



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

September 23, 2010

Dear Member of Congress:

In the six months since Congress passed the Affordable Care Act, the Administration has been working hard to implement the new law, focusing on helping consumers take advantage of all the law has to offer, and helping the insurance industry and others prepare for a new marketplace with stronger patient protections. As we mark the law's six-month anniversary, we would like to highlight the important protections and benefits in the law that will be taking effect, and share with you a snapshot of what has been accomplished to date.

September 23 highlights a new day for consumers who have worried about whether their health coverage will be there for them when they need it. New protections will take effect for beneficiaries joining new health plans or beginning a new policy year on or after September 23. Plans will no longer be able to put a lifetime dollar limit on benefits and care for patients – and they can't rescind health policies without intentional misrepresentation or fraud by the consumer. Group health plans can no longer deny coverage to kids based on a pre-existing condition, and if they cover dependent children, they have to cover these children up to age 26. Consumers in new health plans will have the right to a fair process to appeal if their plan denies their claims. These new safeguards will protect tens of millions of consumers.

At the same time, consumers will have access to new benefits. New health plans or plans beginning a new policy year on or after September 23 will be required to cover, without cost-sharing, preventive services including mammograms, colonoscopies, immunizations, pre-natal care and more. This means that potentially millions of parents will be able to get their children immunizations that will keep them healthy and safe, and millions of men and women will have improved access to screenings that can detect diseases before they progress. Eventually, this benefit will apply to more plans as they lose their grandfathered status, meaning that no American with insurance will have to go without a life-saving screening because they can't pay.

Together, these new rights and protections will put an end to some of the worst insurance abuses of the past, and represent a significant step toward putting consumers and their providers, not insurance companies, in charge of their health care.

We have produced comprehensive regulatory guidance to help individuals, businesses, states, and the health care community begin to access benefits that are available immediately and plan for the Exchanges coming in 2014. That effort benefited greatly from the willingness of consumer groups, employers, insurers, and individuals to provide relevant information and their perspectives. We appreciate the cooperation we have received from all of these groups, and in particular the voluntary early implementation of some provisions (such as continued coverage of children until age 26) by some plans and insurers.

These important consumer protections are just some of the ways the Affordable Care Act is already improving health care across the country. From the more than one million Medicare

recipients in the prescription drug coverage gap who have already received checks to help cover the cost of their drugs, to the thousands of Americans with pre-existing conditions in the Pre-Existing Condition Insurance Plan, to the close to 3,000 businesses, employers, unions, states, local governments, and non-profit organizations that have been approved to take part in the Early Retiree Reinsurance Program, to the everyday citizens finding out they are eligible for health coverage they never knew even existed before using the tools on HealthCare.gov, millions of Americans have already been helped by the Affordable Care Act.

The law has also provided some important tools to help reduce health care costs that are already saving money for consumers and taxpayers. Earlier this week, the Centers for Medicare and Medicaid Services announced that, for 2011, premiums for Medicare Advantage will fall, while enrollment for that program will rise and benefits will be similar to what consumers saw in 2010. This positive news for seniors is the result of the new authorities under the Affordable Care Act that allow Medicare to negotiate with health plans in a competitive marketplace to strengthen benefits and keep prices down. And our efforts to limit premium increases in private insurance are working as well. As a result of the provisions of the Affordable Care Act, Blue Cross and Blue Shield of North Carolina will provide premium rebates for their enrollees totaling \$155 million – or \$720 per enrollee in the individual market.

Thanks to the Affordable Care Act, we are also able to act more quickly to protect taxpayer dollars and fight Medicare fraud. The new law will significantly expand efforts to crack down on criminals who steal from Medicare, and put tough new programs and standards into place to prevent fraud from occurring in the first place. It gives Medicare the power to stop payment of suspected claims in consultation with law enforcement and enhances screening and enrollment requirements to root out possible scam artists from ever getting into the program. These efforts, along with other Affordable Care Act reforms, will add 12 years to the solvency of the Medicare Hospital Insurance Trust Fund.

The Affordable Care Act and the Recovery Act have also helped advance our efforts to prevent disease and expand the nation's primary care workforce. We can't transform our system from a sick-care system to one that promotes health without investing in public health and prevention. Through the Prevention and Public Health Fund authorized by the new law, we have invested \$500 million in community-based prevention activities, in our public health infrastructure, and in building our primary care workforce. In addition, hundreds of millions of dollars in other grant funding will strengthen our community health centers, which serve 19 million patients every year, and support critical rural health priorities.

The Affordable Care Act also gives states and communities the tools they need to help strengthen their own health systems. Through HHS's new Office of Consumer Information and Insurance Oversight, we are working closely with the states and other stakeholders to implement the Affordable Care Act. Already, 46 states are using resources provided by the Affordable Care Act to help crack down on unreasonable health insurance premium increases. In the weeks ahead, additional resources will be distributed to help states plan for and develop the health

insurance Exchanges that will give all Americans access to affordable health insurance options in 2014. And later this fall, we expect to award nearly \$30 million to states for the development of consumer assistance programs that will help consumers understand and take advantage of new protections put in place by the Affordable Care Act.

It is critically important that consumers know about their new rights, protections, and insurance options available under the Affordable Care Act. That is why we released www.HealthCare.gov, the first website ever to make information about both public and private health insurance options across the nation available in a single place. In fact, starting October 1, the website's health insurance finder will inform consumers about private insurance options available in their local community – including pricing and benefit information. We also recently launched the Spanish language version of the website, www.CuidadoDeSalud.gov.

In addition, materials available on www.HealthCare.gov can help you educate your constituents about the new law and their new rights and protections, including explanations of how the Affordable Care Act will help seniors, families, young people, rural residents, large employers, and small businesses. There is information on the Pre-Existing Condition Insurance Plan and how to apply. You can also find a list of companies that have been accepted into the Early Retiree Reinsurance Program in your state. The Centers for Medicare & Medicaid Services has new fraud prevention and open enrollment educational campaigns running. And you can download our new insurance finder widget for your website that will make it easier for your constituents to find the insurance options that are right for them. A list of these materials is attached to this letter.

It has been a busy six months as we have worked to quickly and carefully implement the Affordable Care Act. But there is much work left to do. This has been underscored by the recent report from the Census Bureau showing that a record 50 million Americans were uninsured last year. Millions more Americans are a pink slip away from losing their health coverage. They need this new law and they need us all to work together to make sure they can access all that it has to offer. We look forward to working with you to build a health care system that is stronger and more affordable, and that will work better for all Americans.

Sincerely,



Kathleen Sebelius

Enclosures

MATERIALS REFERENCED IN THIS LETTER

Implementation Accomplishments at Six Months: Attached

Pre-Existing Condition Insurance Plan: Download brochures and posters on this program at <http://www.HealthCare.gov/center/brochures/index.html>. Help your constituents find out where to go to take advantage of this important new program.

Early Retiree Reinsurance Program: Already, more than 2,700 businesses, unions, non-profits, and State and local governments have been accepted into this program, representing every state in the nation. Find out how the Early Retiree Reinsurance Program is helping businesses and early retirees in your state at http://www.HealthCare.gov/news/factsheets/early_retiree_reinsurance_program.html.

CuidadoDeSalud.gov: All the information on the Affordable Care Act and through the health insurance finder is now available in Spanish at www.CuidadoDeSalud.gov.

Health Insurance Finder Widget: Available in both English and Spanish to post to your website, this widget lets consumers answer two questions to start finding health insurance options available to them. Download the widget at http://www.HealthCare.gov/stay_connected.html.

Implementation Accomplishments at Six Months

Since the passage of the Affordable Care Act, the Administration has worked carefully and expeditiously to implement the legislation's early insurance market reforms and strengthen the health care system for all Americans. We have made significant progress to date.

Accomplishments include:

Improving the Affordability and Accessibility of Health Coverage

- **Issuing a Patient's Bill of Rights:** On June 22, the Administration issued regulations under the Affordable Care Act protecting consumers – a Patient's Bill of Rights. The Patient's Bill of Rights will prohibit insurance companies from imposing pre-existing condition exclusions on children, rescinding coverage based on an unintentional mistake on an application, setting lifetime dollar limits on coverage, and will restrict new plans' use of annual dollar limits on coverage. The new rules will also help ensure that patients in new plans covered by the rules can choose an available primary care doctor or pediatrician of their choice from a plan's provider network, and that women can see an OB-GYN without needing a referral. New plans will not be able to require prior approval before you seek emergency care at a hospital outside your plan's network, and will not be able to require higher co-payments or co-insurance for such care than would be charged in network.
- **Helping Americans to Keep the Coverage They Have Now:** On June 14, the Administration issued rules defining "grandfathered health plans" to help Americans keep their current plan if they like it.
- **Strengthening the Ability to Appeal Insurer Decisions:** On July 22, the Administration issued rules to empower consumers to appeal decisions made by their health plans or insurance companies. New resources will be available to help give consumers more control of their health care decisions. These provisions of the Affordable Care Act, which apply to new plans, will help support and protect consumers and help end some of the worst insurance company abuses. Additional guidance was issued in August and September on the new process.
- **Lowering Premiums:** The Administration solicited public comments on both the medical loss ratio (MLR) and rate review provisions on April 12. These provisions will help ensure that at least 80 percent of premium dollars are spent on medical care, not salaries and overhead. HHS expects to receive recommendations on definitions related to the MLR from the National Association of Insurance Commissioners (NAIC) in October. Secretary Sebelius wrote a letter to insurers describing the new Affordable Care Act policies to oversee unreasonable and unjustified rate increases on September 9.
- **Reviewing of Premiums by States:** The Affordable Care Act includes \$250 million to support state efforts to review premiums and guard against unreasonable premium increases. 46 states are already using a portion of the new resources to strengthen their oversight of premium increases.

- **Informing Consumers through HealthCare.Gov:** On July 1, the Administration launched www.HealthCare.gov. This is a new, easy to use website that helps consumers take control of their health care and make the choices that are right for them by putting the power of information at their fingertips. The website is the first of its kind to bring information and links to health insurance plans and other coverage options into one place, to make it easy for consumers to learn about their insurance choices. And the site includes extensive, easy to understand information about patients' rights, how to navigate the current insurance market, and how the Affordable Care Act will help them. A Spanish language version -- www.CuidadoDeSalud.gov -- was launched on September 8, and additional pricing information will be added on October 1.
- **Providing Support for State Consumer Assistance Efforts:** On July 22, HHS announced the availability of \$30 million in grants to help States provide consumers with the information they need to pick from a range of health coverage options as well as to provide assistance with enrollment; educate consumers about their rights and obligations; help them appeal decisions when a plan denies coverage; and generally track consumer problems.

Improving Access and Affordability of Health Insurance Coverage

- **Providing Small Business Tax Credits:** The Administration notified small employers regarding \$40 billion in tax credits to help small employers that purchase health insurance for employees. The IRS has delivered postcards to more than four million small businesses and tax exempt organizations that could qualify to make them aware of the credit and has conducted hundreds of briefings and meetings for small businesses and the accountants and practitioners who serve them.
- **Insuring Children Early:** On May 10, the Administration released regulations allowing most children to stay on their parents' plans until age 26 if the plan offers dependent child coverage. At the Administration's request, more than 65 of the nation's leading insurance companies agreed to begin implementing the new law immediately, in advance of the effective date provided for in the Affordable Care Act.
- **Creating the Pre-Existing Condition Insurance Plan (PCIP) Program:** On July 1, Secretary Sebelius announced the establishment of the Pre-Existing Condition Insurance Program to provide coverage for eligible Americans who have been uninsured for six months because of a pre-existing condition. Coverage started in 47 states by August, and will be provided in all states by the end of September. Rules for the program were published on July 30.
- **Supporting Early Retirees:** In 1988, 66 percent of large firms provided health care coverage to their retirees. Twenty years later in 2008, the percentage of firms offering coverage to retirees had plummeted to 31 percent. The Early Retiree Reinsurance Program offers \$5 billion to employers so they can more easily give benefits to their retired workers who are not eligible for Medicare. The program's benefits were effective

June 1, three weeks ahead of schedule. The first round of approvals was announced on August 31, along with a new website (www.eerp.gov) and policy guidance. The Department expects that claims will be paid starting in October.

- **Expanding Medicaid Options:** CMS made available federal funding to States that elect the statutory option to cover low-income childless adults through Medicaid in advance of the 2014 coverage requirement. The new funding will help states that are working to provide coverage to more of their residents.
- **Expanding Community Health Centers:** On August 9, the Administration announced the availability of \$250 million in grants for new access points for primary care. These funds will support the establishment of approximately 350 new community health center sites in fiscal year 2011.
- **Laying the Groundwork for Exchanges:** The Administration announced the availability of \$1 million state planning grants for exchanges on July 29. It also posted a request for information on July 29, attended four meetings with state officials on exchanges, and held a public forum on the topic on August 30.

Strengthening Medicare

- **Closing the Medicare Part D “Donut Hole” for Seniors:** The Department of Health and Human Services implemented the process to provide \$250 rebate checks for eligible Medicare beneficiaries who fall into the prescription drug coverage gap known as the donut hole. As of August 30, over 1 million beneficiaries have received checks. The checks are the first step toward closing the donut hole in 2020.
- **Lowering Drug Costs:** CMS secured agreements with drug manufacturers covering 97 percent of all brand-name drugs to provide a 50 percent discount on brand name drugs purchased in the prescription drug coverage gap known as the donut hole in 2011. In addition, the Medicare Actuary estimates that the Part D drug benefit premium in 2011 will not be higher than it was in 2010.
- **Making Payments to Insurance Companies in Medicare Fair:** CMS implemented payment policy changes to the Medicare Advantage program for 2011 that will result in lower average premiums, higher enrollment, and the benefits that are similar to those that they had in 2010. The new tools in the Affordable Care Act will help strengthen Medicare for all seniors, provide all beneficiaries with important new benefits and extend the life of the Medicare Trust Fund by 12 years.
- **Educating Seniors and the American Public:** A brochure describing the new law and its implications was sent to all Medicare beneficiaries on May 24. Educational ads featuring Andy Griffith were launched on July 31, the 45th anniversary of Medicare. In addition, the Administration has hosted over 20 Web Chats on different topics regarding the new law.

- **Fighting Fraud:** The Affordable Care Act includes significant new tools that will help fight fraud and protect taxpayer dollars. Using these new tools, Secretary Sebelius has pledged to cut Medicare's error rate (the percentage of claims paid inappropriately) in half by 2012. Attorney General Holder and Secretary Sebelius have asked the State Attorneys General to join forces in a coordinated nationwide effort to fight and prevent health care fraud. A series of summits is planned across the country to jump-start this effort on a local level. The first summit was held in Miami on July 16 and the second was in Los Angeles on August 26. A proposed regulation implementing the first round of Affordable Care Act policies to combat Medicare and Medicaid fraud was posted on September 17.

Promoting Prevention

- **Ensuring All New Health Insurance Plans Cover Proven Prevention:** The Administration issued regulations on July 19th that ensure that, for new plan years beginning on or after September 23, new plans will cover certain recommended preventive services with no deductibles, copayments, or coinsurance.
- **Free Preventive Services for Seniors:** The Administration proposed regulations in June to waive Medicare cost sharing for recommended preventive benefits starting in 2011.
- **Adding an Annual Wellness Visit to Medicare:** Starting in 2011, Medicare will pay for an annual wellness visit so seniors can receive the free preventive benefits they need as well as advice on how to stay healthy. Rules for the wellness visit were proposed in June.
- **Awarding \$250 million in Grants for Prevention:** The Administration allocated the 2010 Prevention and Public Health Fund to programs to support activities such as community initiatives and the development of the public health infrastructure that can help prevent disease and illness before it starts.
- **Launching the Prevention Council and Plan:** An executive order to create the National Prevention, Health Promotion and Public Health Council was signed on June 10. The Council met and produced a preliminary report on July 1, and met again on September 15 to review its plan for the coming year.

Building the Foundation of an Affordable, High-Quality Health System

- **Spurring Innovation and Lowering Costs:** The Treasury Department received over 5,000 applications and will soon announce recipients of the new \$1 billion therapeutic discovery tax credit program, which provides tax credits to small businesses to encourage the development of new and cost-saving therapies, support good jobs, and increase U.S. competitiveness.
- **Protecting Patient Safety, Reducing Medical Liability:** In September 2009, President Obama called on the Department of Health and Human Services to make grants available

for projects that have the potential to improve patient safety and reduce medical liability. Grants for these projects were awarded in June.

- **Strengthening the Health Care Workforce with \$250 million in Grants:** These grant opportunities, along with other funding in the Affordable Care Act and the American Recovery and Reinvestment Act, will train up to 16,000 primary care physicians, physician assistants and nurse practitioners over the next 5 years.
- **Strengthening the Long-Term Care System:** A joint Administration on Aging and CMS initiative will support \$60 million in grants to States and communities to help individuals and their caregivers better understand and navigate their health and long-term care options. In addition, letters to State Medicaid Directors outlined new options for home- and community-based care on June 22, August 6, and September 9.
- **Supporting Programs to Help Families:** Grant opportunities for home visitation to help parents learn about care for their newborns were announced on June 10. Grant opportunities for Family to Family Health Information Centers were announced on June 8. Funding was announced for the new Pregnancy Assistance Fund on July 1, and related programs on July 30.