STATE OF INDIANA
MITCHELL E. DANIELS, JR., Governor

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Stephen W. Robertson, Commissioner

October 1, 2012

The Honorable Secretary Kathleen Sebelius
Department of Health and Human Services
200 Independence Ave., SW
Washington, DC 20201

Dear Secretary Sebelius:

As directed in the Essential Health Benefit (EHB) bulletin released on December 16, 2011, the Indiana Department of Insurance (IDOI), in conjunction with the Family and Social Services Administration (FSSA) and the State Personnel Department (SPD), identified, analyzed and summarized the State's EHB options. Additionally, we surveyed the health insurers whose plan(s) have been identified as EHB benchmark options to receive greater clarity on offered benefits and had deliberate discussions with key stakeholders. However, due to the lack of formal and customary federal regulatory releases and a lack of guidance from the Center for Consumer Information and Insurance Oversight (CCIIO) regarding our questions, there is no legal or practical basis for us to make a sound decision in the best interests of Hoosiers.

As a result, we hold serious doubts about the legitimacy of moving forward with EHB benchmark selection and implementation while lacking proposed or final rules. The EHB distribution methods have consisted primarily of state conference calls and the guidance on these calls is often not consistent from one call to the next. Deadlines and processes are unclear because written policies and procedures are minimal. Throughout this process, conflicting information has included examples not limited to the following: uncertainty as to if a state can direct benefit supplementation in the alternate selection approach; how prescription drug formularies will ultimately impact the benchmark; and whether or not purchasing pediatric dental benefit is required.

In an attempt to at least convey HHS' regulatory intent to our State's policy leadership during our EHB benchmark analysis, we submitted numerous questions to CCIIO.[1] Many of these questions remain without written responses including the following examples: the cut off age for

[1] EHB clarification requested: February 21st Gate Review, May 7th All State Grantee Meeting, July 6th Indiana Specific Call. EHB questions submitted: August 16th, August 22nd, and September 25th. A full list of outstanding questions and clarification requests is attached. Follow up on EHB questions: August 30th.

pediatric dental services; if the definition of "state employee benefit plan" includes separate policies for dental and/or vision; and if prior authorization requirements will translate to the EHB benchmark as a benefit limitation. Additionally, we requested guidance about the technical process of how a specific benchmark option will be transformed into a generic state benchmark plan and what responsibilities the State would have in this scenario. Moreover, general requests for clarification, additional requests for written documentation and copies of webinar presentations remain outstanding.

Finally, 2012 concludes Governor Daniels' second term and the November 6, 2012 election will determine Indiana's next gubernatorial administration. Therefore, without this critical information, it is impossible to present any policy options which would enable the current administration to make an informed decision in the best interests of Hoosiers. As you know, the EHB benchmark will go into effect in 2014 during Indiana's next governor's first term. Accordingly, Governor Daniels gathered input from all three gubernatorial candidates regarding the State's EHB Benchmark selection. There was no consensus among the candidates as to which EHB benchmark to select.[2]

The October 1st submission date has been conveyed to us on conference calls as being a "soft" date. Thus, we are left with no other choice but to delay this decision until the new Governor is elected, our questions are answered and firm legal guidance is issued. Thank you for your attention regarding Indiana's status with the EHB analysis and we look forward to a timely response from HHS regarding our outstanding questions.

Sincerely,

Stephen W. Robertson

Stephen W. Robertson
Commissioner of Insurance

[2] See attached candidate letters.

Indiana Department of Insurance: Outstanding Essential Health Benefits (EHB) Questions

- Is there a final deadline for states to make a decision on their EHB benchmark?
- When a required component of the essential health benefits is missing, does the Affordable Care Act (ACA) require the entire EHB category to be supplemented (i.e., preventive/pharmacy) or can only the missing benefit be supplemented from another benchmark option?
    - If the missing benefit is an ACA required preventive service, does the state have to supplement the benchmark plan or will the benchmark benefit be considered to be covered due to the ACA mandate?
- When a state selects its benchmark benefit package, does every benefit offered in that benchmark become an essential health benefit within the state?
    - If the package offers a benefit outside of the scope of EHB categories, can this benefit keep associated dollar limits?
- If the selected benchmark contains benefits that are currently offered with dollar limits on coverage, can these be transitioned to service limits on coverage for the purposes of setting the benchmark benefit package? For example, some plans set dollar limits on home health aides and private duty nursing services.
- Is orthodontia considered an essential health benefit? If pediatric dental is supplemented from the Federal Employees Vision and Dental Plan, would this supplementation include coverage for orthodontia?
- For habilitative services, is therapy for the purposes of maintaining function considered to be required under the scope of the essential health benefits? If the selected benchmark does not offer maintenance therapy, would it be considered noncompliant? Under this scenario, would supplementation be required?
- What is the definition of pediatric coverage for vision and dental?
- How are prior authorization requirements treated in defining the EHB benchmark? If a benefit in the selected benchmark requires prior authorization, will the PA requirement become part of the essential health benefits?
- Additionally, it was mentioned that if an individual has premium tax credit (PTC) remaining, they can use this PTC towards the purchase of a stand-alone dental plan. It was our understanding that PTC could only be used to purchase coverage for essential health benefits and that if coverage was offered outside of the EHB that this coverage would be required to be paid for by the individual. As adult dental is not an EHB, we are confused as to how the PTC would apply to the purchase of this plan. Is adult dental coverage an exception? Can the PTC go towards the entire dental plan or only towards the pediatric portion of the dental plan?
- There is confusion surrounding information provided on conference calls related to habilitative services and the EHB benchmark.

- If the benchmark plan is missing habilitative services:
    - Does the plan have to be supplemented?
    - Can QHPs either declare that they are covering habilitative services at parity with rehabilitative services or develop a separate habilitative services definition and benefit package?

- If the benchmark plan offers habilitative services:
    - Do QHPs in the state that the benchmark is offered have to offer habilitative services substantially equal to the EHB benchmark habilitative services?
    - Do QHPs have the choice to offer habilitative services at parity with rehabilitative services or to develop a separate habilitative definition and benefit package?

- Is there a document that outlines this policy in more detail? If so, where can we obtain a copy?

- On the August 2, 2012 call, it was indicated that regardless of whether a service is covered in the EHB benchmark plan, if it was required to be covered by the ACA then plans were required to cover it. We interpret this statement to mean if a state's selected benchmark does not offer coverage for an ACA required service, the State does not need to worry about supplementing that service or category. We also understand that only the benefits included in the EHB benchmark are used to calculate the advanced payments of the premium tax credit. In the event that a state's benchmark does not offer coverage for an ACA required service, will this service be included in the PTC calculation?

- On the August 10, 2012 monthly call, it was indicated that that consumers must be offered benefits in all 10 statutory EHB categories, but that they will not be required to purchase all 10, especially as it relates to pediatric dental coverage offered on a stand-alone plan. How will this requirement affect the calculation of the PTC? Is the PTC still calculated based on the second lowest cost silver plan that covers all EHB categories (potentially a combination of a health plan and a stand alone dental plan) or will the PTC be calculated based on the individual's selection of benefits? If they opt out of selecting a pediatric dental package, will they still receive PTC for purchasing that coverage?

- On the September 25, 2012 call, there was a discussion regarding vision and dental benefits on the state employee plan. We are unclear exactly how "State Employee Plan" is defined. Previously, we understood that a plan was defined by the benefits offered on the medical certificate. However, we understand from this conversation that "State Employee Plan" is defined by what the state considers to be its employee benefits and is not limited to the benefits covered by the medical certificate. Additionally, it was indicated that it does not matter if vision and dental benefits are separately administered policies; they can be included in the State Employee Plan benefits if they are considered State Employee Benefits. Is this correct? Can separate vision and dental policies included in the State Employee Plan be included in the State Employee EHB benchmark option?

Rupert
For Governor

The Honorable Mitchell E. Daniels, Jr.
Governor of the State of Indiana
Office of the Governor
State House, Second Floor
Indianapolis, IN 46204

Dear Governor Daniels:

August 24th, 2012

Thank you for your exemplification of true statesmanship in requesting the opinions of all three candidates for governor of Indiana regarding the timely decisions that Indiana must make on the implementation of the Affordable Care Act. I would also like to thank you for making your staff available to each campaign for research and analysis of the limited data available to the state. Your tripartisan effort proves once again that you have been a leader that has the best intentions of Hoosiers at heart.

For the past few months, in preparation for this issue, my team and I have been studying the exchanges currently setup in Massachusetts and Utah, the Interstate Health Insurance Compact legislation currently enacted in Indiana and six additional states, and recently the information presented by your office during our August 13th meeting. From this research we have learned that there are many questions posed by the states to Health and Human Services (HHS) that will be left unanswered long after the mandated deadline for a decision has passed. This fact has been a guiding factor in the development of my responses to your request for input.

In your July 30th letter, you requested our opinions on three timely topics;

1. Of the four Essential Health Benefits benchmarks, as mandated by Health and Human Services, which should Indiana select to qualify potential insurance plans being placed within an exchange?

2. From the selected benchmark, which insurance plan should be used as the baseline for all future insurance plans being added to an exchange?

3. What type of Health Insurance Exchange should Indiana adopt? State exchange, federal exchange or a hybrid exchange?

Rupert
For Governor

Essential Health Benefits Benchmarks

Health and Human Services has mandated that one of the following benchmarks be selected as the qualifier for the selection of a standard baseline insurance plan for an exchange.

1. One of the three largest small group plans in the state by enrollment
2. One of the three largest state employee health plans by enrollment
3. One of the three largest federal employee health plan options by enrollment
4. The largest HMO plan offered in the state's commercial market by enrollment

After reviewing, with your office, the varying plans that would be available as a standard under each benchmark I believe there to be more choice and room for growth in selecting Option 1: *One of the three largest small group plans in the state by enrollment.*

Benchmark Insurance Plan

At first glance, the three largest small group plans in the state by enrollment have very little difference. Each covers the 10 Essential Health Benefits Services (Ambulatory, Emergency, Hospitalization, Maternity, Mental Health, Laboratory, Pharmacy, Rehab & Habilitation, Preventive and Pediatric Oral and Vision) as mandated by HHS. The estimated cost of each plan is between $392.31 and $395.12 per member per month. That is a difference of $2.81.

When you look at the differences between the individual plans and the additional non-mandated services covered by each a clearer long-term picture comes into focus.

Plan	Cost PMPM	Chiropractic	TMJ	Hearing Aids	Smoking Cessation	Infertility Diagnoses	Infertility Treatment	Breast Feeding Education	Non-elective Abortion	Elective Abortion
Lumenos HSA	$395.12	X	X	--	X	--	--	X	X	X
Anthem PPO	$394.75	X	X	--	--	--	--	X	X	X
United Health 19K POS	$392.31	X	--	X	--	X	X	--	X	X

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If we want to foster a competitive free-market environment within an exchange, we need to allow insurance providers room to grow their plans. Providers will need a base line that covers any and all mandates as well as common secondary services, but other secondary or specialty services should be optional and at the discretion of the purchaser.

Since it gives the most room for option growth and is the medium price level, I believe Indiana should select **Anthem PPO** as our Benchmark Insurance Plan.

Health Insurance Exchange (HIX)

When initially discussing the options for who could run a health insurance exchange in Indiana my gut reaction was, "Indiana, not D.C., knows what's best for Hoosiers." I thought surely it would be better, in the long run, for Indiana to run its own exchange. There are many politicians and candidates around Indiana that still feel that way. My honest opinion on this, after months of research, has changed.

Health Insurance Exchange Operator		
Indiana	Indiana-Federal	Federal
State: All activities Call/Data Center Customer Service Medicaid eligibility CHIP eligibility Plan management Reinsurance **Option to Defer to HHS:** Premium tax credit eligibility Cost sharing reduction Mandate exemptions **HHS: No responsibilites**	**State: Some activities** Call/Data Center Customer Service Plan management **Option to Defer to HHS:** Medicaid eligibility CHIP eligibility Reinsurance **HHS: All other activities**	**State: No responsibilities** Can retain: Medicaid eligibility CHIP eligibility Reinsurance **HHS: All activities**

If we take on the full responsibility of running the exchange we also take on the full financial burden with it. The current estimates for this liability to Hoosier taxpayers are between $50 - 65 million a year. That estimate is nothing more than an educated guess. We have no idea how many new enrollees there will be each year. We have no real way to gauge the time it will take to process each application, preform mandatory assistance eligibility, walk each "customer" through their options, and recertify each person yearly. We also know very little about how the Health and Human Services '*Eligibility Data Hub*' will operate or how efficient it will ultimately be. Remember how inaccurate and inefficient E-Verify was when it started? There have been estimates that Indiana could face a financial

burden between $130 - 200 million per year if the procedures and exchange of data are overly cumbersome and inefficient.

There are some who are suggesting that we sit on our hands and do nothing or to just let the federal government run the exchange. I do not see that as ever being a legitimate option. I do not believe that Hoosiers would be supportive of handing over our state's authority and responsibility to the whims of federal agencies and bureaucracies. By doing nothing, in hopes that Congress repeals the Affordable Care Act, we would be essentially handing it over.

If we allow a 100% federally run exchange in Indiana, Hoosiers will have no voice in the plan management, number of plans, cost intervals, required services, or requirements for brokers and consumer councilors.

In a Hybrid exchange, Indiana would retain control over plan management and customer assistance. We would also be able to set requirements and regulations, as needed, for consumer councilors and insurance brokers. The major financial burden in a state run exchange comes from the processing and reinsurance of Medicaid and CHIP. Under a hybrid exchange, some of those functions and costs can be deferred back to Health and Human Services.

In the interest of ensuring multiple options and accountability and to limit financial liabilities for Hoosiers, I believe Indiana should develop a State-Federal Hybrid Health Insurance Exchange.

Interstate Health Insurance Compacts

There is another option on the table, albeit a long shot, that should be considered and investigated further, Interstate Health Insurance Compacts. There are over 200 Interstate Compacts currently operating for various purposes.

The Indiana General Assembly has already authorized your office to develop and or join an Interstate Health Insurance Compact. There are six other states that have done the same in their respective legislatures. Additionally, there are ten states that have this type of legislation pending.

An Interstate Health Insurance Compact is simply an agreement between two or more states, that is approved to by Congress, to join together to take on the responsibility for health care management and regulation within the member states (except for military and veteran health care, which will remain a responsibility of the federal government). These types of compacts are directly mentioned and expressly permitted within the Affordable Care Act.

Rupert
For Governor

There are many questions about how a Compact would receive federal healthcare funding, to what level and for how long. There are also questions about the likelihood of Congress approving such a compact. I still think this is an idea that should be explored and debated more in the public, even if it's not fully an option at this stage.

The Future of Indiana

Since we are required, by Health and Human Services, to make a partially blind decision… I would suggest that any plan for implementation of the Affordable Care Act must give Hoosiers the greatest amount of control and authority over regulation and plan management. At the same time, the plan should also keep Hoosiers from being overly burdened with the unknown costs of managing the exchange.

If Hoosiers call me to serve as the next Governor of Indiana, I request that all appropriate federal agencies be informed of our intention to develop and operate a State-Federal Hybrid Health Insurance Exchange within Indiana. I would also ask that the proper documentation be sent to those agencies for the purpose of receiving any federal grants for the development and operation of said exchange.

Additionally, I would request that your administration continue its efforts to save the Healthy Indiana Plan (HIP). Health and Human Services has been holding Indiana's application for a waiver to allow any Medicaid Expansion funding to pass through HIP for over two years now. The program your administration started to help Hoosiers meet their medical needs and practice preventative care is unrivaled.

Again, I want to thank you for your tripartisan leadership in seeking the opinions of all three candidates for Governor of Indiana. Hoosiers need to know not only where each of us stands on the implementation of the Affordable Care Act, but also how each of us will handle the unforeseen challenges that Indiana will face.

In Liberty,

Rupert Boneham
Libertarian Candidate for Governor

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August 30th, 2012

The Honorable Mitchell E. Daniels, Jr.
Governor of the State of Indiana
Office of the Governor
State House, Second Floor
Indianapolis, IN 46204

Dear Governor Daniels:

Thank you for providing an opportunity to meet and discuss outstanding issues related to the implementation of the Affordable Care Act. This is a subject that will affect every Hoosier, and as someone who has beaten cancer, I deeply understand the importance of health insurance. Safeguarding the healthcare of Hoosiers is not a game. If given the opportunity to govern, my lieutenant governor Vi Simpson and I will protect the best interests of the people of the state and enforce the law in a way that will benefit all Hoosiers.

First, as you know, the federal government is very prescriptive with respect to Essential Health Benefit plans. In order to assist states in the selection of minimum benefits for plans in the Exchange, the federal government has named four options, all of which must cover services in ten different areas. I fully support the Healthy Indiana Plan benefit levels. However, the federal government requires maternity and emergency transportation benefits and HIP does not pay for those services at this time. Indiana's EHB must include the ten required covered services and should include as many non-mandated, but necessary services as possible. Accordingly, I support using Indiana's Healthy Indiana Plan as the basis for our EHB plan, with additional coverage as required by the federal government.

Second, the federal government has offered Indiana several options in moving forward with an Exchange. States may choose a state-designed and controlled Exchange; they can choose a hybrid system that allows for a partnership with the federal government but still allows for state control; or they can choose a regional partnership with other states. The only other option is for a federally controlled exchange where the state does not have the ability to provide input, but in which its citizens must participate. The latter would force Hoosiers to participate in a national system without any input or control.

At the present time, I believe that the hybrid system is the best option because it not only allows for a federal-state partnership, but it also allows for shared costs, significantly reducing the state's financial investment in the program. My belief is that the most responsible position for the Governor to take is the one that you have been pursuing all along - to meet deadlines and apply for grant monies available to keep all options open to us. Because of the your actions, Indiana has already received $8 million to begin this process.

To be clear, political gamesmanship on an issue that involves matters of life and death for Hoosiers is not wise. Studies show that nearly one million Hoosiers may participate in a new health exchange. Regardless of one's party affiliation, we need to acknowledge that the

Affordable Care Act is the law of the land. My job as governor will be to protect the best interests of the people of this state and make healthcare more affordable and more accessible for all Hoosiers. The plan I have outlined above will result in a healthier Hoosier workforce, a growing economy and more successful employers.

Not participating in the ACA at all is simply not an option. If the state takes no action on these issues, Hoosiers will be left at the mercy of the federal government, without any protections from the state. If we choose not to make a choice, Hoosier citizens will pay the price, and the state will still incur additional costs to be covered in the federal exchange. Doing nothing is simply a bad idea for our citizens.

As Governor, I will make tough decisions when they need to be made. Regardless of the decision or the issue, Hoosier voters deserve to know that when I make those decisions, they will not be made because of rigid partisan ideology, but Hoosier practicality. Throughout Indiana's history, commonsense has served us well, and I pledge to continue that tradition.

Sincerely,

John.

John R. Gregg

mike pence | FOR INDIANA

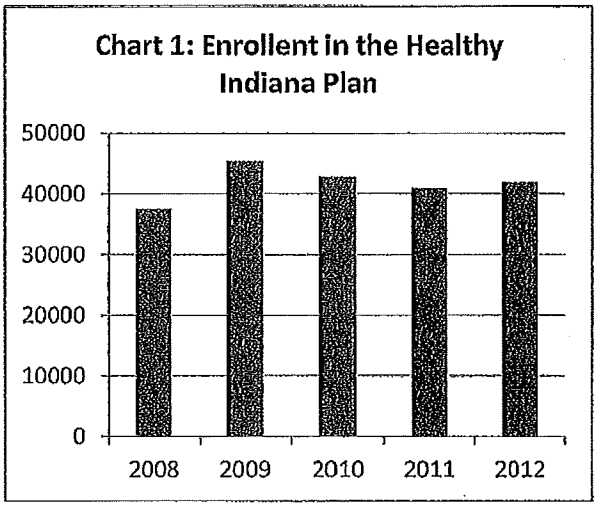
The Honorable Mitchell E. Daniels, Jr.
Governor of the State of Indiana
Office of the Governor
State House, Second Floor
Indianapolis, IN 46204

Dear Governor Daniels:

Thank you for your July 30 letter requesting guidance from all three candidates for governor of Indiana regarding decisions Indiana must make about the implementation of several provisions of the Affordable Care Act. Given the impact of these decisions on every Hoosier and the fact that the weight of such decisions will be borne by the next administration, I commend you for your solicitous approach.

Americans have the highest quality health care in the world. For most Hoosiers, the biggest challenge is the cost of that care. Too many are priced out of the health insurance market. The two most obvious solutions to this challenge are increasing the number of good-paying jobs and improving the affordability of health care itself.

For years, Hoosiers have struggled to find solutions to rising health care costs and access to health care, especially for our most vulnerable citizens. In 2007, a bipartisan, innovative solution to both cost and access was developed right here in Indiana.



Under your leadership, the Healthy Indiana Plan was adopted, giving Hoosier adults between 19 and 64 access to health care in a consumer-driven model that empowers health care consumers to direct their own care. More than 40,000 Hoosiers have access to health care under the Healthy Indiana Plan (see Chart 1), along with a POWER account that gives them a financial incentive to

find the most affordable health care services and to improve their health.

According to a recent survey, 94 percent of participants were satisfied with the program and 99 percent indicated that they would re-enroll. The Healthy Indiana Plan therefore empowers Hoosiers in a way that will increase access to health care and drive down the cost, and I believe it is the model that should serve as the starting point for all future discussions of health care reform in Indiana.

Unfortunately, the Obama Administration and its allies in Congress charted a far different course in 2010. The Affordable Care Act raised taxes on every Hoosier taxpayer and business (see Table 1), doubled down on an already broken and unaffordable Medicaid system, and, left unchecked, it will destroy all the progress we have made on health care access, not to mention our economic competitiveness and fiscal solvency for our state and country.

Table 1: Examples of Major Tax Increases in the Affordable Care Act

Tax Increase	Description
Medical Device Tax	New 2.3% excise tax on medical device manufacturers
Individual Mandate	New 2.5% tax on individual adjusted gross income
Employer Mandate	New minimum tax of $2,000 per employee if the employer has at least 1 employee covered by a federal health care subsidy
Medicare Premium Tax Increase	Increase in Medicare payroll tax rate for individual taxpayers with income of $200,000 or married taxpayers with income of $250,000
Tax on Investment Income	New 3.8% tax on investment income for individual taxpayers with income of $200,000 or married taxpayers with income of $250,000

Source: Kaiser Family Foundation

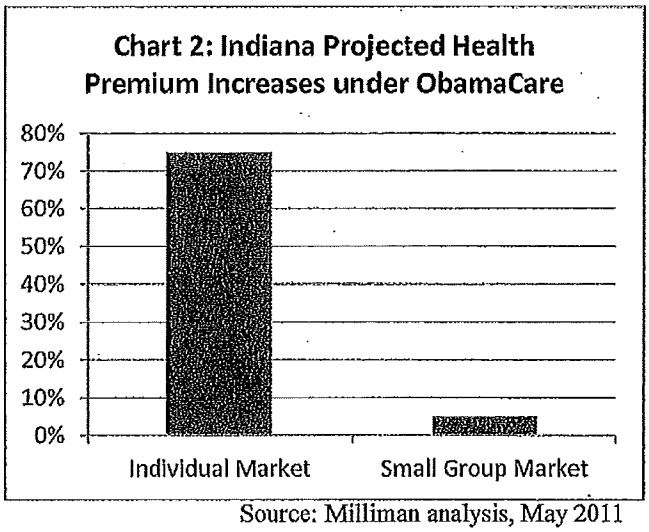
As you are aware, I opposed the Affordable Care Act and believe it must be repealed. It erodes the freedom of every American, opening the door for the federal government to legislate, regulate and mandate nearly every aspect of our daily lives under the guise of its taxing power. It is not merely a government takeover of health care, but, as the Supreme Court recently concluded, it is a massive tax increase on Hoosiers and small business owners.

Every day in Indiana people tell me that ObamaCare is stifling our recovery. If it is not repealed in full, Hoosiers will face higher health care costs and increased taxes.

The tax increases in ObamaCare have directly led to lost job opportunities here in

Indiana, as seen by Cook Medical's recent announcement that it will not expand operations in Indiana due to the medical device tax. The Medicaid program continues to be one of Indiana's largest budget items. Its costs grow every year and we have struggled to pay for our existing program. The Medicaid expansion would increase dependency by putting one quarter of all Hoosiers on Medicaid and could cost Indiana billions between now and 2020.

The health care law also will drastically increase the cost of health care premiums in Indiana – at least a 75 percent increase in the individual market and a 5 percent increase in the small group market (see Chart 2). This will lead to even more dependency on government subsidies for health care.



Source: Milliman analysis, May 2011

The Affordable Care Act also violates the inherent sovereignty of the State of Indiana. The Supreme Court invoked this principle in striking down as unconstitutional part of the health care law for coercing the states through its massive expansion of Medicaid. As the Supreme Court explained just last year, diminishing the sovereignty of the states against the federal government imperils the liberties of the citizens and families within those states.

Indiana needs the freedom and flexibility to develop health care solutions that best meet the needs of our citizens, without interference from Washington. We must face our challenges in health care with the belief in more freedom, not more government.

Indiana has proven that we can find innovative solutions to the problems of affordability and access to health care. We don't need a federal, one-size fits all solution that hampers our ability to promote Hoosier solutions to Hoosier problems.

Because ObamaCare erodes the freedom of every Hoosier, will increase the cost of health insurance, and will cripple job creation in our state, I believe the State of Indiana should take no part in this deeply flawed healthcare bureaucracy.

Despite my opposition to the Affordable Care Act in principle, I do understand that some who opposed the health care law nonetheless believe Indiana would be better off if we set up our own exchange.

Beyond my previous objections to ObamaCare, I have carefully considered this option, and believe there is too much uncertainty surrounding the Affordable Care Act to make it

prudent for Indiana to even consider moving forward in implementing our own exchange.

First, the national debate over the Affordable Care Act is far from over. While the Obama Administration, its allies in Congress and the Supreme Court have had their say on this health care law, the American people will have their say in November. With such political uncertainty surrounding the Affordable Care Act, it would not be prudent for the state to require Hoosiers to spend their time and hard-earned money on the implementation of a federal health care law that may be overturned in the next Congress.

Second, there is too much regulatory uncertainty surrounding the operation of exchanges. The federal government is still delinquent on complete guidance for exchanges and there are many unanswered questions. Just last week, it was revealed that the federal government still refuses to answer whether the Healthy Indiana Plan can serve as the coverage vehicle for the Medicaid expansion under the Affordable Care Act. Furthermore, a state operated exchange will still be subject to federal oversight, regulation and delay in the future. Operating our own exchange might seem like a way around the health care law's onerous regulations right now, but the way the regulations are written, the federal government will be hyper-regulating state-based exchanges. This would reduce the State of Indiana to a branch office of the Department of Health and Human Services, and leave Indiana lawmakers to blame for the price increases that will occur and for market related decisions that are largely outside their control. All told, this is entirely too much regulatory uncertainty to justify moving forward at this time.

Third, there is fiscal uncertainty. The cost to Hoosier taxpayers for setting up our own exchange could be at least $50 million per year and perhaps higher. There is no evidence that this investment will improve the lives of Hoosiers, or will lower the cost of health insurance. This is money that would be better invested in helping our kids achieve educational results, providing tax relief for all Hoosiers, or addressing the cost drivers of health care and improving quality and health outcomes.

Finally, there is legal uncertainty surrounding state-operated exchanges. Some experts argue that the Affordable Care Act's mandate on employers, which would raise taxes on Hoosier businesses by imposing a tax penalty if those employers fail to provide federally-approved health coverage policies for their employees, can only be triggered by the granting of premium subsidies to finance purchasing individual policies on a state-based exchange. The Internal Revenue Service recently issued an interpretive rule attempting to clarify that subsidies which clearly apply to purchases made on state-based exchanges also apply to purchases made on federal exchanges, which makes it all the more likely that the issue will be litigated at some point in the future.

With our unemployment rate at 8.2 percent and too many Hoosiers out of work, I will not support the implementation of an Indiana exchange when there is a chance that doing so would lead to a tax increase on Hoosier employers.

For all the foregoing reasons, it is my recommendation that the State of Indiana should not establish or operate a state–based health insurance exchange under the Affordable

Care Act. In a word, Indiana should say 'no' to implementing ObamaCare.

Your letter also noted that the Affordable Care Act requires that insurance plans offered in the small and individual group market provide certain "essential health benefits." I am aware that the State of Indiana has a choice to make in determining what is or is not "essential" for the purposes of the law and the decision has to be made by September 2012 or the federal government will make the decision for Hoosiers.

Given this expansive regulation of the insurance market in Indiana, my advice on essential benefits is that the choice be made with Hoosier values in mind. That means I believe Indiana should not endorse any "essential health benefits" package that goes beyond the requirements of Indiana law, especially as regards Hoosier values. Of course, the State of Indiana should endorse no plan that mandates abortion coverage or require Hoosiers to subsidize abortion through their health insurance premiums in the small and individual group markets.

Thank you for requesting my counsel on these important matters. I believe Hoosiers deserve to know where each candidate for governor stands on the Affordable Care Act.

Accordingly, if I have the privilege of being elected to serve as the next governor of Indiana, you may convey to the appropriate authorities within the federal government that my firm position will be that the State of Indiana should not establish or operate a state-based Health Insurance Exchange under the Affordable Care Act.

I am grateful for your leadership, and I remain steadfast in my belief that we Hoosiers have demonstrated our capacity to solve the issues of health care access and affordability, and once ObamaCare is repealed Indiana can play a leading role in promoting healthcare reform that lowers the cost of healthcare without eroding our freedom or prosperity.

Sincerely,

Mike Pence
Republican Candidate for Governor