

Congress of the United States
Washington, DC 20515

December 13, 2012

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

Dear Secretary Sebelius:

Thank you for your response to our July 18, 2012 letter regarding the Medicaid expansions in the Patient Protection and Affordable Care Act (PPACA) and for the Frequently Asked Questions (FAQs) released on Monday. This information provides useful additional guidance, although we remain concerned that its timing and lack of completeness leave states ill equipped to make critical decisions. These FAQs came out less than a week before states are required to inform HHS of their intentions for establishing a state-based exchange and submit an exchange Blueprint, providing little time for states to amend their Blueprint to reflect the information provided in the FAQ. Similarly, the FAQs pertaining to Medicaid have also left more uncertainty with respect to Medicaid rules around benchmark plans for newly eligible populations and financing from the federal government.

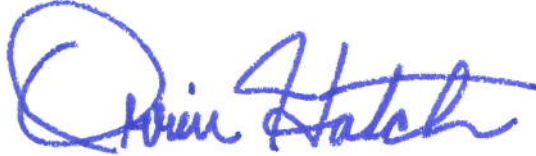
As the Obama Administration and Congress debate the best way to address the upcoming fiscal cliff, it is impossible to ignore the role of entitlement spending as we work to strengthen our economy and put our nation on a strong fiscal path. With a \$16 trillion debt and four straight years of more than trillion dollar deficits, it's time to acknowledge that entitlement programs are the biggest contributors to federal spending and current budget deficits. This is not a discussion that can be delayed. Governors are understandably concerned about the federal government's ability to maintain promised levels of Medicaid matching funds. As one governor recently noted, "This is just another government program where the federal government will run out of money and they'll put it on the states again."

As we have previously noted, President Obama's deficit reduction recommendations last year and Fiscal Year 2013 Budget proposal reinforced the concerns of many governors that there is a continuing lack of certainty around funding for Medicaid. The President had outlined a provision that would ultimately decrease the federal match for the newly eligible Medicaid beneficiaries through the application of a single blended rate to Medicaid and Children's Health Insurance Program. The FAQs released on Monday represented a major policy reversal away from the Administration's blended rate proposed just months ago, and the only rationale offered was the Supreme Court decision that made the Medicaid expansion voluntary for the states. While states now have the option, rather than the mandatory requirement, to expand Medicaid, many worry that the Administration's policy shift simply represents a "bait and

switch” in order to get states to agree to PPACA’s expansions. States should be aware that when fiscal realities later dictate cuts to the Medicaid program, they may be left to finance a larger share of the Medicaid expansions. The FAQs point to the ability of states to opt in or out at any time, yet mask the possibility of the federal government eventually reducing its matching rate. States could be left with very difficult choices between cutting other state priorities, such as education and law enforcement, or cutting millions of Americans off the Medicaid rolls.

Since the Administration first proposed a blended rate in its budget, the country’s fiscal position has significantly weakened and we now face the possibility of another national recession. The lack of certainty and failure to address these challenges head-on only add to the peril surrounding entitlement programs. We hope the Administration will engage in serious discussions to strengthen our economy and secure a more prosperous future. We believe that reasonable, bipartisan solutions exist to make our health care entitlements work better for patients today and to preserve the programs for the next generation.

Sincerely,



Orrin G. Hatch
Ranking Member
Senate Committee on Finance



Fred Upton
Chairman
House Committee on Energy and Commerce