



## State of New Jersey

DEPARTMENT OF BANKING AND INSURANCE

PO Box 325

TRENTON, NJ 08625-0325

TEL (609) 292-7272

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

THOMAS B. CONSIDINE  
*Commissioner*

TO: [highriskpools@cms.hhs.gov](mailto:highriskpools@cms.hhs.gov)  
FROM: Neil M. Sullivan  
RE: Notice of Intent

Please accept this as notification that The State of New Jersey intends to submit an application to contract with the U.S. Department of Health and Human Services (HHS) for the provision of a high risk pool program in New Jersey, consistent with the Patient Protection and Affordable Care Act, Pub. Law 111-148, (PPACA). This Notice of Intent is in response to Secretary Sebelius' letter to all Governors issued April 2, 2010. We understand states reserve the right to subsequently decline participation depending upon the actual terms and conditions of the contracts to be developed.

In order to make coverage available to Eligible Individuals as defined in PPACA as quickly as possible, our intent is to build upon other existing coverage programs designed to cover eligible New Jersey residents. Currently, New Jersey has in place the Individual Health Coverage (IHC) Program, which is in, but not of, the New Jersey Department of Banking and Insurance (NJDOBI). The IHC Program has been approved as New Jersey's alternative mechanism under HIPAA. We believe this existing program provides a structure that can be quickly modified to provide the anticipated coverage. We are also exploring the potential to use the funding for PPACA-eligible individuals under a plan to be developed through the New Jersey Division of Medical and Health Services' Premium Assistance Program (New Jersey Medicaid's premium assistance program).

The IHC Program is not a high risk pool. Instead, carriers are required to offer individual health benefits plans on a guaranteed issue, open enrollment, guaranteed renewal basis to any eligible person. No eligible person can be denied coverage under an individual health benefits plan because of a preexisting condition or any other health status related factor. However, under current New Jersey law, health conditions that existed and/or were treated within 6 months prior to the date of application for an individual health benefits plan may be excluded from coverage for up to 12 months following the effective date of coverage. The preexisting condition limitation period is reduced by prior creditable coverage, so long as there is no break in coverage of more than 31 days (63 days for a federally-defined individual). We understand that the preexisting condition limitation provisions would need to be altered to comply with the PPACA requirements, and believe this is possible without legislative action.

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The IHC Program has several products that we believe either meet or can be tailored to comply with the actuarial and cost-sharing requirements specified by the PPACA.

We propose to apply the federal subsidy to support the coverage of PPACA-eligible individuals by insurance carriers of plans that will comply with the actuarial and cost-sharing requirements established in the PPACA (modified to address the preexisting condition exclusion limitation provision, and otherwise as required by law). The subsidy would be used to address excess claims incurred by PPACA-eligible individuals (i.e., those who have been uninsured for at least six months, and who have a preexisting condition) who purchase one of these plans.

The actual timeline for implementation will depend upon the actual specifications set forth for the high risk pool program. However, given the existing authority and design of New Jersey's IHC Program, we believe we can implement a high risk pool program within as little as two months from the date of execution of the contract between HHS and New Jersey, if no amendments to our current rules are required.

We are further exploring the potential to backstop this program through an expansion of plans offered through New Jersey's Medicaid program. This may require state legislative changes and a longer lead time to implement.

We look forward to developing these ideas further through the application process.

Sincerely,

Neil M. Sullivan  
Assistant Commissioner, Life and Health  
(609) 292-7272 Ext. 50488

Cc: T. Considine, Commissioner, NJ Department of Banking and Insurance  
R. Schwaneberg, Policy Advisor to the Governor for Health Care