COMMONWEALTH of VIRGINIA

Office of the Governor

Robert F. McDonnell
Governor

March 5, 2013

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

Dear Secretary Sebelius:

While I share the belief that health care reform to benefit the poor, vulnerable, and uninsured in society is a laudable goal, I continue to be strongly opposed to many of the policies in the Patient Protection and Affordable Care Act (ACA) for addressing America's health care challenges. The federal mandates, regulations, taxes and spending create an expensive, top-down, bureaucratic system is not the way to improve access, reduce costs, and facilitate innovation in America's internationally respected medical care system. We have already informed you that Virginia will not operate a state based health exchange, and thus understand that the federal government will build, operate, and fund a federal health exchange for Virginia as required by law.

The recently passed budget of Virginia contains language outlining a series of reforms that must be completed to the satisfaction of a new legislative commission prior to consideration of Medicaid expansion. Some media outlets and elected officials have labeled this as approving Medicaid expansion in Virginia. This is absolutely incorrect.

The language of the budget actually places a firewall against expansion consideration, unless real, sustainable, cost saving reforms are implemented at the state and federal level. Members of the commission have already been appointed by the House of Delegates, and several have already expressed deep concerns about expansion (Press release attached). Additionally, my office is currently reviewing the budget language to see what changes may be necessary. Final legislative budget votes occur on April 3, 2013 during the reconvened session of the General Assembly.

As Governor, while the decision currently rests with me on whether or not to expand, I am not going to do so given the vast reform required to make our program cost effective. We are just beginning the process of designing and implementing the real, long term, cost saving Medicaid system reforms necessary to ensure the citizens that our Medicaid program is well managed, entrepreneurial, and efficient. My view of necessary reform for our state and nation may be more comprehensive than what is currently contained in the budget. I attach for your review a summary of the kinds of reforms we contemplate being needed in Virginia before a

governor or a legislative commission might even consider a program expansion. We have just one chance to actually fix the program so that it serves people well, but doesn't contribute more to the national debt, or produce unsustainable future increases in state general fund expenditures. Thus, please do not include Virginia on any list of states that have acted to expand Medicaid, as that would be inaccurate.

President Obama, while a candidate for President, likewise acknowledged that expansion without reforming the Medicaid system was a mistake. He said, "[a]s we move forward on health reform, it is not sufficient for us to simply add more people to Medicare or Medicaid to increase coverage in the absence of cost controls and reform...another way of putting it is we can't simply put more people into a broken system that doesn't work." I wholeheartedly agree with that assessment. Even with the federal match currently being promised at 100% for 3 years and 90% thereafter, the state costs and the share of the state general fund consumed by Medicaid will continue to grow rapidly over time. We currently have a Medicaid plan in Virginia which consumes nearly 21% of the Commonwealth's general fund, up from 5% just 30 years ago. This explosive 1600% growth in Medicaid spending in the past 3 decades, combined with the federal government's unsustainable nearly $17 trillion national debt, makes Medicaid expansion cost prohibitive. As the legislative budget language dictates, we must focus on comprehensive system reform.

The time is now to significantly overhaul the way we deliver medical services in Virginia to mitigate against and possibly reduce such spending growth and to encourage a healthier citizenry. While I appreciate the recent initial responses from HHS and CMS regarding requests by our administration to obtain certain waivers of existing federal requirements in order to implement major reforms, much more is needed.

In summary, Virginia will not consider any expansion of Medicaid before there are dramatic, verifiable cost saving reforms of the program at the state and federal level, to include statutory and regulatory flexibility and waivers, private sector cost containment reforms, and other tools to address the current significant growth in Medicaid spending. We remain willing to work with HHS and CMS to ensure decisions made are responsible and cost effective and in the best interest of Virginians. My primary point of contact for Medicaid reform discussions will continue to be Dr. Bill Hazel, Secretary of Health and Human Resources.

Sincerely,

Robert F. McDonnell

RFM/pdw
Attachments
cc: The Honorable Marilyn Tavenner
State Legislators
Congressional Delegation

FOR IMMEDIATE RELEASE:
February 24, 2013

Contact: Matthew Moran
(804) 698-1228

Chairman Putney Announces Medicaid Innovation and Reform Commission Appointments

RICHMOND, VA - Virginia House of Delegates Appropriations Committee Chairman Lacey E. Putney (I-Bedford) announced Sunday the House appointments to the Medicaid Innovation and Reform Commission created to oversee the implementation of Medicaid reforms in the Commonwealth.

Chairman Putney appointed Delegates **Steve Landes** (R-Augusta), **Jimmie Massie** (R-Henrico), **Beverly Sherwood** (R-Frederick), **John O'Bannon** (R-Henrico) and **Johnny Joannou** (D-Portsmouth) to the Commission.

"These appointees will be responsible for ensuring that Medicaid reforms are fully and completely implemented in Virginia," said Chairman Putney. "I am confident they will do a terrific job for the people of the Commonwealth."

Delegate O'Bannon, a practicing physician, said it was necessary to ensure patient-centered, cost-saving reforms were in place before further consideration was given to Medicaid expansion.

"Medicaid is the fastest growing item in the state budget, and Medicaid expansion without significant reforms could wreck Virginia's finances," said O'Bannon. "We need to make sure that patient-centered, cost saving reforms are fully implemented before we think about moving forward. I look forward to serving on the Commission."

"I have serious concerns about the costs of Medicaid expansion," said Delegate Massie. "Reforms are the first step toward making sure Virginia does not get stuck with a big bill if and when the federal government breaks its promise to pay it. I have been around long enough to know there is no such thing as free money from the federal government and no such thing as a bigger program that costs less and works better."

The Medicaid and Innovation Reform Commission is made up of ten voting members, five from the House and five from the Senate of Virginia. This commission will make a determination on the status of reforms as laid out in HB1500. A majority of members from both the House and Senate is required to determine if the reforms have been implemented in a manner that meets the criteria established in the budget.

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Speaker's Room · State Capitol · Post Office Box 406 · Richmond, Virginia 23218

Five Tenets of Medicaid Reform

1) **Deliver All Medicaid Services through an Efficient, Market-Based Delivery System.**

   a. Implement a commercial-like benefit package for adult Medicaid beneficiaries. For any expansion population, the benefit package would also be commercial-like and include limits on services such as occupational, physical, and speech therapy, and home care.

   b. Provide all behavioral health and long-term care services through a managed, coordinated delivery system.

   c. Expedite the tightening of standards, service limits, provider qualifications, and licensure requirements for community behavioral health services.

   d. Achieve successful implementation of a Medicare-Medicaid Enrollee Financial Alignment Demonstration.

   e. Enroll all children in foster care into managed care.

   f. Implement a new eligibility and enrollment system for Medicaid.

2) **Establish Provisions to Reduce Financial Burdens to Virginia.**

   a. Obtain reasonable assurance from the federal government that a Virginia Medicaid expansion will not contribute to a future increase in the national debt. Virginia cannot participate in an expansion that will increase the financial burden on future generations of Virginians or Americans. Obtain reasonable assurance that the federal government will maintain its Federal Medical Assistance Percentage at 90% beyond 2022, and that the federal government has

implemented a long-term path to financial solvency that can cover the ongoing cost of an expansion.

b. Generate and implement appropriate metrics and programs to measure the cost savings and effectiveness of all reforms, and to determine whether the result of all cost saving reforms and strategies will approximately offset the out-year state budget Medicaid cost increases.

c. Further enhance program integrity efforts and restructure the existing model to avoid the "pay and chase" paradigm.

d. Ensure that the Medicaid Fraud Control Unit (MFCU) and the Virginia Department of Medical Assistance Services have the resources and data needed to optimally combat provider and recipient fraud.

e. Bolster the data and analytical capacity of the Department of Medical Assistance Services to identify cost drivers, trends, and possible fraudulent activity on a "real-time" basis. Establish a team within the Department that is dedicated to data mining and analysis.

3) **Maximize Tools Currently Available to the Commonwealth, Such as an §1115 Waiver or Other Appropriate Vehicle, to Achieve Administrative Efficiency and Implement Initial Payment and Delivery Reforms.**

a. Streamline and consolidate administrative authority for primary, acute, behavioral health, and long-term care services through an §1115 waiver or other appropriate vehicle.

b. Reform and consolidate authority and quality indicators for Virginia's six §1915(c) home and community based waiver programs.

c. No silver bullet exists for healthcare reform. Part of the §1115 waiver authority request to the Centers for Medicare and Medicaid Services (CMS) include static expectations and parameters for expedited development and implementation of innovative Medicaid pilot programs, thus allowing Virginia to leverage private sector innovation and regional variations in delivery systems to test payment and delivery system reforms.

4) **Achieve Greater Flexibility by Pressing for Congressional Action to Change Title XIX of the Social Security Act (42 USC Chapter 7, Subchapter XIX) as Amended by the Patient Protection and Affordable Care Act.**

Virginia seeks flexibility beyond what is currently allowed under federal law to:

a. **Drive Behavior through Value-Based Purchasing**

i. **Virginia seeks to compel beneficiary behavior through increased cost sharing.** CMS has very limited flexibility to waive statutory requirements on a broad scale for cost sharing. In a January 22, 2013, Notice of Proposed Rulemaking (NPRM), CMS proposed increases for cost sharing, however, the proposed amounts are nominal. Further, the new administrative, operational, and technical processes required to implement this change will likely cost more and outweigh the benefit of collecting these amounts.

ii. **Virginia seeks to drive beneficiary behavior through mandatory engagement in wellness and preventative services.** Cost savings and better health can be achieved when chronic or acute conditions are caught early. For example, requiring beneficiaries to participate in preventative

services as a condition of continued eligibility, such as an annual physical, would require beneficiaries to share responsibility for their own health.

b. **Restructure Benefit and Service Delivery Design**

   i. **Virginia seeks to allow health plans to offer limited, but high-quality provider networks.** Beneficiary choice, while paramount to the Medicaid program, often results in the option of several low-performing providers. Allowing limited provider networks that are focused around centers of excellence or high quality providers would be cost effective and improve the quality of care.

   ii. **Virginia seeks flexibility around requirements that the Commonwealth provide all essential health benefits and mandatory services**, such as only providing Non-Emergency Transportation for conditions that are life threatening (e.g., dialysis).

c. Other statutory relief that maximizes state flexibility and cost savings strategies.

5) **Achieve Commitment from Healthcare Stakeholders for Broad-Based, Long-term Statewide Reform**

   a. Obtain buy-in from stakeholders to design, engage in, and implement cost containment strategies and reforms that reduce the actual costs of all medical, behavioral health, and long-term care services provided in the Commonwealth. This in turn will reduce Virginia's Medicaid expenditures, while also improving the strength and sustainability of Virginia's entire healthcare market.

   b. Reforms will only be significant if stakeholders are engaged, invested, and willing to champion reform efforts.

c. Further, Virginia should bend the healthcare cost curve by capturing and reinvesting savings rendered from innovations and market-based reforms to offset healthcare costs for future generations.