

# SEIU California



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May 16, 2012

To: Members of the California Health Benefits Exchange Board

Kimberly Belshé  
Sec. Diana Dooley  
Paul Fearer  
Susan Kennedy  
Dr. Robert Ross

CC: Peter Lee, Executive Director  
Speaker Pro Tem Darrel Steinberg  
Speaker John Perez  
Senate Health Committee Chair Ed Hernandez  
Assembly Health Committee Chair Bill Monning

From: SEIU California (State Council)

Re: Potential Federal-State Partnership Agreement with Exchange

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As a major supporter of the Affordable Care Act, SEIU continues to seek opportunities to support the implementation of the California Health Benefits Exchange (HBEX). We applaud your efforts and those of your board to date. The successful implementation of the HBEX is a top priority for SEIU.

We are writing today because the California Health Benefits Exchange (HBEX) is considering a federal-state partnership agreement under which the federal government would take over certain exchange functions. Certainly, a partnership agreement may lessen the pressures of setting up an insurance marketplace in a tight timeframe. At the same time, such an approach may reduce California's ability to control the future of its exchange and may create further uncertainty in the future.

In principle, SEIU believes that it is preferable for California to establish its own exchange, even if this results in a short delay in the beginning of the enrollment process in July 2013. However, there are a lot of unknowns in regards to a potential partnership agreement that SEIU hopes that HBEX would consider, including:

- **Eligibility and enrollment functions.** Under the partnership agreement, CMS's guidance clearly explains that the federal government retains ultimate authority and control of the exchange under a federal-state partnership agreement.<sup>1</sup> What are the implications of this, and how does it impact HBEX's ability to accomplish the delivery system and marketplace changes envisioned under SB 900 (Alquist), Chapter 659, Statutes of 2010, and AB 1602 (Perez), Chapter 655, Statutes of 2010?

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<sup>1</sup> Federal Exchange regulations issued March 27, 2012, 45 CFR Parts 155, 156 and 157, pages 62-65. Available online at: <http://www.kaiserhealthnews.org/~media/files/2012/exchange%20standards%20for%20employers%20march%202012.pdf>

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- **Future Federal Funding.** CMS guidance clearly states that there are no exchange grant funding beginning in 2015. It is unclear to SEIU that, if the state pursues a partnership agreement, if federal grants will still be available to the state to build CalHEERS and other functions transitioned to the federal Exchange under a partnership agreement.
- **Ensuring access to all Californians.** California is an extremely diverse state with many populations that will face cultural and linguistic challenges in accessing coverage through an Exchange. Some of the populations have limited or no online access, and some will require support in-person. We urge HBEX to carefully consider the implications a partnership agreement may have on these populations and take steps to address the cultural and linguistic barriers to coverage for all Californians.
- **Impact of Federal Guidance.** If it is the case that a partnership is being pursued because of federal deadlines, SEIU would like to explore how to support HBEX in explaining the challenges posed by these deadlines to federal officials.

To help us understand and assess the utility of the partnership option, we hope that HBEX can respond to SEIU and answer the following questions prior to taking action:

- What exact functions are being considered by the board to be transferred to the Federal government?
- Are any changes to state law needed to allow the partnership to go forward?
- What is the rationale for pursuing a partnership agreement?
- If the partnership is needed because of timing, are there other operational options that should be considered? What existing systems can be leveraged so that the Exchange can be established more expediently under a state-based option?
- If existing systems cannot be leveraged, how much time is needed to set up California's exchange absent a partnership?
- Has the board considered discussing the modification of existing deadlines with the federal government?
- Will there be federal funds available to California to establish exchange functions at the state level that are performed by the federal exchange under a partnership agreement? What, if any, funding would the federal government require from the state to do this work?
- Will the RFP for CalHEERS need to be changed and rebid if the partnership option goes forward?
- For any functions transferred to the federal government, what is the plan to transfer these functions back to the state and when?

SEIU stands with HBEX to implement the most effective program possible and to build upon State efforts to date. We appreciate your consideration of these questions. Again, SEIU appreciates the work done by the Exchange to date, and thanks the board and staff for its diligence in fully vetting these questions before making a decision. As always, we are happy to be helpful in any way we can to ensure HBEX's success.