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August 19, 2021

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue Southwest
Washington, DC 20201

Dear Mr. Secretary:

The Alabama Department of Insurance (ALDOI) now begs leave to submit this request after the deadline of August 2, 2021.

The ALDOI again provides additional support for our initial request made on November 27, 2017, to modify Small Group Risk Adjustment transfers. The ALDOI continues to believe the national risk adjustment program is unable to work as precisely in the Alabama market. We provided support for our initial request the past three years. As before, we do not assert that the risk adjustment formula is flawed, only that it produces imprecise results in Alabama. Therefore, we ask that you continue to rule favorably upon our request to reduce the small group adjustment transfers by 50% in addition to the administrative costs reduction. By separate letter dated August 2, 2021, we made a similar request regarding the individual market.

Impact of Risk Adjustment Transfer Reductions for the Small Group Market

Alabama continues to believe removing one-half of the calculated risk adjustment transfers would provide additional stability to our market. In 2020 there were four issuers in the Small Group Market, still representing just three corporate groups. The four issuers that have experience for 2017, 2018, 2019, and 2020, are Blue Cross and Blue Shield of Alabama (BCBSAL), UnitedHealthcare of Alabama, Inc. (UHCA), UnitedHealthcare Insurance Company (UHCI), and Viva Health, Inc. (VIVA). ALDOI provides two tables to illustrate the financial impact of reductions in transfers.

Table 1 provides data on premium, claims, and transfers for these four issuers in the Small Group Market for 2017, 2018, 2019, and 2020 benefit years. Table 2 then shows how a reduction in transfers by 50% would impact financial results. Note that this data is taken from a public source, though we must again redact data from one of

the sources.¹ We believe this public source of data will provide more consistent and accessible results from year to year. Please see the endnote following the tables for certain data definitions.

De Minimus Impact on Premium in the Small Group Market

The federal regulation asks that we demonstrate our proposal would have a de minimus impact on necessary premium. We have relied upon rate filings for the rates effective year 2020, 2021, and 2022 to evaluate the impact of reducing risk adjustment transfers. A reduction of 50% was approved for the 2020, 2021, and 2022 benefit years, so rates for 2020, 2021, and 2022 were developed anticipating the 50% reduction. The impact of the reduction in transfers did not result in an adjustment to any rate exceeding a de minimus level of increase (i.e., not more than 1% of premium) for 2018 and 2019.

In 2020, there was what we believe to have been a market disruption perhaps due in large part to COVID-19. Based on the data for 2017, 2018, and 2019, BCBSAL, which is has the dominant market share, was the recipient of the risk transfers. For the first time, UHCI will receipt the risk transfers for 2020, a year with the lowest state average risk score ever, which we believe to be due the pandemic. Because a carrier with a low market share is to receive the risk transfer, reducing the risk transfer by 50% will result in more than a de minimus impact, of approximately 4% of its premium.

We believe the 1% threshold test does not work when a carrier will small membership is the receiver of the risk adjustment transfer. Thus, Alabama should not rely solely on this 1% test in determining whether to seek a reduction due to the inherent flaws in the test. We submit that the actual test should be based on what percentage share the largest carrier has compared to the other carriers in the state due to the influence that market share can have on metrics used in the risk adjustment formula. Otherwise, the dominant carrier will always skew the results under the federal methodology.

Even with the 1% test, the rules do not limit the state to considering only the most recent years' experience when justifying a reduction request. This was the first year for UHCI to receive the risk adjustment transfer, and it was based on a year (2020) with the lowest state average risk score ever, which again was likely due to the pandemic. This was not a year upon which to base a wholesale change as it was likely an anomaly, with the dominant carrier being the receiver for future years. CMS has acknowledged that carriers should not rely on 2020 experience alone when setting commercial and Medicare Advantage rate and has allowed actuaries to use prior years to normalize the 2020 experience.

Future Expectations for the Small Group Market

We continue to lack credible information to project results beyond what our issuers have provided in their rate filings. We do not anticipate a significant change in the relativities within the market, notwithstanding the anomaly which occurred in 2020 as

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discussed above. We do anticipate that large transfers will continue to flow from issuers representing a very small share of the market to the issuer with a dominant market share.

Conclusion

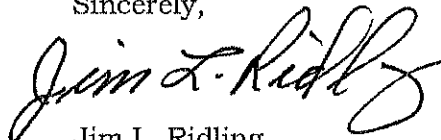
Carriers with a small market share in Alabama are not likely a credible basis upon which to solely base results or decisions. Their small size means their experience can be volatile and exhibit large changes from year to year. Therefore, the application of the 1% threshold test should consider the credibility of the experience and either not rely solely on the single data point or use multiple years' experience to increase the credibility of the results.

In summary, we continue to believe that in a market like Alabama's, with an extremely unbalanced market, the risk adjustment program lacks the precision it exhibits in other markets.

If this request is not approved, we believe it will result in us having only two corporate groups providing coverage in the Alabama Small Group Market. However, we believe if we continue to have the modified risk adjustment program transferring one-half the calculated transfers, we will at least maintain the current market.

We ask that you continue your approval of our request for flexibility on risk adjustment transfers for the Small Group Market, extending it for the 2023 benefit year.

Sincerely,



Jim L. Ridling
Commissioner

JLR/RN/ct

attachment

cc: Jeff Grant, Deputy Director of Operations, CCIIO
Jeff Wu, Deputy Director for Policy, CCIIO

Table 1: Alabama Small Group Premium, Claims, and Risk Adjustment Transf								
2020	Premium	Share	Claim	%	100% Transfer	%	Combined	%
BCBSAL					(867,143)			
UHCA					(672,113)			
UHCI					1,715,221			
VIVA					(175,965)			
Total					0			
Non-BCBSAL					867,143			
2019								
BCBSAL					2,173,185			
UHCA					(1,960,118)			
UHCI					154,618			
VIVA					(367,685)			
Total					0			
Non-BCBSAL					(2,173,185)			
2018								
BCBSAL					2,587,810			
UHCA					(920,616)			
UHCI					(1,087,486)			
VIVA					(579,708)			
Total					0			
Non-BCBSAL					(2,587,810)			
2017								
BCBSAL					1,662,986			
UHCA					(1,698,228)			
UHCI					737,982			
VIVA					(702,740)			
Total					0			
Non-BCBSAL					(1,662,986)			

Table 2: Alabama Small Group Premium, Claims, and Risk Adjustment Transfers (adjust								
2020	Premium	Share	Claim	%	50% Transfer	%	Combined	%
BCBSAL					(433,571)			
UHCA					(336,057)			
UHCI					857,611			
VIVA					(87,982)			
Total					0			
Non-BCBSAL					433,571			
2019								
BCBSAL					1,086,593			
UHCA					(980,059)			
UHCI					77,309			
VIVA					(183,843)			
Total					0			
Non-BCBSAL					(1,086,593)			
2018								
BCBSAL					1,293,905			
UHCA					(460,308)			
UHCI					(543,743)			
VIVA					(289,854)			
Total					0			
Non-BCBSAL					(1,293,905)			
2017								
BCBSAL					831,493			
UHCA					(849,114)			
UHCI					368,991			
VIVA					(351,370)			
Total					0			
Non-BCBSAL					(831,493)			

1 Data for these tables is taken from issuer's "Supplemental Health Care Exhibit" (SHCE) published by the National Association of Insurance Commissioners, and from the "Summary Report on Permanent Risk Adjustment Transfers" (Summary Report) released by the Center Consumer Information and Insurance Oversight.

Premium is developed from Part 1, line 1.1 of the SHCE with adjustments to remove risk Adjustment accruals as identified in the table following Part 1.

Claims are taken from Part 1, line 5.0 of the SHCE.

Transfers are taken from Table 4 of section VI of the Summary Report.