

Federal Maine 1332 Waiver Application Questions and Responses

1) What measures will you take to address concerns raised in comments received during the federal public notice and comment period related to transparency of the MGARA program?

Maine: By way of background, Maine law provides for consumer representation on the MGARA Board, and after extensive input from a wide range of interested parties, the Maine Legislature established specific transparency requirements in 2013 at 24-A M.R.S. §§ 3953(2)(E) through (G). The comments expressed concerns that the Board might not always be fulfilling its responsibilities in a timely manner. The Maine Bureau of Insurance will work with the Board to ensure that the information on MGARA's Web site is kept complete and up to date, and we will facilitate a dialogue between the Board and consumers on how best to address any other transparency issues that might arise.

The ACS Cancer Action Network also specifically requested "that public comment is warranted on the nature and scope of the health questionnaire, should MGARA continue the use of this practice. We urge CMS to encourage MGARA use a robust public comment process in implementing this questionnaire and process." This request seems reasonable to the Bureau, and we will work with the Board and consumers on an appropriate process for public input if the Board considers reinstating some form of health questionnaire.

The statutory transparency provisions cited above read as follows:

E. The board shall establish regular places and times for meetings and may meet at other times at the call of the chair. The board shall post notice of scheduled meetings, meeting agendas and minutes of meetings on a publicly accessible website maintained by the association.

F. The board shall establish a mechanism on its publicly accessible website for the public to submit comments on matters related to the operations of the association.

G. The board shall establish a process for taking public comment at selected board meetings to be held at such time and place as the board may determine. The opportunity for public comment must be made available not less often than quarterly. Except as specified in this paragraph, meetings of the board are not open to the public.

2) Will you allow for public participation in MGARA Board meetings or take other measures to provide for consumer input and sharing information on the meetings that occur?

Maine: As discussed in our answer to the previous question, the Legislature has established minimum statutory requirements for public access and input, and we will work with the Board and consumers to facilitate a dialogue on further initiatives in this area that the Board might consider.

3) Given the uncertainty around whether Medicaid expansion will happen for 2019, what are your views and assumptions regarding non-group market enrollment and premiums?

Maine: The Milliman analysis assumes that Medicaid expansion will be in place throughout 2019. Pages 30-33 of the Milliman analysis provide alternative estimates assuming no Medicaid expansion. The attachment points would change from \$47k to \$55k at 90% and \$77k to \$85K for 100%. Ceded premium in 2019 is estimated to increase from \$37M to \$46.7M due to more individuals covered and slightly higher premiums. Enrollment would be 486,000 compared to 471,000 for assessments.

http://www.maine.gov/pfr/insurance/mgara/exhibit_a_milliman_modeling_final.pdf.

4) At what point will Maine make a decision to adjust the MGARA parameters to account for potentially no Medicaid expansion in 2019?

Maine: The MGARA Board of Directors has flexibility to adjust attachment points. Medicaid expansion still has some hurdles to overcome but we may know more in August.

5) Insurers would be required to automatically cede premiums for any enrollee with at least one of the eight conditions. However, insurers may also voluntarily cede premiums at their discretion. What is the basis for including voluntary ceding? How does voluntary ceding of premiums factor into the amount of funding available to operate the program?

Maine: Voluntary ceding is included in the Milliman analysis. Page 9 of the analysis stated that “high cost individuals that carriers would likely cede to the reinsurance pool voluntarily” were included in the estimated costs. Carriers have multiple sources of information such as claim history and risk scores available to assess the risk of their policyholders. Many of the carriers have been in the individual market for multiple years and have built up a database of information on the block. The ceding premium is set at a level that, when combined with the carrier’s retention, discourages excessive voluntary ceding but gives carriers a chance to buy protection at a reasonable price for high-risk enrollees. Voluntary ceding is important because the listed conditions do not capture all the high-risk enrollees that a program reinsures. Adding conditions could mitigate the problem but would not eliminate it and could add cost and complexity to the system.

6) Given insurers cannot require enrollees to fill out a health questionnaire or receive health information from applicants, if they were to voluntarily cede, would they be doing it “blindly” in some ways?

Maine: No, we expect the voluntary ceding to be efficient due to the disincentive of losing 90% of the premium for any ceded individuals and the high attachment points for reinsurance benefits. There is also the possibility to gather health information after an individual is enrolled.

7) The application include 8/1 as the target date for approval. Could the state explain why that date was selected?

Maine: Maine requested two set of rate filings from our insurance carriers for the individual and small group markets. Both sets of rates are being reviewed but only one can be submitted to CMS/CCIIO by the deadline of August 22, 2018. In addition, re-activating MGARA for 2019 operations would need to start by September so that MGARA could have the necessary systems in place and member insurers could build assessments into their group rates. For these reasons we had set an August date for approval for a 2019 restart of the MGARA program. If approval comes later the program may need to start in 2020. Our preference would be 2019 but there are still benefits to the program if it is delayed until 2020.

8) Please provide a revised timeline that includes additional information such as when you will establish parameters for each year and the timing and mechanism and general pay out for future years of the waiver.

Maine: Our preference would be to coordinate the funding with the normal pace of rate filing preparations by the carriers. Attached is an estimated annual calendar. Several of the dates may need to be adjusted to account for dates that are set annually, but in general we believe the calendar is responsive to your request.

9) The state’s application states that “The State Program provides reinsurance for policies covering high-risk individuals, as identified by medical diagnosis or by the insurance carrier’s underwriting judgment.” Could the state explain what it means by the “carrier’s underwriting judgement.”

Maine: We used the term ‘underwriting judgment’ to refer to the processes by which insurers use the available information to classify insureds by their level of risk. In general, the policies insurers will cede to MGARA are those they would not have voluntarily chosen to issue before Maine enacted guaranteed-issue and community-rating laws, or would only have issued at prices substantially higher than their standard rates.