

State of South Carolina Office of the Governor

NIKKI R. HALEY
GOVERNOR

1205 PENDLETON STREET
COLUMBIA 29201

November 15, 2012

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

Dear Secretary Sebelius,

With the approaching deadline for states to decide if we intend to participate in the health care exchange program created by the Patient Protection and Affordable Care Act (PPACA), I thought it was appropriate to make you aware of the decision South Carolina has made.

Last year, I convened by Executive Order a committee of informed stakeholders in South Carolina known as the Health Planning Committee (Committee). The Committee investigated the implications for South Carolina of the health insurance exchanges envisioned under PPACA. After several months of public meetings and external research, the Committee recommended that the state not pursue a state-based exchange because the operational rules were not yet defined and the limited flexibility that was offered to states.

President Obama's re-election has not changed this assessment, nor has it changed my original decision: our state should not and will not set up a state-based healthcare exchange.

Under the PPACA, the federal government is required to establish exchanges and gave individual states the choice to participate. Yet, as we worked through the process of analyzing the options available to South Carolina, it became abundantly clear that state "participation" was in name only.

For example, South Carolina, if we chose to participate, would be required to submit a "Blueprint" for approval by the Department of Health and Human Services (HHS) that outlines all of the exchange operations. Yet this "Blueprint" is subject to approval based on interpretations of current rule-making that remains incomplete. You are asking us to commit to restrictions that we aren't even aware of yet.

The above example characterizes the kinds of restrictions that led us to conclude that the law's state-based exchange programs are not state-based at all. Instead, they simply pass along to the

The Honorable Kathleen Sebelius

Page 2

November 15, 2012

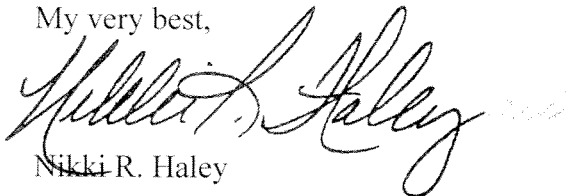
state the burdens of a new and cumbersome bureaucracy. The law fails to give South Carolina any flexibility and decision-making authority that would enable us to truly construct the program in a manner that would offer the most meaningful benefit to our citizens.

The wisdom of our decision is further evident given that many regulations remain incomplete two and a half years after the passage of the bill; the legality of certain portions of the exchange language have not been resolved, and even the ex-exchange czar Joel Ario has recently expressed doubts that the federal government can have the technical and logistical systems in place by the deadlines in the law.

In spite of our opposition to this law as a whole and to the exchange component specifically, we have continued to do our part, participating in conference calls, meetings, and other forums as requested by your department to work on technical issues affecting Medicaid's connection to the Federally-facilitated Exchange.

We believe it is now time for HHS to do its part and provide all states with the final regulations and clear guidance on how state-based, partnership, and federally-facilitated exchanges will be up and running on October 1, 2013; or to announce a delay in the implementation deadline. The amount of uncertainty in our economy is growing given the lack of information available from the federal government at a time when we can hardly afford it.

My very best,

A handwritten signature in black ink, appearing to read "Nikki R. Haley". The signature is fluid and cursive, with the first name "Nikki" and last name "Haley" clearly distinguishable.

Nikki R. Haley

NRH/kh