

Stouman Public Comment

Conflict of interest safeguards for the State Innovation Model Initiative (SIM)

WHEREAS, The SIM is a federal grant initiative to develop reforms in population health, healthcare delivery and payment in Connecticut;

WHEREAS, the Center for Medicare and Medicaid Innovation (CMMI) has explicitly determined that a pre-condition of receiving the federal grant is the creation of an advisory process that includes all the multiple stakeholder groups impacted by SIM;

WHEREAS, the state believes it is in the best interest of the state and its citizens that advisory processes include all of the stakeholder groups impacted by population health, health care delivery and payment reform activities;

WHEREAS, Under the State Code of Ethics a "Member of an Advisory Board" means any individual (A) appointed by a public official as an advisor or consultant or member of a committee, commission or council established to advise, recommend or consult with a public official or branch of government or committee thereof, (B) who receives no public funds other than per diem payments or reimbursement for his or her actual and necessary expenses incurred in the performance of his or her official duties, and (C) who has no authority to expend any public funds or to exercise the power of the state.

WHEREAS, The State Code of Ethics does not treat SIM participants as public officials but as members of an advisory board to whom the State Code of Ethics and associated conflict of interest provisions do not apply;

WHEREAS, Notwithstanding the inapplicability of the State Code of Ethics it is in the interests of transparency, fairness and full participation that the SIM adopt a set of standards to avoid substantial conflicts of interest consistent with Section 1-85 of the State Code of Ethics;

WHEREAS, CMMI has affirmed that the SIM adoption of conflict of interest standards as stated below is consistent with other SIM processes in Minnesota and Vermont;

NOW THEREFORE BE IT RESOLVED, that the following protocol follows the provisions of the State Code of Ethics regarding substantial conflicts of interest while allowing for the full participation of all of the various parties as required by the federal grant and in the best interests of the state of Connecticut and is agreed to so as to ensure transparency, fairness, and high standards of conduct:

1. The SIM governance structure is comprised of a Healthcare Innovation Steering Committee, Consumer Advisory Board, and various Councils and Task Forces, which are solely advisory in nature and as such will not have a direct role in managing resources, financing initiatives or making funding award decisions.
2. All procurements pertaining to SIM related initiatives will be undertaken by the state, primarily through the SIM Program Management Office ("PMO") or through state agencies, and will not be undertaken by the Healthcare Innovation Steering Committee or other SIM advisory bodies.
3. If the SIM PMO requests advice from an advisory body regarding the allocation of resources to support an initiative, it is the duty of the members of that body who have, or whose organizations have an actual, perceived or potential financial interest in the matter to disclose that information to the advisory body immediately. At that time the member has the option of recusing himself/herself. If the member does not ask to be recused from the discussion, then the advisory body will immediately determine if a conflict or potential conflict of interest exists. If so, the member who could directly benefit from such decisions or whose organization would directly benefit will be asked by the advisory committee chair(s), after the committee's discussion, to recuse himself/herself from participating in the discussion regarding the item in question. A member does not have a conflict of interest if there is an actual, perceived or potential financial benefit (or detriment) to the member or the member's organization that is no greater than that of the member's or the member's organization's profession, occupation or group.

Contradicted
by State
Ethics
Office in
Ruling on
5/21/15

And
of 1-86
re
potential
conflicts
of
interest

X
Contradicts
State
Ethics
Code
of 1-86
defining
"potential
conflicts
of interest"

CONFLICTS OF INTEREST

Substantial Conflict of Interest

WHAT IS A "SUBSTANTIAL" CONFLICT OF INTEREST?

A "substantial" conflict of interest exists if a public official or state employee has reason to believe or expect that he or she, his or her spouse, a dependent child, or a business with which he or she is associated will derive a **direct** monetary gain or suffer a **direct** monetary loss by virtue of his or her official activity. It does not exist if any benefit or detriment accrues to any such person as a member of a profession, occupation or group to no greater extent than any other member of such profession, occupation or group. Conn. Gen. Stat § 1-85.

§1-85

"Business with which...associated" is defined to include any entity through which business for profit or not for profit is conducted in which the public official or state employee, or a member of his or her immediate family, is a director, officer, or holder of significant ownership interest. **Note:** Unpaid service as an officer or director of a non-profit entity is exempted from the definition of "Business with which...associated."

Required Action for Substantial Conflict of Interest

A public official or state employee **must** abstain from taking official action on the matter that presents a substantial conflict for them, his or her immediate family, or any associated business.

Potential Conflict of Interest

WHAT IS A "POTENTIAL" CONFLICT OF INTEREST?

A "potential" conflict of interest exists if a public official or state employee, in the discharge of his or her official state duties, would be required to take an action that would affect his or her financial interest, or the financial interest of his or her spouse, parent, brother, sister, child, spouse of the child, or a business with which the official or employee is associated. Unlike a "substantial" conflict of interest, there is no requirement that the financial impact be direct or that it affect the individual differently from other members of his or her profession, occupation, or group. However, there still must be a reasonable expectation on the part of the state employee or public official that there will be some financial impact based on his or her actions. A "potential" conflict of interest does not exist if the financial interest is "de minimus" (under \$100) or if the interest is not distinct from that of a substantial segment of the general public (e.g., all taxpayers). Conn. Gen. Stat. §1-86.

§1-86



Public Officials and State Employees Guide to the Code of Ethics

Required Action for Potential Conflict of Interest

A public official or state employee who is a member of a regulatory board, commission, council or authority *must* abstain from taking official action on the matter *or* prepare a written statement explaining the conflict and why despite the conflict they are able to act fairly, objectively and in the public interest. Such statement must be submitted to the Office of State Ethics and entered in the agency's journal or minutes.

A public official or state employee who is not a member of a regulatory board, commission, council or authority *must* prepare a written statement to an immediate supervisor for reassignment. If there is no immediate supervisor, the statement must be submitted to the Office of State Ethics for advice and guidance.

Identified as "Letter - CMMI - Conflict of Interest Protocol" on PMO's Website (from 7/16/15 Steer. Co. meeting)

DEPARTMENT OF HEALTH & HUMAN SERVICES
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CENTER FOR MEDICARE AND MEDICAID INNOVATION

July 15, 2015

Mark C. Schaefer, PhD
Director, Connecticut Office of Healthcare Innovation
P.O. Box 1543
Hartford, CT 06144

Dear Mr. Schaefer:

This letter describes certain programmatic requirements as outlined in the SIM Round 2 Funding Opportunity Announcement (Funding Opportunity #CMS-1G1-14-001, hereafter referred to as the "FOA")¹.

As stated by the content of the Round 2 FOA, CMMI requires broad, multi-payer and stakeholder input and engagement in health care delivery system transformation supported by a SIM Model Test cooperative agreement. Specifically, the FOA articulates that a state "must describe in detail how it will engage providers in health care delivery system transformation across the state" and "must demonstrate how it will use its unique role as a stakeholder convener to accelerate state-wide health transformation. . . Stakeholders must include health care providers/systems, commercial payers/purchasers, state hospital and medical associations, community-based and long term support providers, consumer advocacy organizations, and, as applicable, tribal communities." (FO #CMS-1G1-14-001, pgs. 9, 29) The FOA further requires the state to "demonstrate a clear, sustained commitment to participation and implementation of the health transformation model of major stakeholders." (FO #CMS-1G1-14-001, p. 44) Additionally, a state "must also demonstrate participation on the part of commercial payers with respect to both financial and quality measurement alignment. The state should identify a broad group of stakeholders involved in the execution of the Model Test. . . ." (FO #CMS-1G1-14-001, p. 44)

CMMI acknowledges the value and utility of multi-payer input and participation in the testing and expansion of new health care payment models. CMS is working with private payers as well as state Medicaid programs, to meet or exceed the historic delivery system reform goals announced by Secretary Sylvia M. Burwell in January 2015.²

¹ <http://innovation.cms.gov/Files/x/StateInnovationRdTwoFOA.pdf>

² <http://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2015-Fact-sheets-items/2015-01-26-3.html>

CMMI has indicated through several different communication channels, such as written e-mail feedback from the Project Officer, that CT's Stakeholder Engagement Plan, submitted in April 2015, outlines a governance structure that is not inconsistent with the requirements set forth in the Round 2 FOA. CT's Stakeholder Engagement Plan has been shared with other Round 2 Model Test awardees as an example to emulate.

The SIM Program team has observed governance structures in other SIM awardee states that show great promise for accelerating the transformation of their health care payment and delivery systems. For example, as part of Colorado's SIM initiative, six Colorado health insurers and the state's Medicaid program committed to adopt delivery and payment reforms designed to integrate behavioral and physical healthcare.³ The Vermont Health Care Innovation Project, funded by the SIM award, developed a common set of core measures for the Medicaid and commercial insurance shared savings programs.⁴ Similarly, Maine's Steering Committee, made up of payers, providers, consumer advocates, purchasers and other stakeholder organizations, has developed a governance structure that provides program recommendations to the Maine SIM Leadership Committee which is chaired by the Maine Secretary of Health and Human Services (HHS)⁶. The collaborative decision-making processes established by the ME SIM Steering Committee have shown to be so successful that several of those processes are being adopted by other Maine HHS programs.

In conclusion, CMMI has reviewed Connecticut's Stakeholder Engagement Plan submitted to date and has determined that it's consistent with the requirements of the FOA. We look forward to continuing to collaborate with your state to achieve better care, smarter spending and healthier people for your entire state's population.

Sincerely,

CDR. Francis R. Jones, MD

for

Stephen Cha, MD, MHS
Acting Group Director, State Innovations Group
Center of Medicare and Medicaid Innovation;
Chief Medical Officer, Center on Medicaid and
CHIP Services;
Centers for Medicare and Medicaid Services

³ <https://www.colorado.gov/pacific/governor/news/gov-hickenlooper-commends-first-healthcare-partners-state-innovation-model>

⁴ http://healthcareinnovation.vermont.gov/sites/hcinnovation/files/SSP_and_ACO_FAQ_and_Chart_7.8.14.pdf

⁶ <http://www.maine.gov/dhhs/sim/resources/steering-committee.shtml>