



SEP 23 2015

*Administrator*  
Washington, DC 20201

The Honorable Charles E. Grassley  
United States Senate  
Washington, DC 20510

Dear Senator Grassley:

Thank you for your letter regarding the grants awarded to states under section 1311 of the Affordable Care Act (ACA) for the purpose of establishing State-based Marketplaces (SBMs). SBMs have played a critical role in the ACA's important success by enrolling consumers across the country into affordable, high-quality, private health insurance plans, while allowing states the option to offer local control over key Marketplace functions.

Millions of Americans now rely on the health and financial security that comes from the affordable coverage made available through the Marketplaces. As of June 30, 2015, about 9.9 million consumers had effectuated Health Insurance Marketplace coverage, which means those individuals paid their premiums and had an active policy at the end of June.<sup>1</sup> Of those 9.9 million consumers, about 2.7 million consumers had effectuated coverage through the SBMs.<sup>2</sup>

The Centers for Medicare & Medicaid Services (CMS) is committed to strong ongoing oversight of the SBMs that protects taxpayer funds. CMS uses established oversight mechanisms to monitor the use of section 1311 grants by the SBMs. This federal oversight follows the guidance of applicable requirements, including Office of Management and Budget circulars and Department of Health and Human Services (HHS) grant regulations. CMS continues to oversee and monitor each SBM's performance through reporting requirements that demonstrate an SBM's adherence to program requirements.

As Secretary Burwell stated, "where the federal government and the taxpayer have had funds misused, we need to use the full extent of the law to get those funds back." If SBMs use grant funds for unallowable costs or for activities that are not authorized according to the terms of the grant, CMS will work to return appropriate funds to the Treasury consistent with HHS grant regulations and policies and section 1311 of the ACA. For example, as part of CMS's routine federal oversight of SBMs, CMS found that the Arkansas SBM spent approximately \$1 million

<sup>1</sup> June 30, 2015 Effectuated Enrollment Snapshot: <https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2015-Fact-sheets-items/2015-09-08.html>

<sup>2</sup> For 2015, there are 37 HealthCare.gov states; including, Alabama, Alaska, Arizona, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Michigan, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, Nevada, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, and Wyoming. New Mexico, Nevada, and Oregon are State-based Marketplaces using the HealthCare.gov platform for 2015. Thirteen states – California, Colorado, Connecticut, Hawaii, Idaho, Kentucky, Maryland, Massachusetts, Minnesota, New York, Rhode Island, Vermont, and Washington – plus the District of Columbia – have their own State-based Marketplaces and are using their own technology platform for 2015. Effectuated enrollment for the 34 states that are part of the Federally-facilitated Marketplaces on June 30, 2015 was 7.0 million, and 2.9 million for State-based Marketplaces, including those in New Mexico, Nevada, and Oregon which use the HealthCare.gov platform.

of the state's federal grant funding for activities that are not allowed under our regulations. CMS notified the state and they are working cooperatively to return the funds to the federal government. The recoupment of funds from the SBM contractors is an area where the federal government has a specific interest. As you mentioned in your letter, on July 21, 2015, the Maryland SBM reached a settlement in principle<sup>3</sup> with Noridian, one of its contractors. Noridian will pay back \$45 million that it had received from the SBM. CMS is working with the Maryland SBM so that funds are returned to the Treasury, and we will notify your office when we have settled with the state on an agreed-upon amount. Oregon and Massachusetts are also taking legal action against its contractors. CMS will work with Oregon and Massachusetts so that the appropriate funds are returned.

You asked about the SBMs who had challenges with their IT system implementations and the cost of their contingency plans. CMS is committed to working with states so that all Americans have the ability to shop for quality, affordable health coverage in 2016 and beyond. HealthCare.gov is a scalable platform, meaning that the cost to provide eligibility and enrollment functionality for additional states is marginal. CMS obligated \$7.3 million in Fiscal Year (FY) 2014 to complete the federal IT and system changes related to the transition for Oregon, Nevada, and New Mexico to the HealthCare.gov platform. Oregon, Nevada, and New Mexico did not receive new 1311 grant awards to transition to Healthcare.gov. Additionally, Massachusetts and Maryland faced challenges implementing their SBM IT systems during the first open enrollment period, but did not receive new 1311 awards in order to re-launch their IT systems. Both states' eligibility and enrollment platforms operated successfully for the second open enrollment period. In each of these cases, the cost for each state and to the federal government was factored into these decisions. No new 1311 grants can be awarded after January 1, 2015, consistent with the statute, and grantees may not use 1311 grant funds for ongoing operations. As such, CMS will not award new 1311 grants to SBMs that transition to the HealthCare.gov platform.

As with other federal grant recipients, states that received section 1311 grants are subject to a post-award, ongoing monitoring process to examine whether they are meeting the grant's terms and conditions and to provide technical support. For example, CMS aids SBMs in improving their vendor selection process, establishing better contract administration practices, and refining contractor-monitoring activities so that SBMs are fulfilling the terms and conditions of federal grants and contractors are fulfilling their respective requirements. This post-award monitoring process also includes the grant recipient's submission of semi-annual progress reports, quarterly financial reports, and monthly budget reports. CMS requires SBMs to submit to CMS a State-based Marketplace Annual Reporting Tool (SMART), which provides a compilation of key regulatory reporting requirements. CMS also imposes corrective action plans to address deficiencies in programmatic and grant requirements. For example, in early 2014, CMS asked the Oregon SBM to submit and follow a corrective action plan to address findings and recommendations from two external evaluations. CMS has also denied or reduced SBMs' requests for restricted IT funds based on results from these oversight mechanisms.

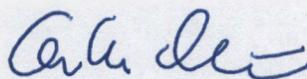
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<sup>3</sup> The settlement agreement has been signed, but is subject to approval by authorities that are not parties to the settlement agreement.

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Thank you for your attention to these important issues. Please contact me should you have additional questions. I look forward to working with you on these important matters. I will also provide this response to the cosigners of your letter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andrew M. Slavitt". The signature is fluid and cursive, with a prominent initial "A" and a long, sweeping underline.

Andrew M. Slavitt  
Acting Administrator