



STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL  
AND FINANCIAL REGULATION  
BUREAU OF INSURANCE  
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AUGUSTA, MAINE  
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Paul R. LePage  
GOVERNOR

Eric A. Cioppa  
Superintendent

March 18, 2013

Gary Cohen, Deputy Administrator and Director  
Center for Consumer Information and Insurance Oversight  
Centers for Medicare and Medicaid Services  
200 Independence Ave, SW  
Washington, DC 20201

**Re: Functions of the Federally Facilitated Exchange in Maine**

Dear Director Cohen:

On February 15th, 2013 the Center for Consumer Information and Insurance Oversight (CCIIO)/HHS, proposed to the State of Maine Bureau of Insurance (“the Bureau”) a new Health Insurance Exchange coordination model. Under this model the Bureau would have continued responsibility for health insurance oversight activities for plans offered within the Federal Exchange, as the Bureau performs in connection with regulation of plans in the individual and small group market generally.

The purpose of this letter is to advise that the State of Maine is open to exploring options for coordination as described in your proposal. We understand that the Maine Bureau of Insurance would administer certain activities, as described below, in connection with the certification and oversight of Qualified Health Plans (QHPs). These are activities that the Bureau performs in the statewide health insurance market in order to protect Maine consumers and reduce administrative costs for Maine carriers. However, this partnership would involve our taking on responsibilities the Exchange would otherwise have to perform. Given our current fiscal situation, we can only proceed if our State is reimbursed for performing this work.



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At the outset, please be advised that 24-A M.R.S.A. § 4309-A and various other statutes enacted by P.L. 2011 Ch. 364 require carriers to comply with all applicable requirements of the Affordable Care Act and allow the Superintendent to enforce these requirements through all powers provided under Title 24 and Title 24-A.<sup>1</sup>

As described in the attached chart, Bureau responsibilities for plans outside the Exchange (and the responsibilities the Bureau might assume by coordinating with the Federal Exchange) include:

- Licensing carriers and verifying compliance with Exchange eligibility requirements
- Conducting market conduct examinations
- Conducting financial and solvency examinations
- Reviewing plan documents for compliance with state law mandates and essential health benefits, which are essentially the same as QHP certification requirements
- Reviewing rates
- Investigating and resolving consumer complaints
- Ensuring compliance with appeal and external review requirements
- Providing technical assistance to carriers
- Monitoring compliance with access requirements.

We look forward to working with you to clarify how best to fulfill our respective responsibilities to the citizens of Maine.

Sincerely,



Eric Cioppa  
Superintendent of Insurance

cc: Paul R. LePage, Governor

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<sup>1</sup> §4309-A. Compliance with the Affordable Care Act

**1. Carriers.** A carrier shall comply with all applicable requirements of the federal Affordable Care Act.

**2. Superintendent.** The superintendent may enforce and administer this section through all powers provided under this Title and Title 24. The superintendent may adopt and amend rules, establish standards and enforce federal statutes and regulations in order to carry out the purposes of the federal Affordable Care Act. Rules or amendments adopted pursuant to this subsection, including amendments to major substantive rules, are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Attachment: CCIIO's Proposed Coordination Model for FFE states:

<i>Federal Exchange Plan Management Activities (Section 4.0 of the Blueprint for Approval of State-Based and State Partnership Insurance Exchanges)</i>		<i>Bureau of Insurance comparable responsibilities in the current individual and small group market</i>
4.1	Authority to certify and oversee carriers, consistent with Federal regulations.	licensing carriers, performing examinations, conducting audits
4.2	Certify carriers according to Federal certification requirements.	licensing carriers
4.2a	Certify plans in advance of the annual open enrollment period.	reviewing forms
4.2b	Ensure plans comply with Federal certification standards including, but not limited to: licensure, solvency, service area, network adequacy, essential community providers, marketing and discriminatory benefit design, accreditation, and consideration of rate increases.	licensing carriers (including solvency, service area, network adequacy, essential community providers), reviewing quality, reviewing forms, reviewing rates
4.2c	Collect, analyze, and if required, submit to the Federal government plan variations for cost-sharing reductions, advance payment estimates for such reductions, and any supporting documentation needed to ensure compliance with applicable regulations and accuracy of the cost-sharing reduction advance payments.	Review of rates and forms including plan schedules of benefits
4.2d	Ensure that plans meet actuarial value and essential health benefit standards.	reviewing forms, reviewing rates
4.2e	Ensure plans' compliance with market reform rules.	reviewing rates
4.3	Have processes that support the collection of carrier and plan data; facilitate the plan certification process; manage carriers and plans; and integrate with other Exchange business areas, including the Exchange	licensing carriers, performing examinations, conducting audits

<i>Federal Exchange Plan Management Activities (Section 4.0 of the Blueprint for Approval of State-Based and State Partnership Insurance Exchanges)</i>		<i>Bureau of Insurance comparable responsibilities in the current individual and small group market</i>
	Internet Web site, call center, quality, eligibility and enrollment, and premium processing.	
4.3a	Collect and analyze information on plan rates, covered benefits, and cost-sharing requirements.	reviewing rates
4.3b	Use plan rate data and rules for purposes such as generating consumer-facing premiums and determining the second-lowest cost silver plan for premium tax credit calculations.	rate review, data collection and availability
4.4	Ensure plans' ongoing compliance with certification requirements, including a process for monitoring performance and collecting, analyzing, and resolving enrollee complaints.	performing examinations, conducting audits, investigating complaints
4.4a	Ensure plans' ongoing compliance with Federal certification requirements and Exchange operational requirements.	ensuring compliance with certification requirements: reviewing forms
4.4b	Has a process to monitor plan performance and to collect, analyze, and resolve enrollee complaints in conjunction with any applicable State entities (e.g., consumer assistance programs, ombudsmen).	performing examinations, conducting audits, investigating complaints
4.5	Has the capacity to support carriers and provide technical assistance to ensure ongoing compliance with Federal standards.	providing technical assistance to carriers
4.6	Has a process for carrier recertification, decertification, and appeal of decertification determinations.	licensing carriers (including annual registration of PPOs), revoking licenses, completing appeals in possible revocations

<p><i>Federal Exchange Plan Management Activities (Section 4.0 of the Blueprint for Approval of State-Based and State Partnership Insurance Exchanges)</i></p>		<p><i>Bureau of Insurance comparable responsibilities in the current individual and small group market</i></p>
4.6a	Has a process for recertification of carriers and plans including the annual receipt and review of rates, benefits, and cost sharing information.	licensing carriers (including annual registration of PPOs), reviewing rates, reviewing forms
4.6b	Has a process for decertification of plans and carriers and a process for transitioning enrollees into new plans.	working with carriers and plans seeking to leave the market
4.6c	Has a process for the appeal of a decertification of a plan and any necessary appeal of certification determinations.	completing appeals in possible revocations
4.7	Has a timeline for carrier accreditation, and systems and procedures to ensure carriers meet accreditation requirements as part of certification.	performing quality reviews that incorporate NCQA accreditation reviews
4.8	Ensure that carriers meet the minimum certification requirements pertaining to quality reporting and provide relevant information to the Exchange and HHS.	performing quality reviews that incorporate NCQA accreditation reviews  No related activities for providing information to the Exchange and HHS