

Harold P. Wimmer
National President and
CEO

May 2, 2018

Eric Cioppa
Superintendent
Maine Bureau of Insurance
34 State House Station
Augusta, ME 04333-0034

Re: 1332 Proposed Waiver Application

Dear Superintendent Cioppa:

The American Lung Association in Maine appreciates the opportunity to submit comments on Maine's Section 1332 State Innovation Waiver Application.

The American Lung Association is the oldest voluntary public health association in the United States, currently representing the 33 million Americans living with lung diseases including asthma, lung cancer and COPD, including over 198,000 Maine residents. The Lung Association is the leading organization working to save lives by improving lung health and preventing lung disease through research, education and advocacy.

The Lung Association believes everyone should have quality and affordable healthcare coverage. A strong, robust marketplace is essential for people with lung disease to access the coverage that they need. The Lung Association supports Maine's efforts to strengthen its marketplace by submitting this 1332 State Innovation Waiver to implement a reinsurance program.

Reinsurance is an important tool to help stabilize health insurance markets. Reinsurance programs help insurance companies cover the claims of very high cost enrollees, which in turn keeps premiums affordable for other individuals buying insurance on the individual market. Reinsurance programs have been used to stabilize premiums in a number of healthcare programs, such as Medicare Part D. A temporary reinsurance fund for the individual market was also established under the Affordable Care Act and reduced premiums by an estimated 10 to 14 percent in its first year.¹

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122 State Street
Augusta, ME 04330
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Under Maine's proposal, the state would implement a reinsurance program starting for the 2019 plan year and continuing for five years. According to the state's analysis, this program is projected to reduce premiums by nine percent in 2019 and increase the number of individuals obtaining health insurance through the individual market by 1.1 percent. A reinsurance program would help patients with pre-existing conditions, including patients with asthma, COPD, lung cancer, and other lung diseases, obtain affordable, comprehensive coverage. We urge the state to operate this reinsurance program in a transparent manner with adequate opportunities for consumer input so that the program meets the needs of patients with pre-existing conditions.

The American Lung Association in Maine believes the proposed 1332 State Innovation Waiver will help stabilize the individual market in Maine and protect patients and consumers, and we urge its adoption. Thank you for the opportunity to provide comments.

Sincerely,



Lance Boucher
Director, Public Policy
American Lung Association in Maine

¹ American Academy of Actuaries, Individual and Small Group Markets Committee. *An Evaluation of the Individual Health Insurance Market and Implications of Potential Changes*. January 2017. Retrieved from https://www.actuary.org/files/publications/Acad_eval_indiv_mkt_011817.pdf.



via electronic submission

April 30, 2018

Eric A. Cioppa
Superintendent
Maine Bureau of Insurance
#34 State House Station
Augusta, ME 04333-0034

Re: ACS CAN's Comments on Proposed 1332 Waiver

Dear Superintendent Cioppa:

The American Cancer Society Cancer Action Network (ACS CAN) appreciates the opportunity to comment on the request for comment on the Maine Bureau of Insurance's Section 1332 waiver proposal. ACS CAN, the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society, supports evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. As the nation's leading advocate for public policies that are helping to defeat cancer, ACS CAN ensures that cancer patients, survivors, and their families have a voice in public policy matters at all levels of government.

ACS CAN supports a robust marketplace from which consumers can choose a health plan that best meets their needs. Access to health care is paramount for persons with cancer and survivors. In the United States, there are more than 1.7 million Americans who will be diagnosed with cancer this year.¹ An additional 15.5 million Americans are living with a history of cancer.² In Maine, an estimated 8,600 Mainers are expected to be diagnosed with cancer this year³ and another 87,630 Mainers are cancer survivors.⁴ For these Americans access to affordable health insurance is a matter of life or death. Research from the American Cancer Society has shown that uninsured Americans are less likely to get screened for cancer and thus are more likely to have their cancer diagnosed at an advanced stage when survival is less likely and the cost of care more expensive.⁵

¹ American Cancer Society. Cancer Facts & Figures: 2018. Atlanta: American Cancer Society, 2018.

² Id.

³ Id.

⁴ American Cancer Society. Cancer Treatment & Survivorship: Facts & Figures 2016-2017. Atlanta: American Cancer Society, 2016.

⁵ E Ward et al, "Association of Insurance with Cancer Care Utilization and Outcomes, CA: A Cancer Journal for Clinicians 58:1 (Jan./Feb. 2008), <http://www.cancer.org/cancer/news/report-links-health-insurance-status-with-cancer-care>.

A well-designed reinsurance program can help to lower premiums and mitigate plan risk associated with high-cost enrollees. We note that the Maine Bureau of Insurance estimates that the proposed reinsurance program will reduce premiums by 9 percent in 2019, and similar percent reductions in years 2020-2028.⁶ These savings will not only benefit the federal government through reduced subsidy payments (an estimated \$33 million in 2019), but will also benefit consumers not eligible for subsidies who enroll in coverage through the exchange who will see lower premiums.

A reinsurance program may also encourage insurance carriers to continue offering plans through the exchange, or begin to offer plans, as applicable. The waiver application notes that one of the biggest insurers in the state stopped selling insurance through the marketplace in 2018, with rising premiums as a result. The expected maintenance or increase in plan competition due to the reinsurance program also may help to keep premiums from rising. These premium savings could help cancer patients and survivors afford health insurance coverage, and may allow some individuals to enroll who previously could not afford coverage (the Bureau estimates a 0.3 percent increase in enrollment in marketplace plans if the reinsurance program is reinstated⁷).

ACS CAN supports Maine's proposed 1332 waiver program because, as discussed in the 1332 waiver application and accompanying materials, the waiver would not affect adversely enrollees' scope of benefits. We are pleased that the PowerPoint presentation available on the Department's website recognizes the federal statutory requirement that states that 1332 waivers may not alter the scope of benefits and the proposal under consideration "does not affect individual insured's coverage in any way."⁸ ACS CAN believes that patient protections in current law – like the prohibition on pre-existing condition exclusions, lifetime and annual limits, and Essential Health Benefits requirements – are crucial to making the healthcare system work for cancer patients and survivors. Our support for this proposal is conditioned on the waiver and the Department's implementation maintaining these protections and benefits.

We note that under the waiver, the reinsurance program would be run through the Maine Guaranteed Access Reinsurance Association (MGARA). The Department proposes to operate a prospective reinsurance program under which enrollees would be ceded to the reinsurance pool due to health condition or based on information collected from the enrollee via a detailed health questionnaire.⁹ While we are pleased that from a consumer's perspective, this program would operate as an "invisible" high risk pool, we believe that public comment is warranted on

⁶ State of Maine. Executive Summary. Application for Waiver under Section 1332 of the Patient Protection and Affordable Care Act. Available at <http://www.maine.gov/pfr/insurance/mgara/State%20of%20Maine%20Executive%20Summary%20Application%20for%20Waiver%20Under%20Section%201332.pdf>

⁷ Id.

⁸ State of Maine. Power Point Presentation re Section 1332 Innovation Waiver Application. Available at http://www.maine.gov/pfr/insurance/mgara/index.html?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=.

⁹ Maine Guaranteed Access Reinsurance Association. Health Assessment Form. Individual Insurance Plan. Available at <http://www.mgara.org/Health%20Assessment%20Form.pdf>.

the nature and scope of the health questionnaire, should MGARA continue the use of this practice. We urge the Department to require that MGARA's proposal to implement this reinsurance program be subject to a robust public comment process.

Finally, we strongly urge the Department to support additional transparency requirements on the MGARA so that consumers and consumer groups are able to actively participate in the Board's proceedings. We believe the Board will benefit from such consumer representation. We also urge the Department to consider additional requirements that the MGARA provide more frequent transparency. For example, while we are pleased that the Board's website provides minutes of Board meetings, such minutes are not updated in a timely manner (for example, no minutes have been posted for the January 2018 meeting¹⁰) nor are public comments available on the website.

Conclusion

On behalf of the American Cancer Society Cancer Action Network, we thank you for the opportunity to comment on the proposed section 1332 waiver, which we believe will provide long-term viability of the individual market while not eroding important consumer protections. If you have any questions, please feel free to contact me at hilary.schneider@cancer.org or 207-373-3707.

Sincerely,



Hilary Schneider

Government Relations Director

American Cancer Society Cancer Action Network Maine

¹⁰ The most recent minutes posted to the MGARA website are for the October 16, 2017 Board meeting. See Maine Guaranteed Access Reinsurance Association, Board of Directors. Available at <http://www.mgara.org/BoardOfDirectors.htm> (accessed April 25, 2018). According to the minutes, the Board noted the next formal quarterly meeting would take place on January 8, 2018. See Maine Guaranteed Access Reinsurance Association, Minutes of Board of Directors, October 16, 2017. Available at <http://www.mgara.org/mins10.16.17.pdf> (accessed April 25, 2018). The website does not include any information regarding a January meeting.



May 2, 2018 (submitted electronically)

Mr. Eric A. Cioppa
Superintendent
Maine Bureau of Insurance
34 State House Station
Augusta, ME 04333-0334

Re: Maine Section 1332 State Innovation Waiver

Dear Superintendent Cioppa:

On behalf of the American Heart Association and the American Stroke Association (AHA/ASA), we would like to thank you for the opportunity to provide written comments on the Maine Bureau of Insurance's Section 1332 waiver proposal.

As the nation's oldest and largest voluntary organization dedicated to building healthier lives free from heart disease and stroke, our nonprofit and nonpartisan organization represents over 100 million patients with cardiovascular disease (CVD) and includes over 40 million volunteers and supporters committed to our goal of improving the cardiovascular health of all Americans. AHA has worked diligently for many years to support and advance strong public health policies in addition to providing critical tools and information to providers, patients, and families in order to prevent and treat these deadly diseases.

The AHA believes everyone should have quality and affordable healthcare coverage and a strong, robust marketplace is essential for people with CVD to access the coverage that they need. To that end, a well-designed reinsurance program can help offset the costs of enrollees with expensive health care needs. Additionally, implementing a reinsurance program could help to alleviate other systemic problems within the state insurance exchange including smaller provider networks and low issuer participation. The AHA would like to express our support for the proposal but suggest that it could benefit from additional improvements such as increased transparency and public accountability.

As you are aware, reinsurance programs have been used to stabilize premiums in a number of healthcare programs, such as Medicare Part D. A temporary reinsurance fund for the individual market was also established under the Affordable Care Act and reduced premiums by an estimated 10 to 14 percent in its first year.¹ We are pleased to see that the Maine Bureau of Insurance estimates that the proposed reinsurance program will reduce premiums by 9 percent in 2019 with similar rates for each year thereafter until 2029.²

¹ American Academy of Actuaries, Individual and Small Group Markets Committee. *An Evaluation of the Individual Health Insurance Market and Implications of Potential Changes*. January 2017. Retrieved from https://www.actuary.org/files/publications/Acad_eval_indiv_mkt_011817.pdf.

² State of Maine Bureau of Insurance, *Executive Summary - Application for Waiver under Section 1332 of the Patient Protection and Affordable Care Act*. April 2018. Retrieved from <http://www.maine.gov/pfr/insurance/mgara/State%20of%20Maine%20Executive%20Summary%20Application%20for%20Waiver%20Under%20Section%201332.pdf>

The AHA is also pleased that the state acknowledges that the comprehensiveness and affordability of coverage offered on the individual markets will not be altered by the 1332 waiver proposal. The patient protections extended to individuals with pre-existing conditions under the Affordable Care Act (ACA) including the ten essential health benefit categories, guaranteed issue, out of pocket maximums and many other critical consumer protections are the bedrock of care for our patients. These guarantees make our healthcare system navigable for CVD patients and we commend the state for ensuring that the waiver proposal does not alter the integrity of these requirements.

The AHA also urges the Bureau to include additional transparency requirements on the body responsible for administering the program, the Maine Guaranteed Access Reinsurance Association (MGARA). We believe it is critical that the processes governing the state's activities in the individual market incorporate the patient voice and experience in addition to adhering to transparency standards that allow the public to comment on any proposals. As such, the AHA requests that the Bureau incorporate robust public comment periods and public hearings into its existing proposal.

On behalf of the American Heart Association and American Stroke Association, thank you for reviewing our comments. We appreciate the opportunity to provide feedback on this application. If you have any questions, please contact Becky Smith, Director of Government Relations, at becky.smith@heart.org or 207-380-9171.

Sincerely,

Becky Smith
Director of Government Relations, Maine
American Heart Association
51 US Route One, Suite M
Scarborough, ME 04074



May 2, 2018

Mr. Eric A. Cioppa, Superintendent
Maine Bureau of Insurance
ATTN: 1332 Proposed Waiver Application
34 State House Station
Augusta, ME 04333-0034

Re: Application for a Waiver under Section 1332 of the Affordable Care Act

Dear Superintendent Cioppa:

Thank you for the opportunity to submit comments on the proposed Application for a Waiver under Section 1332 of the Affordable Care Act.

Anthem believes that consumers who do not have the option of health coverage through an employer or access to a government program should have access to affordable, quality health plan options in the individual market. Throughout implementation of the Affordable Care Act (ACA), Anthem has consistently asserted that the reformed individual market could only work if three conditions, which are fundamental to any insurance market, are met: (1) a balanced risk pool that includes enough consistently enrolled healthy individuals; (2) a predictable and stable regulatory environment with sufficient time to react to any changes; and (3) predictable and stable sources of funding that ensure affordability. Unfortunately, these conditions have not been fully met, resulting in an unstable individual market in need of significant changes. In addition to measures such as a state-based reinsurance program, we also believe it is also important to recognize that other reforms are needed and necessary at both the state and federal level. For example, delivery system and payment reforms are critical to address the underlying cost of care which is a central factor driving health insurance premium increases.

Anthem would like to take this opportunity to thank the Superintendent for his willingness to explore options that could serve to bring a degree of stability to the individual market in Maine.

As we understand it, key elements of the application include the following:

- The waiver, if approved, would be effective January 1, 2019 for a five year period (with option to renew for an additional five years);
- The Maine Guaranteed Access Reinsurance Association ("MGARA") would resume operations and begin providing re-insurance for the individual market in Maine for policies with effective dates on or after January 1, 2019;
- That the following reinsurance thresholds will be used:
 - 90% of claims paid in excess of \$47,000 through and including \$77,000; and
 - 100% of claims paid in excess of \$77,000.

- That the total reinsurance funding for 2019 is estimated to be approximately \$93 million:
 - \$33 million from federal pass-through funding (based on net premium tax credit savings to the federal government)
 - \$22.6 million from assessments of \$4.00 PMPM on health insurers and third-party administrators in the individual, small group, large group and self-insured markets (excluding State and Federal employees).
 - \$37 million in ceded premiums paid by member insurers (90% of the premium paid to the ceding insurer)
- That the resumption of MGARA will result in a 9% net premium reduction for the Maine individual market in 2019 relative to what rates would be without the waiver and reinsurance program.

Based upon that understanding, Anthem Health Plans of Maine, Inc., d/b/a Blue Cross and Blue Shield, offers the following comments with respect to the waiver application:

1. CMS made changes to the commercial risk adjustment program in 2018 to include a high-cost risk pooling mechanism in the risk-adjustment transfer, under which carriers are reimbursed 60% of claim costs above \$1,000,000 for members whose claims exceed that threshold. The current claim threshold of \$1,000,000, set for the 2019 benefit year via recently finalized regulations, is subject to adjustment through rulemaking. The 1332 waiver application does not address how this high-cost pooling under the federal risk adjustment program will work in conjunction with the MGARA program. We would recommend that the MGARA program coordinate with the federal risk adjustment program; for example, with respect to claims that exceed the federal pooling threshold (currently \$1,000,000), the federal risk adjustment program could pay 60% and the MGARA program could pay 40%).
2. Although the market assessments proposed in the proposed waiver application¹ are the same assessments that were used to fund the MGARA program in 2012 and 2013, we continue to have concerns about an assessment on fully insured and self-funded accounts. Although the application states that the assessment of \$4.00 PMPM is not expected to have a material impact on the premium rates for employer-sponsored coverage,² we would note that our group customers also struggle with the affordability of health insurance benefits. Any proposal that serves to increase costs, particularly without a corresponding benefit, is a source of concern.

This concern is particularly acute with respect to Maine's small group market, which has decreased significantly in size in recent years and is now smaller than the individual market. When MGARA first began operations in 2012, there were approximately 33,000 members in the individual market and 91,000 members in the small group market; however, as of 2017, there were approximately 81,500 members in the individual market and only 63,600 members in the small group market. The small group market is steadily decreasing in size, which in turn leads to higher prices and increased instability. We are concerned that an

¹ "State of Maine Executive Summary Application for Waiver Under Section 1332 of the Patient Protection and Affordable Care Act," Section III (A), pp. 3-4.

² *Id.* at Section V (B), p. 9.

assessment on the small group market in particular will have a detrimental impact on that market.

Although we recognize that it would require a change to the statutory provisions that govern MGARA, we believe it is important that the funding source be broad-based, rather than an assessment on any health insurance market that would only serve to make coverage in those markets less affordable. Any premium or provider taxes simply result in higher premiums and serve to destabilize the markets being assessed.

3. We would note that the modeling in support of the waiver proposal assumes the full annual value of a \$4 PMPM assessment and projects that the MGARA program would receive \$22.6 million in assessments in calendar year 2019.³ However, the existing rates for plans issued or renewing in calendar year 2018 do not include an assessment for the MGARA program and, given the estimated timeline for action on the waiver application, it would be impossible to build the assessment into the rates that will apply to most plans issued or renewing in 2018. A “ramp-up” period is required, as carriers cannot begin to collect the \$4 PMPM assessment until the waiver application has been approved and the MGARA Board of Directors has voted to move forward with resuming operations for 2019.

This very issue was discussed in the Milliman analysis:

Our modeling has assumed that the full annual value of the \$4 PMPM assessment (i.e., \$48 per member per year [PMPY]) charged to the assessed markets is paid by all assessable lives. In practice, depending on the timing associated with the re-instatement of MGARA, the actual assessment collections may be affected by durational effects including policy lapses and mid-year renewals; for 2019 in particular, the \$48 annual assessment may only be partially paid by policies priced prior to the reinstatement of MGARA and/or renewed after January 1, 2019. Depending on timing of assessments relative to approval data from the BOI, the modelling may need to reflect a partial year assessment for MGARA’s first year of operation, or an alternative delay for the first year of operation.⁴

The application must be amended to reflect the fact that the full amount of the MGARA assessment will not be recognized until 2020. In turn, the assumptions about the amount of the federal pass through dollars and the premium impact on 2019 rates must be revised accordingly. While this will reduce the impact of the MGARA program in 2019, it is the only viable option, short of delaying a restart until 2020.

3. The MGARA program, as currently structured, is dependent on the ability of carriers to identify members who have a condition that warrants being ceded to MGARA. The Health Statement developed by the MGARA Board is an important tool in that process; however, it is unclear how health statements can be collected for members who purchase coverage through the federally facilitated marketplace. The effectiveness of the program is directly impacted if carriers do not have the ability to properly identify members who should be ceded to the reinsurance program.

³ “Section 1332 State Innovation Waiver Actuarial Analyses and Certification and Economic Analyses,” Milliman, March 20, 2018, Section I (2), p. 9.

⁴ *Id.* (emphasis added).

4. The waiver proposes an effective date of January 1, 2019; however, the implementation of the internal systems and processes required for carriers to implement and comply with the requirements of the program are significant. Although some carriers may have had that infrastructure in place at one time, it will now need to be recreated. We are concerned whether the MGARA Board and carriers will have sufficient time to take the steps necessary to implement a restart of the program on January 1, 2019.
5. Although MGARA previously operated under a “conditions based” or prospective model, given that traditional (retrospective) reinsurance models are more straightforward, more predictable for pricing, and easier to administer, perhaps a traditional model should also be considered. We recognize that this would require a change in the statutory provisions that govern the operations of MGARA; nonetheless, it may be appropriate for consideration.
6. The modeling in support of the 1332 waiver application is premised on an assumption that an expansion of Medicaid will be implemented by January 1, 2019⁵; however, at the present time, that seems uncertain at best. This raises the question of whether the appropriate attachment points, and the corresponding impact on the individual market, are set forth in the proposed application.

Once again, we would like to thank the Superintendent for his efforts to pursue alternatives that may help to stabilize the individual market in Maine, and for the opportunity to share these comments. Please do not hesitate to contact me if you have any questions.

Sincerely,



Kristine M. Ossenfort, Esq.
Senior Director, Government Relations

⁵ *Id.* p. 2.



April 30, 2018

Superintendent Eric Cioppa
Maine Bureau of Insurance
34 State House Station
Augusta, ME 04333

Re: Maine Section 1332 State Innovation Waiver

Dear Superintendent Cioppa:

The Epilepsy Foundation and Epilepsy Foundation New England appreciate the opportunity to submit comments on Maine's Section 1332 State Innovation Waiver.

The Epilepsy Foundation is the leading national voluntary health organization that speaks on behalf of the at least 3.4 million Americans with epilepsy and seizures. We foster the wellbeing of children and adults affected by seizures through research programs, educational activities, advocacy, and direct services. Epilepsy is a medical condition that produces seizures affecting a variety of mental and physical functions. Approximately 1 in 26 American will develop epilepsy at some point in their lifetime, and 1 in 3 individuals with epilepsy rely on Medicaid for their health care needs. For the majority of people living with epilepsy, prescription medications are the most common and cost-effective treatment for controlling and/or reducing seizures, and they must have meaningful and timely access to physician-directed care.

The Epilepsy Foundation and Epilepsy Foundation New England believe everyone should have quality and affordable healthcare coverage. A strong, robust marketplace is essential for people with epilepsy to access the coverage that they need. The Epilepsy Foundation and Epilepsy Foundation New England support Maine's efforts to strengthen its marketplace by submitting this 1332 State Innovation Waiver to implement a reinsurance program.

Reinsurance is an important tool to help stabilize health insurance markets. Reinsurance programs help insurance companies cover the claims of very high cost enrollees, which in turn keeps premiums affordable for other individuals buying insurance on the individual market. Reinsurance programs have been used to stabilize premiums in a number of healthcare programs, such as Medicare Part D. A temporary reinsurance fund for the individual market was also established under the Affordable Care Act and reduced premiums by an estimated 10 to 14 percent in its first year.ⁱ

Maine's proposal will create a reinsurance program starting for the 2019 plan year and continuing for 5 years. This program is projected to reduce premiums by 9 percent and increase the number of individuals obtaining health insurance through the individual market by 1.1 percent. When Maine ran its own reinsurance program in 2012 and 2013, it generated an estimated 20 percent reduction in requested premium rates. This would help patients with pre-existing conditions, including patients with epilepsy, obtain affordable, comprehensive coverage.



The Epilepsy Foundation and Epilepsy Foundation New England believe the 1332 State Innovation Waiver will help stabilize the individual market in Maine and protect patients and consumers. Thank you for the opportunity to provide comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Linn".

Susan Linn
President/CEO
Epilepsy Foundation New England

A handwritten signature in black ink, appearing to read "Philip M. Gattone".

Philip M. Gattone, M.Ed.
President & CEO
Epilepsy Foundation

¹ American Academy of Actuaries, Individual and Small Group Markets Committee. *An Evaluation of the Individual Health Insurance Market and Implications of Potential Changes*. January 2017. Retrieved from https://www.actuary.org/files/publications/Acad_eval_indiv_mkt_011817.pdf.



MAINE ASSOCIATION
OF
HEALTH PLANS

April 17, 2018

Superintendent Eric Cioppa
Maine Bureau of Insurance
34 State House Station
Augusta, ME 04333-0034

ATTN: 1332 Proposed Waiver Application

Dear Superintendent Cioppa,

I am writing on behalf of the Maine Association of Health Plans ("MeAHP") to offer comments on the 1332 Proposed Waiver Application and the potential subsequent restart of the Maine Guaranteed Access Reinsurance Program (MGARA).

Like you, the members of MeAHP are concerned about escalating premiums in the non-group market and favor efforts that will serve to stabilize the market and to moderate increases in health insurance premiums. Our industry has expressly offered support at the federal level for premium reduction and market stabilization programs. These include a long-term funding solution for Cost-sharing Reduction (CSR) subsidies, increased flexibility for 1332 waivers, and additional aid for states seeking to restart or establish high risk pools, like MGARA.

Concerns About the Funding Mechanism

As currently proposed, the waiver application relies on the availability and receipt of roughly \$33 million in so-called "pass through" dollars. This funding would be realized as a result of the waiver itself, whereby the federal government would "pass through" the loss of advanced premium tax credit dollars flowing into Maine because the impact of the MGARA program reduced individual market rates. It is important to note that these dollars are projected to equal roughly one-third of the \$93 million in revenues estimated for the Association to pay claims ceded to the pool in 2019. According the Bureau's application and the Milliman analysis, the remaining revenue for 2019, and beyond, will result from ceded premium (\$37M) and from a statutory \$4 PMPM assessment on all market segments (\$20-22M).

Consequently, the receipt of these federal "pass through" dollars is tantamount to the solvency of MGARA. Understandably, MeAHP's members have significant concerns about

programs, such as that contemplated in the waiver application, that involve substantial risk should the federal government fail to pay in a timely and consistent fashion. Health insurers have directly experienced the failure of the federal government to follow through on its commitments. Two recent examples include the termination of CSR payments of about \$2 billion and non-payment of \$12.3 billion in risk corridor payments owed to insurers. As a result, it is understandable that health plans operating in Maine may have concerns about a proposal that relies so heavily on financing from the federal government.

It is important to also recognize that the amount of federal “pass through” dollars is projected based on an assumed rate reduction in the individual market attributable to the restart of MGARA. According to the Bureau’s application and Milliman analysis, the proposed re-start of the MGARA program under the proposed waiver application corresponds to a projected 9% average rate reduction in the individual market. Setting aside the question of whether this will impact the purchasing decisions of nonsubsidized individuals in Maine, the actual amount of rate reduction resulting from MGARA will greatly depend on the unique characteristics of each carrier’s individual members.

Overall Structure of the Program

Notwithstanding the granting of a 1332 waiver, P.L. 2017, c. 124 requires that the MGARA board propose and adopt a revised plan of operation prior to a restart. Yet, the details of that plan of operation will impact the average rate reduction realized in the individual market and several factors will need to be considered to set up an effective and successful program that works in today’s marketplace.

First, it would be appropriate for the MGARA board to review the mandatory ceding conditions to determine if the list of codes requiring ceding are appropriate in today’s market. As currently constructed, the eight mandatory ceded conditions contrast greatly with other state high-risk pools seeking to operate through a 1332 waiver (see Section 1332 State Innovation Waiver Actuarial Analyses and Certification & Economic Analyses, page 30). For example, Alaska’s high-risk pool covers 33 unique conditions, including hemophilia and premature newborns, as well as conditions for which pharmacy spending has exploded in recent years – for example, drugs used to treat multiple sclerosis.

Second, MGARA should review the suitability of a voluntary ceding process. MGARA ran before the advent of the Affordable Care Act and before most of Maine’s individual market was enrolling through the federally facilitated exchange and qualifying for subsidies. In 2011, participating plans had the benefit of collecting health statements from members; however, there is no mechanism on the Exchange to collect this information, leaving carriers without health status information to make voluntary ceding decisions.

Lastly, MGARA needs to review whether the premium ceded to the pool and the proposed attachment points for coverage provide the greatest impact to the goal of reducing rates in the individual market. Under the application, when MGARA reinsures a policy, the Association will pay 90% of claims between \$47,000 and \$77,000 and 100% of claims above \$77,000 in a year, while the carrier will cede 90% of the underlying policy premium to the pool. This contrasts greatly with the federal reinsurance program which had a low-

end attachment point of \$90,000 in its last year of operation. Furthermore, in an environment in which Silver plans have rates “loaded” to account for the loss of CSR funding, is it appropriate for carriers to cede 90% of this “loaded” premium? In practice, a portion of Silver plan premium attributed to CSR is simply a means to “buy-down” member cost sharing for individual eligible for CSR subsidy.

Characteristics of Maine’s Health Insurance Market

The data described on page 5, “B” accurately describes the characteristics of Maine’s Individual Health Insurance Market. In fact, the data highlights that availability and value of APTCs, as intended, brought many into meaningful coverage in the Maine Individual market. However, the application is noticeably silent other issues which have impacted individual market participation and premiums beyond the cessation of the Federal reinsurance program.

It is our understanding that states may seek federal waivers for other continuous coverage requirements, intended to stabilize the risk pool, as part of a 1332 waiver application. The waiver application does not contemplate any other actions to ensure stability which might mirror some of those in the ACA, most notably an individual coverage mandate.

Implementation Plan and Timeline

Finally, the timing envisioned for the application process, rate filings, and potential program commencement is very, and perhaps unrealistically, tight. We are concerned about the likelihood that all these moving parts will come together and enable a program restart on 1/1/19 and provide carriers with an adequate opportunity to take the steps that would be required in time for 2019. Furthermore, if the Association does restart in 2019, the Bureau will need to reopen group rate filings to accommodate the \$4 PMPM assessment for groups that were issued policies in 2018, but whose plan year includes a portion of 2019.

Thank you for the opportunity to offer these comments. We would be pleased to respond to any questions you may have.

Sincerely,

A handwritten signature in cursive script, reading "Katherine D. Pelletreau".

Katherine Pelletreau
Executive Director



May 1, 2018

Eric Cioppa, Superintendent
Maine Bureau of Insurance
34 State House Station
Augusta, ME 04333-0034
ATTN: 1332 Waiver Application

Dear Superintendent Cioppa:

Please accept this comment letter on behalf of the Maine Hospital Association regarding the State of Maine's Proposed Section 1332 State Innovation Waiver.

The Maine Hospital Association represents all 36 community-governed hospitals in the state including 33 general acute care hospitals, 2 private psychiatric hospitals, and 1 acute rehabilitation hospital. In addition to the acute hospital facilities, our hospitals represent 11 home health agencies, 18 skilled nursing facilities, 19 nursing facilities, 12 residential care facilities, and more than 300 physician practices employing thousands of medical professionals.

One of Maine hospitals' highest priorities is seeing that the patients we serve in our communities have access to high-quality, affordable healthcare. The Affordable Care Act provides many ways by which the state and federal governments can provide such healthcare including Section 1332 State Innovation Waivers. These waivers are tools by which states are encouraged to improve patient access to care, increase affordability of coverage and choices offered, and provide improved market stability.

We believe that Maine's proposed 1332 State Innovation Waiver meets all of these goals and would provide more affordable healthcare coverage to hundreds, if not thousands, of Maine people. Importantly, there would be no negative policy changes for these consumers; they would simply receive less expensive healthcare coverage than they would have absent the waiver.

Over the past two years, I have attended the Bureau's rate review hearings where health insurance rate increases exceeding 20 percent have been considered and reviewed. As you recall, many people at these hearings testified they did not qualify for subsidies through the federal exchange and, therefore, had to pay the full cost of health insurance purchased through the exchange or the individual market. Most of the people who testified were self-employed small-business people that provide the backbone of Maine's economy. Their testimony was heartbreaking to hear and will unfortunately continue to get worse and more untenable absent some government intervention such as a 1332 State Innovation Waiver.

Although the Maine Guaranteed Access Reinsurance Association (MGARA) was in operation for only approximately 18 months after it was created by Public Law 90, the evidence is quite clear that MGARA had a significant moderating affect on health insurance

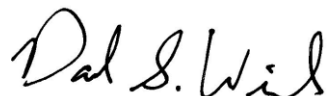
premiums during this period. From 2014 through 2016 when MAGARA was operational, the average cost of health insurance on the individual market in Maine decreased. Since MGARA ceased operations, the average cost of health insurance on the individual market increased by over 20% per year. There are many factors that impact the cost of healthcare, so these large untenable increases cannot be entirely attributed to MGARA ceasing operations. However, it seems clear to us that MGARA provided a significant positive and moderating impact on costs. We have reviewed the actuarial modeling that Milliman Inc. performed for MGARA for the period 2019 through 2028 and find their estimates that individual market premiums will be reduced by approximately 9% relative to what they otherwise would have been to be credible and likely quite conservative.

In addition to serving as the largest providers of healthcare in Maine, hospitals also provide health insurance to over 30,000 of our employees so we are well aware of the \$4 per member, per month payment to fund MGARA. Although this expense is significant, we believe the benefits of maintaining a viable individual health insurance market in the state outweigh the additional costs incurred by those that purchase through the large group market such as hospitals and other large employers.

We have heard the concerns from some of the state's health insurance carriers that the federal government's recent actions to eliminate the Cost Sharing Reduction and Risk Corridor Programs creates a high level of uncertainty about the government's commitment to follow through with a Section 1332 State Innovation Waiver. Although we are sympathetic to the health insurance carriers concerns, it seems like the Bureau of Insurance has enough tools available to mitigate any risks in this area and that uncertainty about future decisions should not stop MGARA and the Bureau of Insurance from pursuing a waiver that is clearly permissible and envisioned under the Affordable Care Act.

Thank you for the opportunity to comment on the Section 1332 State Innovation Waiver and please feel free to contact me at (207) 622-4794 or via email at dwinslow@themha.org with any questions about this letter.

Sincerely,



David S. Winslow
Vice President of Financial Policy

Mr. Eric Cioppa, Superintendent
Maine Bureau of Insurance
34 State House Station
Augusta, ME 04333-0034

May 1, 2018

RE: 1332 Proposed Waiver Application until 5:00 p.m. on May 2, 2018

Dear Superintendent Cioppa:

Please accept these written comments as supporting materials to the oral comments I made on behalf of the Maine State Chamber of Commerce at your April 13, 2018, Public Information Meeting held in Portland.

As I indicated to you at the Public Information Meeting, while the Chamber is not in a position to *at this time* oppose allowing the re-start of the Maine Guaranteed Access Reinsurance Association (MGARA), we must be on record as expressing concern with regard to rising health insurance costs, and the potential that exists for the resumption of the MGARA surcharge to add to those higher costs.

As you know, in March we held our annual Health Care Forum event for our members and any interested small business. At that forum it was abundantly clear the cost of health insurance is a major issue for small businesses. Information provided by your staff shows that since 2015, the small group market – the group that will in part be assessed the MGARA surcharge – has been steadily eclipsed in size by the individual market. In fact, in 2017 the number of insured lives in the small group market was at its lowest at just shy of 64,000 lives. While 2018 numbers were not available at the time, there is no reason to think this trend would have changed.

Clearly we think this market is shrinking due in part to higher premiums and the inability of small employers and their workers to keep pace with increases. Costs will only become more problematic as the market continues to contract.

The resumption of MGARA will result in the resumption of the \$4 per member per month assessment authorized by law, in order to act as a re-insurance mechanism for the individual market. Certainly this is a well-intended purpose, and one can argue that a stable individual market benefits the entire state of Maine. But it is a purpose for which small and large businesses cannot themselves access, nor will they ever directly benefit. In doing so, it may also add to the problems of health insurance affordability for businesses paying the surcharge – particularly small businesses.

It is our understanding that it is estimated that resuming the \$4 PMPM surcharge will result in the collection by MGARA of \$22.6 million. Backing the roughly \$3,750,000 that will be collected from the individual portion of the market out of the \$22.6 million results in an \$18,852,000 assessment paid by the remaining employers in this state. The fact is, all employers are being asked to subsidize one segment of the insurance market by paying a substantial assessment, when they themselves are struggling to pay for their own policies. As I said to you and your staff on April 13, we recognize that there are no easy answers here, but we felt that we must speak up for all our business members as you consider a re-start of MGARA.

Thank you for taking the time to read these comments. Should you have any questions please do not hesitate to reach out to me.

Sincerely,



Peter M. Gore, Vice President, Advocacy and Government Relations



May 2, 2018

Superintendent Eric A. Cioppa

Department of Professional & Financial Regulation
Bureau of Insurance
#34 State House Station
Augusta, ME 04333-003

Re: Section 1332 Proposed Waiver Application

Dear Superintendent Cioppa:

The National MS Society (the Society) is grateful for the opportunity to submit comments on Maine's Section 1332 State Innovation Waiver application.

Multiple sclerosis is an unpredictable, often disabling disease of the central nervous system that disrupts the flow of information within the brain, and between the brain and body. Symptoms range from numbness and tingling to blindness and paralysis. The progress, severity and specific symptoms of MS in any one person cannot yet be predicted, but advances in research and treatment are leading to better understanding and moving us closer to a world free of MS.

The National MS Society believes that everyone should have quality and affordable healthcare coverage. Since 2014, the Affordable Care Act (ACA) health insurance marketplace has been an extremely important avenue to affordable, quality coverage for people living with MS. A strong, robust marketplace is essential for people with MS to access the coverage and care that they need.

However, ACA insurance premiums are rising, and the Society is committed to ensuring that people living with MS have access to comprehensive health insurance plans with affordable premiums, deductibles, and out-of-pocket costs. Without market stabilization measures like reinsurance, citizens of Maine currently relying on the marketplace for their health insurance could lose their only affordable coverage option. The Society supports Maine's efforts to strengthen its marketplace by submitting this 1332 State Innovation Waiver to implement a reinsurance program.

Reinsurance is an important tool to help stabilize the health insurance markets. Reinsurance programs help insurance companies cover the claims of very high cost enrollees, which in turn keeps premiums more affordable for all individuals buying insurance on the individual market. Reinsurance programs have been used to stabilize premiums in a number of healthcare programs, such as Medicare Part D. A temporary reinsurance fund for the individual market was also

established under the Affordable care Act and reduced premiums by an estimated 10 to 14 percent in its first year.¹

Maine's proposal will create a reinsurance program starting in January 2019. This program is projected to reduce premiums by 9% and modestly increase the number of individuals obtaining health insurance through the individual market. This would help people with pre-existing conditions, including those living with MS, obtain affordable, comprehensive coverage.

The Society believes the 1332 State Innovation Waiver will help stabilize the individual market in Maine and protect patients and consumers. Thank you for the opportunity to provide comments. If you have any questions, please contact Michelle Dickson at michelle.dickson@nmss.org.

Sincerely,

Michelle Dickson
Sr. Manager, Advocacy
National MS Society

¹ American Academy of Actuaries, Individual and Small Group Markets Committee. *An Evaluation of the Individual Health Insurance Market and Implications of Potential Changes*. January 2017. Retrieved from https://www.actuary.org/files/publications/Acad_eval_indiv_mkt_011817.pdf