



STATE OF MINNESOTA

Office of Governor Mark Dayton

130 State Capitol ♦ 75 Rev. Dr. Martin Luther King Jr. Boulevard ♦ Saint Paul, MN 55155

September 19, 2017

The Honorable Thomas E. Price, M.D.
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Mr. Secretary:

Your Administration has publicly encouraged states to apply for federal 1332 waivers to provide funding for state-based reinsurance programs. In 2017, the Republican-led Minnesota Legislature took advantage of this opportunity for state flexibility and so established a state-based reinsurance program to address the urgent needs of Minnesotans, who buy insurance on the individual market. Reinsurance is estimated to reduce individual market premiums in Minnesota by an average of twenty percent, compared to what they would have been without reinsurance.

Throughout the drafting of the reinsurance legislation and the 1332 waiver application, my Administration has followed every instruction from your agency to ensure that Minnesota would receive the 1332 waiver that is required in order to establish the state's reinsurance program. This includes following each step of the application checklist your agency released in May. At the direction of your staff, the Legislature made Minnesota's reinsurance program fully contingent upon your approval of the state's federal 1332 waiver application.

We are still waiting for the official waiver approval that I was told we would receive in August. However, in the meantime, we have learned through conversations with your staff that while our reinsurance waiver will soon be approved, Minnesota's Basic Health Plan funding for our MinnesotaCare program will be reduced. This reversal is contrary to all direction and assurances we received from Centers for Medicare and Medicaid Services (CMS) and U.S. Department of Treasury staff while drafting Minnesota's reinsurance legislation and our ensuing 1332 waiver application.

Since November 2016, Minnesota agency staff has communicated with CMS on a regular basis to ensure that our state-based reinsurance program would allow Minnesota to maximize federal funding for reinsurance without affecting federal funding for MinnesotaCare, our Basic Health Plan. MinnesotaCare provides affordable coverage for low-income Minnesotans who are above Medicaid eligibility but below 200 percent of the federal poverty level. This program was established more than twenty-five years ago with bipartisan support and today covers more than 100,000 people, many of whom live in rural Minnesota.

Given the importance of MinnesotaCare to our state, CMS provided state staff with explicit instructions on how Minnesota should draft the bill and the waiver application in order to maintain funding for MinnesotaCare, while establishing reinsurance. In fact, CMS staff provided our state staff with the choice between two specific approaches for calculating the MinnesotaCare "pass-through." Either option provided by CMS and Treasury staff would have held harmless MinnesotaCare's federal funding.

In a complete turnaround and contrary to all previous direction from your agency, we have now been informed that Minnesota would lose more federal Basic Health Plan funding than we would receive in federal support for reinsurance. Under this approach, the federal government would provide an estimated \$208 million in funding for our two-year individual market reinsurance program, but, as a result of implementing it, we would lose \$369 million in federal funding for our MinnesotaCare program over that same period. This is a very damaging reversal of federal responsibility to Minnesota under Minnesota's Basic Health Plan agreement. By denying our current projected federal funding for MinnesotaCare, you are creating an untenable situation in which the state would essentially lose \$161 million more in MinnesotaCare funding than we would gain through the 1332 waiver for reinsurance.

I have believed the President's and your repeated encouragement of states to undertake new initiatives that will improve the quality and affordability of their citizens' healthcare. A key component of that encouragement was your repeated assurance that your Administration would streamline the review process and expedite the approval of states' waiver requests.

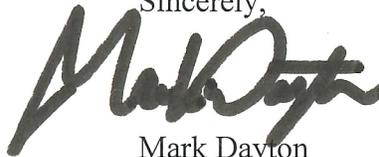
Unfortunately, Minnesota's experience with its 1332 Waiver application has been the opposite; it has been nightmarish. Despite repeated verbal assurances that our waiver application would be approved in August, and even though the deadline for 2018 rate-setting is fast approaching, we have still not received the formal approval upon which our entire state reinsurance program, at the insistence of CMS, depends.

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Then, just last week, we were told for the first time that our Basic Health Plan would be severely punished financially, by our reinsurance initiative. Essentially, we are being penalized for doing exactly what the President and you have been encouraging us to do: take new reform initiatives.

I ask that you officially approve Minnesota's 1332 Waiver Application and reverse this very destructive financial penalty to our Basic Health Plan.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Dayton". The signature is stylized and cursive.

Mark Dayton
Governor

cc: Steven Mnuchin, Secretary of Treasury
Seema Verma, Administrator, Centers for Medicare and Medicaid Services
Members of Minnesota's Congressional Delegation