GOVERNOR
BRAD HENRY

INSURANCE COMMISSIONER
KIM HOLLAND

OKLAHOMA INSURANCE DEPARTMENT
STATE OF OKLAHOMA

December 1, 2009

U.S. Senator Tom Coburn
172 Russell Senate Office Building
Washington, DC 20510

RE: Senate Leadership Bill
Patient Protection and Affordable Care Act

Dear Senator,

I appreciate the opportunity to give you an Oklahoma perspective on the latest health care reform measure being considered by the US Senate. As you are well aware, the challenges associated with health care in America are immense. These complex problems require solutions grounded in fact and sound deliberation.

Large numbers of uninsured Oklahomans generate more than $954 million dollars in uncompensated medical care each and every year in our state alone. This cost is shifted to those with insurance. Recent estimates indicate that this adds an additional $2,911 annually to health insurance premiums for an Oklahoma family of four.

As Oklahoma Insurance Commissioner, I strongly support efforts to provide our citizens with high quality health care and affordable health insurance. Many features of the Senate Bill attempt to accomplish this, at least in part, when taken together. However, in the absence of a strong inducement to purchase coverage, the consequences of adverse selection can cause market disruption, higher costs and lower than desired take-up rates.

Impact to Oklahoma

(1) Individual Mandate:

The Oklahoma Health Care Authority has estimated that there are nearly 600,000 uninsured working Oklahomans — nearly half between the ages of 19 and 32. There is no indication that most of those uninsured would voluntarily enroll in any health benefit plan.

Our popular Insure Oklahoma individual plan offers comprehensive, guaranteed issue coverage to individuals earning less than 200% of federal poverty level for less than $40 per month, yet we have only 6,000 covered by that plan and most are over age 30. A healthy 25-year-old male in Oklahoma can purchase a comprehensive individual health insurance policy from a major Oklahoma medical insurer for just $1,634 annually. In Oklahoma, affordability is not the issue for this age cohort. Therefore, we support an individual mandate to purchase health insurance that includes a strong inducement to take up health coverage to avoid the likelihood of adverse selection when only the older and healthier are motivated to enroll.
The Senate Leadership bill includes a minor penalty for non-enrollment scheduled to be phased in over a three year period beginning in 2014. The penalty is $95 the first year, increasing to $750 in year three. This penalty is inadequate to induce a large-scale take up of health coverage among Oklahoma's uninsured. Even with generous premium credits, the absence of a strong non-compliance penalty will not encourage the desired and necessary take-up among the young and healthy to offset the greater risk and cost of the older and unhealthier.

(2) Guarantee Issue:

The Senate Leadership bill would require insurers to offer individual plans on a guaranteed issue basis without pre-existing condition limitations. We support guaranteed coverage when accompanied by a mandate to purchase coverage that is strongly enforced. The absence of a meaningful penalty for non-enrollment will likely result in those with chronic or serious health issues purchasing coverage while younger healthier individuals simply choose to pay the nominal penalty. The result will be higher insurance rates due to a higher percentage of insured being higher risk/expense individuals.

(3) Qualified Health Benefit Plans (QHBP)

The Senate Leadership bill would establish "Qualified Health Benefit Plans" and require all individual/family plans to conform to QHBP standards by 2014. While the minimum coverage requirements are suitable for some, they restrict individual choice and limit the ability of healthy and/or wealthier individuals from self-insuring part of their risk.

(4) Rating Standards

The Senate Leadership bill would restrict the use of risk factors in determining rates to geographic area, smoking and age and would limit age bands to a 3:1 ratio. The age band restriction will shift the cost of the older individual to the younger individual. Blue Cross estimates that this factor alone will increase the base cost for a healthy 25-year-old by 44 percent

in Oklahoma. This higher cost burden on the young will further discourage coverage take-up and drive up costs to the remaining insured's.

(4) Employer Penalties

The Senate Leadership bill would impose a penalty on employers who do not offer coverage equal to $750 for any employee who purchases coverage through a state exchange. This penalty is inadequate to induce an employer to establish a plan. Most employers who do not offer coverage have fewer than 50 employees (only 37 percent of Oklahoma small businesses offer coverage compared to 48 percent nationally) and most uninsured Oklahomans work for small businesses. This nominal penalty creates a potential incentive for certain small employers who currently offer coverage to employees to drop their plan and simply incur the penalty at less expense than the cost of a plan - particularly once the small employer tax credits sunset.

(5) State-Based Health Insurance Exchanges

The Senate Leadership bill would require the formation of state-based exchanges from which individual coverage would be solely available and small group insurance may be purchased. While we support the state-based exchange concept and are currently in the planning stages for a similar concept here in Oklahoma, the infrastructure costs have been estimated in the millions of dollars. In the absence of a financial grant, current state budget limitations will preclude Oklahoma from making the necessary investment to create the exchange.

(6) Public Health Insurance Option

The Senate Leadership bill would allow for a federal "Public Health Insurance Option" from which states may opt-out. Oklahoma would likely resist participation as long as the private insurance market remains robust and competitive. Although the bill provides that the federal government would "negotiate" provider rates, experience with Medicare and Medicaid suggests that reimbursement rates for a federal public option would result in low reimbursement rates.

Currently, our medical provider community relies on private pay to make up the difference in cost of services over government reimbursement rates resulting in higher private insurance rates – more cost-shift. In addition, we have concerns over the potential for government to assert an unfair advantage that would adversely affect our insurance markets and further stress our health care delivery system.

(7) Health Insurance Cooperatives (Co-Ops)

The Senate Leadership bill would provide funding to establish non-profit health insurance "co-ops." We question the likelihood that this notion will produce a lower cost option while meeting all requirements stipulated in the bill (specifically, benefit and solvency requirements). Some of the principles embodied in this idea already exist. For example, Oklahoma's largest health insurer, with nearly 30% of the Oklahoma health insurance marketplace, is a mutual company owned by policyholders for the benefit of policyholders.

(8) Premium Credits

The Senate Leadership bill would provide "Premium Credits" for individuals with incomes up to 400% of FPL. The majority (approximately 65%) of Oklahoma's uninsured population have incomes less than 250% of FPL. Currently, 74% of Oklahoma's total population has incomes of 400% of FPL or less.

(9) Medicaid Eligibility Expansion

The Senate Leadership bill would increase eligibility requirements for Medicaid. Recently, the Oklahoma State Coverage Initiative (SCI) process reached consensus and recommended that Medicaid be extended to adults with incomes up to 100% of FPL. The Senate Leadership bill would expand eligibility to all non-elderly persons with incomes up to 133% of FPL. This would increase Medicaid rolls by an estimated 285,000 adults and the state's annual cost share by $116 million. This rough estimate is based on current Medicaid experience and does not include working-aged individuals who have not accessed reasonable and timely medical care due to an inability to pay. Our concern is that the cost of this expansion for the state is severely underestimated.

(10) Long-Term Care

The Senate Leadership bill would provide for a federal, voluntary long-term care insurance plan. This plan appears to directly compete with the private insurance market based on reasons other than need.

(11) Anti-Trust Exemption

The Senate Leadership bill would leave in place the anti-trust exemption established by the McCarren-Ferguson Act. We support such a decision. This exemption has long provided for a more competitive insurance marketplace and has facilitated solvency among carriers.

(12) Controlling Cost

As mentioned in the opening of this letter, coverage is essential to increasing access to affordable health care. However, this bill does very little to address rapidly increasing health care costs. Data shows that the number one driver in health insurance premium costs are increased medical costs and utilization. As you know, on average, between $0.80 and $0.90 of every premium dollar for a comprehensive health plan is spent directly on benefits to policyholders.

In Oklahoma, we are studying the issue of rising costs as it relates specifically to our non-profit self-insured state plan. Medical costs for the Oklahoma State Employee and Education Group Insurance plan have increased an average of 10% annually in recent years.

Of concern to us are reports from the CBO and others that the Senate reform plan will reduce premium costs. In actuality, we believe premium costs will rise substantially if adverse selection is allowed to occur and if the cost of medical care is not addressed. While the generous premium subsidies contemplated by the bill will indeed reduce an individual's expense in financing their health care needs (a strategy we agree is necessary to ensure affordability), health insurance premiums will not be lower.

Again, I thank you for the opportunity to provide this perspective and I hope that you have found it helpful. If you wish to further discuss this matter, please do not hesitate to contact me at anytime.

Sincerely,

Kim Holland
Commissioner

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