



March 29, 2013

Governor Robert F. McDonnell
Commonwealth of Virginia
Patrick Henry Building
1111 East Broad Street
Richmond, Virginia 23219

Dear Governor McDonnell:

Thank you for your letter dated February 14, 2013 sharing your intent to undertake activities relating to the certification of Qualified Health Plans (QHPs) that will be available to consumers in Virginia beginning on October 1, 2013.

Specifically, you have attested that Virginia has the legal authority and operational capacity to conduct the plan management activities required to support the certification of QHPs, as described in 45 CFR 155.1010(a). Additionally, Virginia will perform all plan management activities listed in Section 4.0 of the Blueprint in time for the 2013 QHP selection process.

I understand that the Virginia General Assembly passed Senate Bill 922 (SB 922) authorizing the State Corporation Commission (SCC) and Virginia Department of Health (VDH) to perform plan management functions provided the provisions of SB 922 are met. I also understand that the bill is pending your signature.

In her letter dated March 8, 2013, Commissioner Cunningham brought to my attention a number of conditions contained in SB 922 with respect to the SCC's performance of plan management functions related to the certification of QHPs to be offered by the Federally-Facilitated Marketplace (FFM) in Virginia, which I address here.

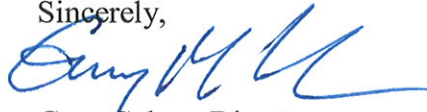
SB 922 conditions the performance of the plan management activities on full funding of operational costs, technology infrastructure and technology resources being made available to the SCC, and the receipt of federal funding sufficient to pay the operating expenses necessary to carry out the functions. Please be advised that Virginia may apply for grant funds under §1311(a) of the Affordable Care Act (ACA) to assist them in covering costs associated with activities related to certain aspects of the Federally-Facilitated Marketplace (FFM).

For example, § 1311 funds could be used to cover a state's costs associated with recommendations concerning the certification of QHPs to be offered through the FFM. A state may also use §1311(a) grant funds to provide education, information and support to consumers within the state. Please see appendix B of the current Funding Opportunity Announcement regarding allowable costs. Funding Opportunity Number: IE-HBE-12-001, available at: <http://www.grants.gov/search/search.do;jsessionid=Vcg0RQPpfQQBsTPVJCNykYmL2ZVQTrK>

[L1vfzVTGP9hvCgVL8ygzy!-488397891?oppId=180734&mode=VIEW](https://www.federalregister.gov/public-comment-page/L1vfzVTGP9hvCgVL8ygzy!-488397891?oppId=180734&mode=VIEW). Please note that all Exchange Cooperative Agreements are subject to the requirements set forth in 2 CFR Part 225, Cost Principles for State, Local, and Indian Tribal Governments (previously OMB Circular A-87). Please also note that §1311(a)(4)(B) provides that no §1311 grants may be awarded after December 31, 2014. This should not, however, prevent Virginia from continuing to maintain its role in overseeing health insurance coverage offered within the State consistent with the traditional role of States in regulating the health insurance market.

I would like to thank you for ensuring that the Virginia Bureau of Insurance and the Virginia Department of Health participated in a review with the Centers for Medicare & Medicaid Services (CMS) to determine Virginia's operational plans and capacity to perform these functions. Based on what we learned during this one-day review, CMS will initiate a process that will enable us to rely on Virginia's recommendations that health plans meet QHP certification requirements. Assuming Virginia continues to act in accordance with your attestations, CMS will continue to rely on Virginia's recommendations in certifying QHPs. CMS, however, will maintain its legal responsibility for ensuring that QHPs meet all QHP certification standards.

Sincerely,

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

Gary Cohen, Director

Center for Consumer Information and Insurance Oversight

cc: Secretary William Hazel
Commissioner Jacqueline Cunningham