EDMUND G. BROWN JR.
GOVERNOR

State of California

DEPARTMENT OF HEALTH CARE SERVICES

DEPARTMENT OF INSURANCE

DEPARTMENT OF MANAGED HEALTH CARE

HEALTH BENEFIT EXCHANGE

MANAGED RISK MEDICAL INSURANCE BOARD

October 31, 2011

Hon. Kathleen Sebelius, Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Comments on Health Insurance Premium Tax Credit; Exchange Functions in the Individual Market, Eligibility Determinations, and Exchange Standards for Employers; and Eligibility Changes to Medicaid NPRMs

Dear Secretary Sebelius:

On behalf of the State of California and the major entities responsible for providing and overseeing health care delivery in the state – the California Department of Health Care Services, the California Health Benefit Exchange, the California Department of Managed Health Care, the California Department of Insurance, and the Managed Risk Medical Insurance Board – we submit these comments about the Health Insurance Premium Tax Credit (REG-131491-10; RIN 1545-BJ82); Exchange Functions in the Individual Market, Eligibility Determinations, and Exchange Standards for Employers (CMS-9974-P; RIN 0938-AR25); and Eligibility Changes to Medicaid (CMS-2349-P; RIN 0938-AQ62). California appreciates the opportunity to comment on these regulations.

California looks forward to the full implementation of the ACA reforms in 2014. California policymakers are aware of the enormous opportunities in the ACA for providing affordable, meaningful coverage to millions of uninsured or underinsured Californians. We are committed to doing our utmost to realize these opportunities for Californians.

California faces unique challenges as it establishes its Exchange and moves to the guaranteed issue environment of 2014. California's population is more diverse than most states; the size of the individual market, estimated to include several million individuals, is much larger than most states; the number of uninsured is higher than virtually all states; and, unlike most states, managed care is already dominant in the California marketplace. California also is uniquely

situated in the national landscape as its Exchange has been granted the authority through state legislation to selectively contract for coverage with qualified health plans.

California applauds the work involved in drafting the proposed regulations and welcomes the flexibility that many of the proposed rules accord to states so that they can construct programs that work well in their unique environments. In our submitted comments we offer some suggestions for ways in which the rules might be improved.

It has been difficult to draft a complete response to the proposed regulations because many crucial proposed regulations have not been issued and the market rules have not been defined clearly. We may return to comment on the issues addressed in the proposed regulations once we understand better how they will interact with regulations that have yet to be issued and the post-2014 market rules. We look forward to collaborating on these important issues as more proposed regulations are developed.

Our comments are aimed at refining the rules consistent with the following guiding principles:

1. Promote consistency with the California Patient Protection and Affordable Care Act, which established the California Health Benefit Exchange;
2. Maximize state flexibility in the administration and operation of the Exchange;
3. Maximize affordability of coverage;
4. Minimize the possibility of adverse selection;
5. Promote efficient and simplified Exchange operations;
6. Maximize the enrollment and retention of individuals in the Exchange, Medi-Cal, and CHIP;
7. Maximize the Exchange's ability to be operational and successful starting in January 2014; and
8. Minimize administrative burdens and costs on consumers, employers, providers, health plans and public agencies.

The enclosed comments reflect the consensus of all the signators to this letter. Any questions you may have about California's comments would be appropriately directed as follows to the respective entity that led California's response on each issue.

On the Eligibility Changes to the Medicaid Program NPRM, to Toby Douglas, Director of the Department of Health Care Services.

On the Health Insurance Premium Tax Credit and Exchange Functions in the Individual Market, Eligibility Determinations, and Exchange Standards for Employers NPRMs, to Peter V. Lee, Executive Director of the California Health Benefit Exchange.

On proposed rules related to CHIP, to Janette Casillas, Director of the Managed Risk Medical Insurance Board.

Thank you for taking our comments into consideration as we work together to meet the short statutory deadlines to construct viable Exchanges and promote broader access to quality health care.

Sincerely,

Toby Douglas, Director, California Department of Health Care Services

Brent Barnhart, Director, California Department of Managed Health Care

Peter V. Lee, Executive Director, California Health Benefit Exchange

Janette Casillas, Executive Director, Managed Risk Medical Insurance Board