



GARY R. HERBERT
GOVERNOR

STATE OF UTAH
OFFICE OF THE GOVERNOR

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LIEUTENANT GOVERNOR

December 10, 2012

The Honorable Barack H. Obama
President of the United States of America
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear Mr. President,

I want to personally thank you for meeting with members of the NGA Executive Committee and me last week. I think all who participated believe it was a productive and helpful dialogue. I also believe this can be the beginning of a meaningful process of working with states and their governors to find solutions to the challenges we face in this country. We face a number of critical issues, but I would like to specifically address two: the “fiscal cliff” and health care reform.

All of us — federal and state officials alike — must find solutions that represent the best interests of America, and our ongoing efforts to restore our economy. Utah is one of the states in America experiencing great progress in our economic recovery. To suffer a substantial setback because federal officials cannot find a compromise economic solution would simply be an unwarranted tragedy.

Mr. President, now is the time for bold leadership to protect our economy, our nation, and our future. I recognize the need to reduce spending as part of the solution. These spending reductions should be accompanied by increased flexibility for states to implement programs. States have demonstrated the ability to do more with less and still meet the goals and objectives set forth in federal programs.

I appreciate that you mentioned the Utah health exchange in our meeting last week, saying you want us to work with Secretary Kathleen Sebelius to make sure it is successful. Before the ACA passed, Utah carefully and thoughtfully created a market-based, consumer-oriented vision for health insurance market reforms, including exchanges. This was done consistent with Utah’s unique values, demographics, markets, and needs. The Utah model is innovative in its simplicity. Our goal is to give expanded access to information and choice of private healthcare plans to employers, employees, and consumers. Our exchange is now fully functional, offering a choice of 140 health insurance plans to 7,646 individuals in 318 small businesses throughout Utah. We are now embarking on a dramatic expansion of our exchange to more small businesses and we plan to include individuals and larger businesses in our exchange in the near future.

Of course, we are committed to helping those who need the support of the Medicaid and CHIP programs. However, we never intended for our exchange to administer Medicaid, enforce the individual mandate, or distribute federal tax credits.

I believe HHS officials' current interpretation of the ACA is to require states to take a more government-centric, standardized approach to exchanges. This results in less choice and more reliance on public programs.

Mr. President, I want the Utah exchange to survive and thrive as we originally envisioned it. In fact, I hope it becomes a model for other states to use as a platform for their own versions regarding healthcare reform. Therefore, I have a simple request for you: Please instruct the Department of Health and Human Services to certify the current Utah version of an exchange as compliant with the Affordable Care Act. You have supported giving flexibility for states. Certifying our current exchange will give us that flexibility.

Furthermore, I respectfully request that you instruct HHS to declare the Utah exchange model as the minimum federal standard for ACA compliant exchanges. I am confident that if you make this change, several other states will join Utah and request certification for "state based exchanges" based on our model, thus spreading a proven approach that lowers costs and increases access. I am committed to our model, and I will continue to pursue a Utah solution to Utah challenges.

Mr. President, I am required to notify HHS of Utah's plan regarding a federal exchange option by December 14. Time is short. In order for Utah to move forward, I need help from you regarding these requests before that deadline.

Utah has also been at the forefront of innovation and cost-cutting in our state Medicaid program. Medicaid was originally designed as a partnership between the states and the federal government. Unfortunately, the federal government has created too many restrictive rules, which make it difficult for states to meet local needs. Under the current system, states must seek permission from HHS before implementing changes or making improvements. This results in the federal government holding all the bargaining chips and threatens a complete loss of federal funding if states don't adhere to strict federal control. This is not the "give and take" of a true partnership.

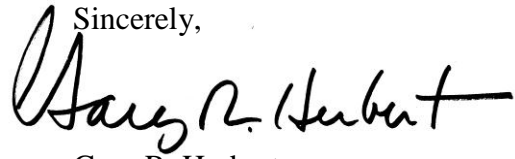
Over the past several years Utah has developed several innovative proposals to reduce costs, increase quality, and ensure maximum access to healthcare services for Medicaid recipients. Unfortunately, when we submitted these waiver requests, HHS officials met them with either reluctance or rejection.

Attached to this letter is a list of all Medicaid waiver requests the State of Utah has submitted to HHS since 2007. Of the nine requests submitted, initially only two were granted. Thanks to your personal involvement, we were able to get two of these denials reversed – one allowing paperless Medicaid applications and one providing incentives for healthy behaviors.

When HHS cherry-picks parts they favor and rejects other vital plan components, it becomes impossible to accomplish our overall objectives. Mr. President, we need you to instruct HHS to accept the waiver requests submitted by Utah because they meet the overall objectives of the program and we are in the best position to run our state program. With that flexibility we will be free to do what we do best – innovate solutions that reduce costs, increase efficiency, and improve quality.

Thank you, again, for working with the State of Utah, and for taking the time to include states in the discussions to fortify our nation's fiscal health. I am optimistic that this constructive dialogue can continue, and I look forward to meeting and discussing these issues with you as we work together on behalf of the people of Utah and the nation.

Sincerely,

A handwritten signature in black ink that reads "Gary R. Herbert". The signature is written in a cursive style with a long horizontal stroke at the end.

Gary R. Herbert
Governor
State of Utah