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March 11, 2011

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
200 Independence Ave. SW
Washington, D.C. 20201

RE: Petition for Adjustment of Medical Loss Ratio Requirements

Dear Secretary Sebelius:

As you are aware, in the case of *State of Florida, et al. v. United States Department of Health and Human Services (HHS), et al.* (Case No.: 3:10-cv-91-RV/EMT, Jan. 31, 2011), the United States District Court, N.D. Florida, held that the individual mandate to buy insurance contained in the Patient Protection and Affordable Care Act (the Act or PPACA) was unconstitutional. The court also struck down the entire Act since the individual mandate was an integral part of the Act. The court recently issued a conditional stay of its ruling, and the Department of Justice filed a Notice of Appeal, the necessary condition for the stay to remain in effect.

In an abundance of caution, and in order to create certainty and maintain the stability of Florida's individual health insurance marketplace, the State of Florida, through the Office, submits for filing and consideration the following document:

PETITION OF THE STATE OF FLORIDA FOR AN ADJUSTMENT OF THE
MEDICAL LOSS RATIO PROVISIONS OF THE PATIENT PROTECTION
AND AFFORDABLE CARE ACT AND REGULATIONS ISSUED
PURSUANT THERETO.

The Office asserts that State of Florida meets the legal standard for the granting of an adjustment as set forth in the Interim Final Rule, 45 CFR Part 158, entitled "Health Insurance Issuers Implementing Medical Loss Ratio (MLR) Requirements Under the Patient Protection and Affordable Care Act."

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KEVIN M. McCARTY • COMMISSIONER
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The petition demonstrates that there is a reasonable likelihood that application of the MLR requirements as set forth in PPACA may destabilize the individual health insurance in Florida for the following reasons: 1) Issuers will exit the individual market or cease issuing new policies; 2) the MLR requirements will erect barriers to entry into the individual market; 3) the MLR requirements will reduce consumer choice because of a reduction in the availability of products in the individual market; and 4) the MLR requirements will severely hamper agent involvement in the individual market to the severe detriment of Florida consumers.

As demonstrated by the petition and supporting documentation, the United States Department of Health and Human Services should grant the proposed adjustment to the medical loss ratio provisions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kevin M. McCarty', with a long horizontal flourish extending to the right.

Kevin M. McCarty
Commissioner