$100 million each year to operate. This is based on Medicaid and relatively limited use estimates -- which may be incorrect. It could cost more if more people use it, and employers shift employees to the exchange.
- Your state’s Medicaid costs will rise because the ACA’s exchanges will force more citizens into Medicaid using the individual’s expected income – after deductions.

- The exchanges, through the “federal data services hub” will allow the IRS to track the insurance status of all your constituents, and impose the penalty-tax for failure to comply with the ACA’s controversial mandate to purchase health insurance.
- The ACA requires “individualized risk scores” on you and all your constituents, forcing States to collect and send very detailed medical and other data to the federal government.
- Employers face significant penalties if even one of their employees receives government-issued, premium-subsidized insurance on the state-funded exchange.
- No federal dollars have been appropriated to build a Federally-Facilitated Exchange. The U.S. House has refused the HHS request for a \$750 million appropriation.
- Thus, HHS has further requested that all states agree to and prepare for a state-federal partnership model with the States as “storefronts” and the federal government in control of most operations. This will obscure from your constituents the fact that the exchange is a federal takeover operation under federal control.
- If you cooperate to build or impose any one of these federal exchanges, expect the federal government to charge your state fees for the partnership model or the FFE.

**The November 16 deadline is intended to pressure you into committing to facilitate the implementation of ACA – government-run health care -- by imposing this intrusive precursor single-payer system and IRS mandate enforcement system on your state.**

HHS wants you to commit to either to build it and pay for it yourself (state-funded), to go into partnership with the federal government to impose it on your constituents (state-federal partnership), or to cooperate with the Federal government to let them impose it on your constituents (Federally-facilitated). Please note that the FFE will be very difficult, in fact all but impossible, to impose without your state’s cooperation, particularly if your state refuses to share medical/tax/other data on individuals.

As Governor, you have incredible power to stop the federal takeover of health care and to reassert your State’s rights protected under the U.S Constitution – the very same rights reaffirmed by the U.S. Supreme Court regarding the Medicaid expansion mandate.

**Simply refuse to cooperate in every way with the imposition of an ACA exchange in your state. Again, we urge you not to respond to the demand that you decide by November 16.**

CCHF has published a new report on the exploding growth and emerging marketplace of private health insurance exchanges. Find it at: <http://bit.ly/RD8vvp>

We have certified this letter to be sure that it arrives. Feel free to contact me with questions or for more information. I can be reached directly at: 651-646-8935 or [twila@cchfreedom.org](mailto:twila@cchfreedom.org)

Sincerely,



Twila Brase  
President