

Arkansas Insurance Department

Mike Beebe
Governor



Jay Bradford
Commissioner

MEMO

To: Marty Garrity, Director, Arkansas Bureau of Legislative Research

From: Cynthia Crone, Deputy Commissioner, Arkansas Insurance Department
Arkansas Health Connector Division

CC: Jay Bradford, Arkansas Insurance Commissioner
Amanda Cowley, State Exchange Group Director, DHHS/CMS/CCIIO

Date: August 26, 2013

Re: Funding options for the Arkansas Health Insurance Marketplace Board

In response to your request for information about funding options and processes for start-up funding for the newly-created Arkansas Health Insurance Marketplace Board, the following is provided: 1) Information from Act 1500, Arkansas's Health Insurance Marketplace enabling legislation; 2) Information from CFDA 93.525, the federal Funding Opportunity Announcement for Exchange Establishment ("1311") funding; 3) Information from the Center for Consumer Information and Insurance Oversight (CCIIO) staff; 4) State Marketplace Blueprint Documents (outline requirements for a State Based Marketplace); and 5) Summary recommendations from Arkansas Insurance Department.

1) Funding for activities of The Arkansas Health Insurance Marketplace Board of Directors, created by Act 1500 of 2013, is outlined in the Act relative to activities before and after July 1, 2015 (see <http://www.arkleg.state.ar.us/assembly/2013/2013R/Acts/Act1500.pdf>):

- "On and after July 1, 2015, the board shall have the authority to apply for and expend on behalf of the Arkansas Health Insurance Marketplace any state, federal, or private grant funds available to assist with the implementation and operation of the *Arkansas Health Insurance Marketplace*."
- "Before July 1, 2015, the board shall coordinate with the Insurance Commissioner the application for state, federal, or private grant funds to plan, implement, and operate the Arkansas Health Insurance Marketplace" and "the Insurance Commissioner may apply for any state, federal, or private grant funds available to assist with the implementation and operation of the *Arkansas Health Insurance Marketplace*."
- Further, "if the Insurance Commissioner applies for and receives any state, federal, or private grant funds available to assist with the implementation and operation of the Arkansas Health Insurance Marketplace, the Insurance Commissioner shall enter into a memorandum of understanding with the Arkansas Health Insurance Marketplace concerning the use and expenditure of the grant funds."
- There is a Legislative Oversight Committee.

2) The U.S. Department of Health and Human Services (HHS) through the Centers for Medicare and Medicaid Services (CMS), Center for Consumer Information and Insurance Oversight (CCIIO), provides funding to states for planning and establishing health insurance exchanges (marketplaces) under its “Cooperative Agreement to Support Establishment of the Affordable Care Act’s Health Insurance Exchanges” funding announcement CFDA: 93.525 as amended November 30, 2012 (<http://www.cms.gov/CCIIO/Resources/Funding-Opportunities/Downloads/amended-spring-2012-establishment-foa.pdf>). This document provides important details about allowed grantees and allowable funding activities. Details pertinent to your current information request and included within the CFDA 93.525 funding announcement include:

- There are two types of Cooperative Agreements (grants): Level One and Level Two.
 - Level One grants are awarded for a period of up to one year and can be used for a Federally Facilitated Marketplace (FFM), a State Partnership Marketplace (SPM)--the model Arkansas currently employs, or a State Based Marketplace (SBM), the model envisioned for the future in Arkansas by Act 1500. A state may receive multiple Level One grants.
 - Level Two grants are only available to states that are establishing a state based marketplace and are awarded for up to a three year period. A state may receive only one Level Two grant. However, a state that has received a Level Two award may request a subsequent Level One award for an activity not previously funded.
- Cooperative Agreement (grant) funding requests are submitted via a formal process with specific submission deadlines. Only one grant may be requested by a state at any one time, and applications require letters of support from the Governor, Insurance Commissioner, and Medicaid Director.
- All Cooperative Agreement funding must be awarded by December 31, 2014; however, funds may be used after this date. The next funding opportunity submission deadline for Cooperative Agreement funding is November 15, 2013. *Additional future funding submission deadlines for both Level One and Level Two grants are all in 2014: February 14, May 15, August 15, and October 15.* Grant awards are anticipated to be received by the state 45 days after application due date. Please note that October 15, 2014 is the last date that 1311 Establishment Cooperative Agreement funding may be requested. Depending on the timing and type of funding (Level One or Level Two), funds may be spent over the next six years.
- There is a provision for reimbursement of expenses that occur in advance of a state receiving Cooperative Agreement funding. The federal Funding Opportunity Announcement states that such reimbursements must be for expenses that are “allowable and incurred up to 90 days before a grant award that cannot be covered under existing funding.” Please note that because funding is not guaranteed until awarded, such spending is done at the risk to the state. Additionally, “Such uses of funds under this Cooperative Agreement must be approved

in writing by HHS”. This would occur upon approval of the application which would include clearly identified pre-award costs in the application work plan.

- A list of “Prohibited Uses of Grant Funds” in the FOA for CFDA 93.525 contains no reference to expenses incurred by a Marketplace board. A companion document (<http://www.hrsa.gov/grants/hhsgrantspolicy.pdf>) lists salaries, expenses and stipends as among the allowable items that can be funded by a grant. However, stipends are defined in terms of “cost of living expenses” for trainees (see pp. 95, 200). The document does not specifically address board compensation, but does mention stipend taxes and 1099 forms.

3) Pursuant to your request, we have received some clarification regarding funding opportunities from the Center for Consumer Information and Insurance Oversight staff at the Centers for Medicare & Medicaid Services at HHS. CCIIO referred us to <http://www.hrsa.gov/grants/hhsgrantspolicy.pdf> and provided additional information:

- A recipient of Level One grants may, at its own risk and without prior CMS approval, incur obligations and expenditures to cover costs that could be covered by a potential forthcoming grant award. The costs must occur up to and including 90 days before the award date of the grant. There is no guarantee how quickly a award would occur following a deadline for submission. For point of reference, however, last year’s November 15 grants were awarded the following January 16. Forty-five (45) days following submission is the estimated time for grant awards.
- Prior approval from CCIIO is required for costs that occur before the 90-day window described above. Such requests for prior approval must be made 30 days before the costs are incurred or there is a risk of not being reimbursed for such costs.
- Pre-award spending for the Arkansas Insurance Marketplace Board may in effect “borrow against” the upcoming grant award and must not adversely affect the objectives of the Arkansas SPM.
- A quicker route to interim Marketplace Board funding might be to “re-scope” an existing Level One grant. Under this scenario, AID would request of CCIIO that existing grant funds be allowed to be spent differently than originally requested. We have not at present identified how we would “re-scope” currently awarded funds, but could consider such an approach so long as our current SPM objectives are not adversely affected.
- CCIIO requests that Level One funding applications for the implementation of the State Partnership Marketplace be submitted at separate submission dates from State Based Marketplace development funding applications.

4) The CCIIO Blueprint Document (<http://www.cms.gov/CCIIO/Resources/Files/Downloads/hie-blueprint-11162012.pdf>) is to be used to guide state marketplace development and grant funding requests.

- Arkansas's SPM approval on required Blueprint items may be used to meet SBM requirements, and such would be expected by CCIIO in order to meet non-duplication requirements.
 - The Blueprint guidance document is being updated and "Blueprint Version 2.0" is currently in pre-release: <http://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing-Items/CMS1254283.html?DLPage=1&DLSort=1&DLSortDir=descending>.
- 5) AID recommends that Arkansas's State Marketplace Board study the Blueprint document and consider requesting Level One funding toward State Marketplace Planning/Implementation as soon as the November 15, 2013 submission deadline.
- If the Board seeks funding at that time, the Arkansas Health Connector Division of AID will wait until the February 15 submission date to request our next Level One funding toward SPM continued operations until 2015. We would then agree on a future cycle of funding requests to meet CCIIO's request that funding applications be at separate times for SPM and SBM activities.
 - If the new Board plans to seek funding approval for the 90 days prior to any award resultant from the November 15, 2013 (or subsequent date) submission, we request that a determination of those funding needs be accomplished and communicated to AID as soon as possible so that we can communicate such to CCIIO as early as possible.
 - Upon Level One funding for SBM planning/implementation efforts, the Commissioner would enter into a formal MOU with the new non-profit Marketplace Board concerning use and expenditures of grant funds as approved by AID and CCIIO. Per usual, spending appropriations would need to be approved by the Arkansas Legislative Council. The AID as primary grantee, would remain responsible for activities funded under the Level One Funding agreement. The Arkansas Health Insurance Marketplace Board would be accountable to the Legislative Oversight Committee and to the AID, as a subcontractor, for expenditure of 1311 Cooperative Agreement funds until such time as the Arkansas Health Insurance Marketplace seeks and obtains such funds on their own (after July 1, 2015).

We look forward to collaborating with the Arkansas Health Insurance Marketplace on start-up funding and transitional planning as we share a common goal of providing Arkansans with quality, coordinated, cost efficient, and non-duplicative services that will ensure a competitive health insurance marketplace and genuine consumer choice among affordable insurance coverage options. Please don't hesitate to let Commissioner Bradford or me know if clarifications or additional information is needed. I may be reached at Cynthia.Crone@Arkansas.Gov or 501-683-3634.