

# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## SENATOR DON GAETZ

*President*  
1st District

June 28, 2013

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

Dear Secretary Sebelius:

The Florida Legislature recently concluded its 2013 session without authorizing an expansion of Medicaid pursuant to the Patient Protection and Affordable Care Act (PPACA). The issue was thoughtfully evaluated and thoroughly debated. Select committees, appointed in both the Senate and the House to address numerous PPACA issues, met for many hours and heard from policy experts, affected parties, and members of the public. The Senate chose not to authorize an expansion of the current Medicaid program, but offered a proposal for creating an alternative benchmark plan using private insurers, cost-sharing, and incentives for healthy behaviors. A state-funded program was proposed by the House of Representatives.

The Senate bill used the full extent of the flexibility available under your current interpretations of law. However, the restrictions and requirements associated with Medicaid remain onerous and account, at least in part, for the unwillingness of so many states to accept what otherwise would be a very attractive financial offer. It is time to recalibrate the balance of authority shared by the federal government and the states for administration of Medicaid and the expansion program.

Three key areas—all within your purview—should be starting points for meaningful improvements. First, PPACA's enhanced match for expanded eligibility should be extended to partial expansions. Second, the strict limits on cost-sharing by Medicaid enrollees should be revised to allow states to respond to diverse circumstances in the expansion population. Third, the numerous bureaucratic barriers that impede states' efforts to vary coverage and innovate with new service delivery models should be eased. We believe these three areas should be considered differently than these same topics in the current Medicaid program. You should use the flexibility inherent in the Supreme Court's definition of the PPACA-authorized expansion as a "new program". As noted by the Congressional Research Service, you have the authority to

REPLY TO:

- 409 The Capitol, 404 South Monroe Street, Tallahassee, FL 32399-1100 (850) 487-5229
- 4300 Legendary Drive, Suite 230, Destin, FL 32541 (850) 897-5747 FAX: (888) 263-2259
- 212 Senate Office Building, 404 South Monroe Street, Tallahassee, FL 32399-1100 (850) 487-5001
- 5230 West U.S. Highway 98, Administration Building, 2nd Floor, Panama City, FL 32401 (850) 747-5856

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

June 28, 2013

Page 2

resolve the practical ramifications of the ruling based on your authority to interpret the Act and the responsibility to do so while taking the Supreme Court's decision into account.

A ready example of interpreting PPACA with such flexibility is found in your determination that states may choose at any time to opt into or out of expansion. PPACA, enacted within the context of a mandate, only gave states an ultimatum and a single deadline. Your adjustment of this provision makes sense in light of the Supreme Court decision and we appreciate it. Perhaps you were influenced in this matter by the potential for greater participation when the option remains open to the states versus the possible results under a sudden-death decision by January 1, 2014. We encourage you to consider the potential for expanding coverage to more people if you allow states to take a more cautious and gradual approach to expansion, rather than insist on a one-step, full expansion to all persons under 138% of poverty.

In regard to cost sharing, we again suggest that you adopt the Supreme Court's perspective of expansion as a new program in order to create greater flexibility for states and more continuity of costs for the newly eligible. There is empirical evidence that the expansion population is different from the current Medicaid enrollees. Most are able-bodied and many are employed. Additionally, many will experience fluctuations of income that churn between Medicaid eligibility and the subsidized coverage in the exchange. States should be able to promote personal responsibility and require a rational amount financial participation that avoids creating disincentives for work. Current Medicaid permits only nominal cost sharing by participants and no premium costs. Extending these same limits to the expansion population means they will experience unanticipated obligations upon moving to the subsidized plans in the exchange when their income increases and they are required to pay up to 2 percent of the premium as well as other out-of-pocket costs, even if those amounts are reduced compared to the non-subsidized population.

Finally, we ask you to streamline the programmatic review process that limits and delays innovation. In the current program, these processes drag on for months or even years without resolution or are resolved only with a final permission slip that waters down bold initiatives. You have broad authority to make the reviews more timely and less subjective. We urge you to shift your focus toward monitoring and measuring outputs and outcomes rather than the minutiae of obscure regulations built up over the last four decades. To do this, you should allow the new program authorized by the Supreme Court to function more like a block grant or a shared risk initiative for which you offer quick approval and significant flexibility, but hold states accountable for achieving specific objectives, such as increases in covered lives or improved health status.

It would be wrong to conclude that the lack of an expansion decision during the 2013 legislative session means that Florida does not recognize unmet health care needs in this state or lacks a commitment to improvement. The debate over how to improve access to affordable care was serious and vigorous. We expect the debate to continue. Before we begin the next round of

June 28, 2013

Page 3

these deliberations, we need your help. We ask you to contribute to our ability to find an affordable and sustainable method to provide access to quality health care for all Floridians by authorizing greater flexibility and creating true partnerships between states and the federal government.

Thank you for your consideration of these issues.

Respectfully,

A handwritten signature in blue ink, appearing to read "Don Gaetz", with a stylized flourish at the end.

Don Gaetz  
President of the Florida Senate