



October 28, 2011

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

RE: Comments on Partnership Models proposed pursuant to Proposed Rule on
Establishment of Exchanges and Qualified Health Plans (CMS-9989-P)

Dear Secretary Sebelius:

We appreciate the opportunity to provide input on state-federal partnership models to establish and operate Exchanges under the Affordable Care Act (ACA). The Georgetown University Center for Children and Families (CCF) has separately provided comments on the exchange establishment standards included in the proposed regulations at 45 CFR Parts 155 and 156. With this letter, we provide further comment on the state-federal partnership models HHS referenced in the proposed rule's preamble and the additional information released on September 19, 2011.

The Georgetown University Center for Children and Families is an independent, nonpartisan policy and research center whose mission is to expand and improve health coverage for America's children and families. Central to our work is providing research and policy assistance to state administrators and state-based organizations on strategies for covering children and their families through public insurance affordability programs, especially Medicaid and CHIP. We conduct research and analysis to inform federal and state policymakers about issues impacting children and families in health care reform and to improve Medicaid and CHIP, particularly around streamlining enrollment and renewal systems.

In general, CCF is concerned that the "partnership model" outlined by HHS for federally-facilitated Exchanges will present significant challenges to smooth implementation of the ACA. We strongly support efforts by the federal government to provide states with tools and resources to operate Exchanges, including, for example, the federal data hub now under development. The partnership model, however, is an entirely different proposal. It rests on the assumption it is possible to "slice and dice" the complex work of the Exchange into different pieces, with some picked up by the federal government and some by the states. Under such a model, responsibility for key functions will be divided, creating significant risk of a fragmented and poorly coordinated system—gaps are almost certain to occur between exchange functions performed by agencies at different levels of government.

If HHS continues to support the partnership model, we strongly recommend that, at a minimum, it retain a limited, well-defined set of partnership options from which states may choose. It is impractical and potentially wasteful to create a uniquely customized partnership for each state that decides to turn over responsibility for operating its Exchange to the federal government. This is particularly true because of the ambitious implementation timeframes established by the Affordable Care Act and the limited resources available to both the federal and state governments. A defined set of options will give both federal and state officials a more manageable range of implementation choices and should help ensure that children and families receive the coverage and care to which they are entitled under the ACA on schedule. If states did not already have the option to operate their own Exchanges with vast flexibility, we might offer a different recommendation. However, the reality is that if states are uncomfortable with the degree of flexibility available to them under a defined set of partnership model options, they can elect to operate their own Exchanges,

In its guidance on partnerships, HHS identified five categories of exchange functions. It proposed that in federally-facilitated exchanges, states may perform health plan management and/or consumer assistance, while eligibility, enrollment, and financial management would remain federal functions. CCF strongly supports keeping eligibility and enrollment as federal functions in federally-run exchanges. If eligibility and enrollment functions are split, it would undermine the creation of the single, streamlined application and renewal process that is clearly required by the ACA. More broadly, it could undercut the ACA objective of providing coverage to all lawfully residing people.

In offering these strong recommendations, we draw on our years of experience with children's health insurance programs and of observing the problems that have arisen in states with divided responsibility for eligibility determinations. States' experiences with Medicaid and CHIP have demonstrated that independent agencies—even at the same level of government—often struggle to coordinate to prevent eligible children from falling through the cracks. In a partnership model, splitting eligibility and enrollment functions between states and the federal government would create an enormous risk that children and others will experience gaps in coverage and care.

Of particular concern is the proposal by some states that they retain responsibility for Medicaid while handing responsibility for advance premium tax credits and cost-sharing reductions to the federal government. A fragmented system such as this would directly contradict the clear mandate in the ACA to establish a single, unified application and enrollment process for the full array of affordability programs. It would leave families in these states highly vulnerable to being shunted back and forth between systems, an outcome that is simply unacceptable when they may face financial penalties if they cannot secure coverage.

In sum, CCF strongly recommends that HHS ensure that eligibility and enrollment functions remain together and are the clear responsibility of a single level of government. Thus in a

state-operated exchange, states should retain responsibility for eligibility and enrollment, while in a federally-facilitated exchange, the federal government should perform these functions.