



via electronic submission

August 2, 2018

Seema Verma
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Re: ACS CAN's Comments on Maryland's Proposed 1332 Waiver

Dear Administrator Verma:

The American Cancer Society Cancer Action Network (ACS CAN) appreciates the opportunity to comment on the Maryland Health Benefit Exchange's 1332 waiver application. 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 as well as survivors. More than 1.7 million Americans will be diagnosed with cancer this year.¹ An additional 15.5 million Americans are living with a history of cancer.² In Maryland, an estimated 33,810 residents are expected to be diagnosed with cancer this year³ and another 254,540 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>.

ACS CAN supports the state's application for a 1332 waiver which would implement a state reinsurance program. A well-designed reinsurance program can help to lower premiums and mitigate plan risk associated with high-cost enrollees. We note that the Maryland Health Benefit Exchange estimates that the proposed reinsurance program will reduce premiums by 30 percent in 2019.⁶ These savings will not only benefit the federal government through reduced subsidy payments (an estimated \$304 million in 2019), but will also benefit consumers not eligible for subsidies who enroll in coverage through the exchange.

A reinsurance program may also encourage insurance carriers to continue offering plans through the exchange, or begin to offer plans as applicable. This maintenance or increase in plan competition 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 Exchange estimates that enrollment in non-group insurance will rise 5.8 percent in 2019 if this waiver is implemented.

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. We are pleased that Maryland's 1332 waiver application does not propose to alter any key patient protections, and specifically states that the waiver "will not affect the comprehensiveness of coverage in Maryland's insurance markets."⁷

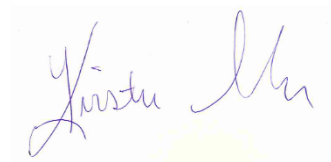
⁶ Maryland Health Benefit Exchange. Maryland 1332 State Innovation Waiver Application to Establish a State Reinsurance Program. May 31, 2018. https://www.marylandhbe.com/wp-content/uploads/2018/06/Final_Maryland%201332%20State%20Innovation%20Waiver%20to%20Establish%20a%20State%20Reinsurance%20Program%20-%20May%2031%202018.pdf

⁷ *Ibid.*

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. We strongly encourage CMS to approve this waiver in a timely fashion so the state can implement the program in time for the 2019 plan year. If you have any questions, please feel free to contact me at Kirsten.Sloan@cancer.org or 202-585-3240.

Sincerely,

A handwritten signature in blue ink that reads "Kirsten Sloan". The signature is written in a cursive style and is positioned above a light yellow rectangular background.

Kirsten Sloan
Vice President, Public Policy
American Cancer Society Cancer Action Network



August 4, 2018

Honorable Alex Azar
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC

Honorable Steven Mnuchin
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Maryland Section 1332 State Innovation Waiver

Dear Secretary Azar and Secretary Mnuchin:

On behalf of people with cystic fibrosis, the Cystic Fibrosis Foundation appreciates the opportunity to support Maryland's 1332 State Innovation Waiver application to operate a reinsurance program and urges the Departments to approve this application.

Cystic fibrosis (CF) is a life-threatening genetic disease that affects 545 people in Maryland and 35,000 children and adults in the United States. CF causes the body to produce thick, sticky mucus that clogs the lungs and digestive system, which can lead to life-threatening infections. As a complex, multi-system condition, CF requires targeted, specialized treatment and medications.

We appreciate the state's efforts to improve coverage and affordability without compromising critical patient protections that individuals with cystic fibrosis rely on. People with CF benefit from insurance marketplaces that offer affordable health plans that cover their complex health needs. The Cystic Fibrosis Foundation supports Maryland's creation of a reinsurance program that will make coverage more affordable and expand plan choice by encouraging insurer participation in the marketplace.

Reinsurance has been an effective measure to slow premium growth and protect against adverse selection at the federal level, as well as in states. The American Academy of Actuaries estimated that the federal reinsurance program reduced premiums by 10 to 14 percent in the individual market in 2014.¹ In Alaska, the state's lone marketplace insurer reduced its 2017 requested premium increase from over 40 percent to just under 10 percent after the state announced its reinsurance program.² Additionally, after

¹ American Academy of Actuaries. *Drivers of 2015 Health Insurance Premium Changes*. (Online). June 2014. Available: https://www.actuary.org/files/2015_Premiums_Drivers_Updated_060414.pdf

² Premera Blue Cross Blue Shield of Alaska, *Premera Blue Cross Files 2017 Individual Health Plan Rates* (Online). July 18, 2016. Available: https://www.premera.com/ak/visitor/about-premera/press-releases/2016_07_18/

Minnesota received approval to implement its reinsurance program, insurers proposed rates for 2019 that were between 3 and 12.4 percent below 2018 premiums.³

The Cystic Fibrosis Foundation appreciates the opportunity to provide input on these important policy changes. As the health care landscape continues to evolve, we look forward to working with the state of Maryland to ensure high-quality, specialized CF care and improve the lives of all with cystic fibrosis. Please consider us a resource moving forward.

Sincerely,



Mary B. Dwight
Senior Vice President of Policy & Advocacy
Cystic Fibrosis Foundation



Lisa Feng, DrPH
Senior Director of Policy & Advocacy
Cystic Fibrosis Foundation

³ Minnesota Department of Commerce. *Insurers' 2019 Proposed Health Insurance Rate*. (Online). June 2018. Available: <https://mn.gov/commerce/consumers/your-insurance/health-insurance/rates/rate-filings/2019/>.

July 16, 2018

The Honorable Seema Verna, Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services

Sent via StateInnovationsWaiver@CMS.HHS.gov

Dear Administrator Verna:

Consumer Health First (CHF) very much appreciates the opportunity to provide our strong support for Maryland's 1332 State Innovation Waiver Application. In doing so we wish to acknowledge the commitment of the General Assembly, the Insurance Commissioner and the Board of the Maryland Health Benefit Exchange (MHBE) to act promptly to address the needs of Maryland's consumers who must purchase their health insurance in the individual market. Your approval of the Waiver will build upon their leadership and enable Maryland to establish a state-based reinsurance program that will deescalate the unsustainable rise in insurance premiums while stabilizing the individual market.

Maryland's two carriers have requested 34 – 91% premium increases for the 2019 plan year. Such an increase would put health insurance beyond the reach of many Maryland consumers, particularly those with incomes exceeding 400% of the Federal poverty level (FPL). We have heard directly from consumers about the impact that the steady increases in premiums has had on them. Some have taken steps to bring their incomes under 400% FPL. Others, without that ability, are simply dropping their insurance all together. We must reverse that trend to secure their financial and physical health. A state-based reinsurance program will protect consumers from large rate increases at no net cost to the Federal government.

Equally important, Maryland's reinsurance program would stabilize the individual market and create the potential for greater competition. Today, consumers have only one carrier to choose from in nearly half of Maryland's counties.

CHF urges you to act as expeditiously as Governor Hogan and his Administration did and to approve Maryland's waiver application. By so doing you can support the goal of a strong and competitive insurance market in Maryland while assuring consumers that they will have access to more affordable health insurance coverage in 2019.

Thank you for the opportunity to provide comments in support of this important proposal.

Sincerely,

A handwritten signature in black ink that reads "Beth Sammis". The signature is fluid and cursive, with the first name "Beth" and the last name "Sammis" clearly legible.

Beth Sammis
President, Consumer Health First
bethsammis@gmail.com

Consumer Health First is a nonpartisan & nonprofit organization that works to promote health equity through access to high-quality, comprehensive and affordable health care for all Marylanders.



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milliman.com

Via email only: Andrew.L.See@kp.org

May 18, 2018

Mr. Andrew L. See, FSA, MAAA
Vice President, Pricing
Kaiser Foundation Health Plan, Inc.
300 Lakeside Drive
Oakland, CA 94612

Re: Cost Benchmarks – Maryland

Dear Andrew,

At the request of Kaiser Foundation Health Plan (“Kaiser”), Milliman, Inc. (“Milliman”) developed combined medical and pharmaceutical cost estimates for best-practices well-managed HMO networks and loosely-managed PPO networks in the state of Maryland. This letter provides the expected allowed cost differential of these networks and also describes the methodology and assumptions used in developing the cost estimates.

CONSULTING SERVICES AGREEMENT

This work was done under the terms of the Consulting Services Agreement between Milliman and Kaiser signed May 16, 2018.

BACKGROUND

Kaiser desires our assistance in obtaining a comparison of expected combined medical and pharmaceutical costs for well-managed HMOs and loosely-managed PPOs in the state of Maryland.

SUMMARY OF RESULTS

We developed illustrative combined medical and pharmaceutical cost models projecting the 2019 cost of care per member per month (PMPM) under each network assumption using the Milliman 2018 Commercial Health Cost Guidelines (HCGs)¹. We used national standard demographics for the large-group market. The estimated allowed costs for a well-managed HMO is approximately 27% less than the costs for a loosely-managed PPO in the state of Maryland. **The cost projections used in estimating this differential represent a composite plan, network and medical management practices, not any specific plan, network or set of medical management practices.**

¹ The HCGs are a cooperative effort of all Milliman health actuaries and represent a combination of their experience, research and judgment. An extensive amount of data is used in developing the HCGs and that data is updated annually.

METHODOLOGY AND ASSUMPTIONS

To develop the cost estimates, we used the 2018 Milliman Commercial Health Cost Guidelines. The HCGs consider utilization and average charge levels for roughly 60 benefit categories. These models make provision, by type of service category, for benefit characteristics and cost-sharing such as copays, deductibles, coinsurance and out-of-pocket maximums. The model was adjusted for the following characteristics:

- Region: Maryland (Statewide)
- Product type: commercial HMO (well-managed) and PPO (loosely-managed)
- Network discounts: 60% Facility, 40% Professional

We used a single representative plan design for both the HMO and PPO plan, with no Out-of-Network component for the PPO plan, to determine the cost differences attributable solely to Degree of Health Management. The plan designs are shown in **Table 1**:

Table 1: Summary Plan Design:

Benefit	Cost Sharing
Deductible (Single/Family)	\$1,500 / \$3,000
Out-of-Pocket Maximum (Single/Family)	\$3,500 / \$6,000
Inpatient	\$500/Day
Emergency Department	20%
Outpatient Surgery	20%
Preventive	\$0
Primary Care Physician	\$20
Specialist	\$30
Other Medical Services	20%
Pharmacy:	
Generic	\$10
Preferred Brand	\$30
Non-Preferred Brand	\$35
Specialty	20%

We applied trend to estimate claims incurred in 2019. We did not adjust for changes in morbidity or selection considerations.

VARIABILITY OF RESULTS

Differences between our estimates and actual amounts depend on the extent to which future experience conforms to the assumptions made for this analysis. It is almost certain that actual experience will not conform exactly to the assumptions used in this analysis. Actual amounts will differ from projected amounts to the extent that actual experience is better or worse than expected.

LIMITATIONS

It is our understanding that the information contained in this letter will be shared with the state of Maryland and may be utilized in a public document. Any distribution of the information should be in its entirety. Any user of the data must possess a certain level of expertise in actuarial science and healthcare modeling so as not to misinterpret the information presented.

Milliman makes no representations or warranties regarding the contents of this letter to third parties. Likewise, third parties are instructed that they are to place no reliance upon this report prepared for Kaiser Foundation Health Plan by Milliman that would result in the creation of any duty or liability under any theory of law by Milliman or its employees to third parties.

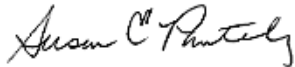
DATA RELIANCE

For our analysis, we have relied on information provided to us by data contributors and vendors. We have not audited or verified this data. If the underlying data or information is inaccurate or incomplete, the results of our analysis may likewise be inaccurate or incomplete.

PROFESSIONAL QUALIFICATIONS

Guidelines issued by the American Academy of Actuaries require actuaries to include their professional qualifications in all actuarial communications. The author of this letter, Susan E. Pantely, is a member of the American Academy of Actuaries, and meets the qualification standards for performing the analysis in this letter.

Sincerely,

A handwritten signature in black ink that reads "Susan E. Pantely".

Susan E. Pantely, FSA, MAAA
Principal and Consulting Actuary

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General



WILLIAM D. GRUHN
Chief
Consumer Protection Division

Writer's Direct Dial No.

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

410-576-6515

August 2, 2018

Submitted via electronic mail to StateInnovationWaivers@cms.hhs.gov
Seema Verma, Administrator
Centers for Medicare and Medicaid Services
7500 Security Blvd.
Baltimore, MD 21244

Re: Maryland Section 1332 Waiver Application Comments

Dear Administrator Verma:

The Office of the Attorney General's Health Education and Advocacy Unit ("HEAU") supports Maryland's Section 1332 Waiver Application because the proposed reinsurance program, if approved, would help to stabilize the individual market. Throughout implementation of the Affordable Care Act and related state legislation, the HEAU has advocated for improving health care access and affordability for consumers, in keeping with HEAU's statutory mandate to promote the interests of consumers in the health marketplace.¹

We believe the proposed reinsurance program would benefit consumers by mitigating the impact of high-risk individuals on premiums for health benefit plans in the individual market, both on and off the Maryland Health Benefit Exchange. This would improve health care access and affordability for consumers who rely on the individual market.

We are particularly concerned for those consumers with incomes above 400% of federal poverty level (FPL) for whom escalating premiums are not offset by advanced premium tax credits (APTC).² We strongly support the proposed reinsurance program's goal of reducing proposed premium rate increases for them, as well as for consumers who qualify for financial assistance.

¹ Md. Code Ann., Com. Law § 13-4A-02(a) (the HEAU's advocacy should enable health care consumers "to make more informed choices in the health marketplace, and to be able to participate in decisions concerning their health care," and should otherwise promote the interests of health consumers in the health marketplace).

² At the rate review hearing on July 30th, the Chief Actuary for the Maryland Insurance Administration stated that if the requested rates are approved, a family of 4 making \$100,000 a year would pay \$19,000 a year for coverage on the individual market, and if they reach their out-of-pocket maximum, would pay a total of \$34,000, or 50% of their after tax income.



On behalf of the consumers we serve, the HEAU thanks you and your staff for endeavoring to process the waiver application by a date that will allow Maryland to meet the deadlines related to 2019 Open Enrollment.

Thank you for your consideration of our comments.

Sincerely,



Patricia F. O'Connor

Assistant Attorney General

Deputy Director

Health Education and Advocacy Unit

cc: Alfred W. Redmer, Jr., Maryland Insurance Commissioner, via electronic mail
Robert R. Neall, Secretary, Maryland Department of Health, via electronic mail
Michele Eberle, Executive Director, Maryland Health Benefit Exchange, via electronic mail



Maryland
Hospital Association

August 3, 2018

The Honorable Seema Verma, Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 445-G
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Maryland Section 1332 Waiver Comments

Dear Administrator Verma:

On behalf of the 64 hospital and health system members of the Maryland Hospital Association, I offer whole-hearted support for Maryland's application for a waiver under section 1332 of the Affordable Care Act and for ongoing state efforts to develop a reinsurance program.

Maryland's all-payer rate setting system has been in place for more than 40 years and has steadily advanced innovative, cost-saving health care concepts with longstanding bipartisan support. Its goal: improve the health of Marylanders and the efficiency of the health care system by ensuring the right care, at the right time, in the right setting.

Broad-based, continuous health coverage is crucial to achieving this goal. It will be all the more important under the state's new agreement with CMS, known as the Maryland Total Cost of Care Model. We are so grateful for your championing the Maryland model within the federal government and for your encouraging words at the signing ceremony in Annapolis on July 9.

The 1332 waiver will bolster access to affordable coverage, ensuring that more Marylanders receive preventive services and care in the most appropriate settings. This will reduce avoidable hospital utilization and lower the cost of care across the continuum. Affordable, stable coverage also improves access to substance use disorder and mental health services, particularly important given Maryland's unrelenting opioid crisis.

We appreciate your leadership and the opportunity to comment. Please contact me should you need additional information.

Sincerely,

Robert F. Atlas
President & CEO

1501 South Clinton Street
Baltimore, MD 21224



August 3, 2018

VIA EMAIL (StateInnovationWaivers@cms.hhs.gov)

The Honorable Alex Azar, Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20220

Honorable Steven Mnuchin, Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Maryland Section 1332 Waiver Comments

Dear Secretary Azar and Secretary Mnuchin:

On behalf of CareFirst BlueCross BlueShield ("CareFirst"), I would like to thank you for the opportunity to provide written comments on Maryland's Section 1332 State Innovation Waiver Application.

CareFirst is the largest health insurer in Maryland and strongly supports the state's waiver application. Intervention is critical to counteract the erosion of Maryland's individual market risk pool. CareFirst believes the state's reinsurance program is an important step towards stabilizing the individual market, which independent actuaries have estimated will reduce rates by 30% in 2019. Further, included in the addendum to the state's application is a recommendation from the Maryland Insurance Administration's Office of the Actuary regarding a modification to account for the potential interaction between the state's reinsurance program and the Permanent Risk Adjustment Program. CareFirst fully supports this recommendation.

CareFirst also strongly supports the state's proposal to leverage the External Data Gathering Environment (EDGE) server that is used by the Centers for Medicare and Medicaid Services to support the calculation of the state's reinsurance program. Insurers already submit files to this system for purposes of the Permanent Risk Adjustment Program and have done so in the past for purposes of the Affordable Care Act's Transitional Reinsurance Program. This proposal will significantly simplify the process and reduce costs for both insurers and the state.

As open enrollment is fast approaching, we urge the Departments to act quickly to approve Maryland's application in time to impact 2019 rates. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "B. D. Pieninck", written over a white background.

Brian D. Pieninck
President and Chief Executive Officer
Brian.Pieninck@carefirst.com

Cc: Board Members, Maryland Health Benefit Exchange



MARYLAND CITIZENS' HEALTH INITIATIVE

July 26, 2018

The Hon. Alex M. Azar, Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

The Hon. Steven T. Mnuchin, Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Submitted electronically via StateInnovationWaivers@cms.hhs.gov

Re: Maryland Section 1332 Waiver Comments

Dear Secretary and Secretary Mnuchin:

Maryland Citizens' Health Initiative (MCHI) Education Fund Inc. respectfully requests that CMS quickly approve Maryland's Section 1332 Waiver Application to create a reinsurance program for the individual health insurance market in Maryland. MCHI is a health care advocacy organization working toward quality, affordable health care for all Marylanders. Premium affordability is a serious concern for Marylanders. We urge CMS to quickly approve this waiver which will help alleviate the high cost of premiums on the individual market. If CMS approves this waiver, Maryland will then use its \$380 million stabilization fund to implement the reinsurance program as efficiently as possible to result in the greatest reduction in premiums for Marylanders across the state. Thank you very much for this opportunity to comment on this important issue.

Respectfully submitted,

Vincent DeMarco
President
Maryland Citizens' Health Initiative

Submitted electronically to: _____

August 1, 2018

The Honorable Alex M. Azar
Secretary of Health and Human Services
200 Independence Ave, SW
Washington, DC 20201

RE: *State of Maryland 1332 Waiver Application*

Dear Secretary Azar:

Kaiser Permanente appreciates the opportunities that Section 1332 waivers present for states to address their market needs. We offer the following comments in response to Maryland's 1332 Waiver Application submitted on May 31, 2018 by the Maryland Health Benefit Exchange (MHBE) and deemed complete by the Centers for Medicare and Medicaid Services (CMS) on July 5, 2018.

Kaiser Permanente is the largest private integrated health care delivery system in the United States, delivering health care to nearly 12 million members in eight states and the District of Columbia. Kaiser Permanente of the Mid-Atlantic States, which operates in Maryland, provides and coordinates complete health care services for over 780,000 members. The reinsurance program proposed by the state of Maryland in its waiver application will significantly impact Kaiser Permanente and our members. As one of two carriers currently operating in the individual market in Maryland, Kaiser Permanente provides care and coverage to 46 percent of Maryland's on-exchange individual market as of April 2018. We experienced losses of \$111 million in the individual market, or an average loss of 28 percent annually, between 2014 and 2017.¹

Kaiser Permanente supports Maryland's Section 1332 waiver and the proposed reinsurance program. We ask, however, for the following modifications to the proposed program:

1. Maryland should fully account for the federal risk adjustment program in structuring its reinsurance program and avoid duplicating payments for the same high-risk membership beginning with the start of the program in 2019.
2. Maryland's reinsurance program should include incentives rewarding quality and utilization management.
3. Maryland should use the EDGE Server to administer its reinsurance program.

¹ This represents Kaiser Permanente's loss on the Individual market from 2014-2016 plus an estimate for 2017.

We believe these requests have important and constructive policy implications for Maryland as well as other potential state reinsurance proposals. They ensure coordination between the federal risk adjustment and state reinsurance programs and make more efficient use of federal pass-through dollars. We also believe these requests are consistent with broader CMS health policy goals, including the encouragement of efficient care delivery. We discuss the specific requests below.

Maryland's 1332 Waiver Should Fully Account for Risk Adjustment in Structuring Its Reinsurance Program.

The federal risk adjustment program compensates carriers for high-risk members by transferring money among carriers based on their enrollment of individuals with high cost diagnoses. As CMS noted in its 2019 Notice of Benefit and Payment Parameters regulation, the scale of such transfers plays a crucial role in issuer decisions to participate in the individual market.

Maryland's reinsurance program should fully account for federal risk adjustment payments and pay only for uncompensated high risk beginning with the start of the program in 2019. This will ensure that reinsurance funds have the broadest impact for all consumers, incentivize new market entrants and encourage current participants to remain in the market. Kaiser Permanente is concerned that the reinsurance program proposed in the 1332 Waiver application will lead to duplicate payments for the same members – first from the federal risk adjustment program and a second time for claims reimbursable under the Maryland reinsurance program.

Providing rate relief to consumers broadly, including healthier consumers who do not choose to enroll in the most expensive PPO option, is of paramount importance if the reinsurance program is to achieve its stated goal of stabilizing the Maryland individual market. As presently designed, the program directs over *one third* of the reinsurance funds to premium relief for fewer than seven percent of the state's individual market enrollment that chooses a single PPO, while the remaining funds will provide significantly less rate relief to over 200,000 Marylanders enrolled in HMOs offered by the state's individual market carriers. This approach is sub-optimal for Maryland's individual market and will not provide an equitable benefit to the vast majority of Maryland consumers.

Maryland's consultant recognized this disparity in its March 2018 analysis: "Some enrollees with Hierarchical Condition Categories (HCCs) will get compensated both for risk adjustment and reinsurance. The result could be very different profitability patterns within the market than currently exists, and the result could also vary depending on the chosen funding level and reinsurance parameters."²

Actuarial experts endorse the reinsurance-level adjustments for risk adjustment as sound policy. Milliman notes that "the current federal risk adjustment methodology does not account for payments from a state-based reinsurance program and can result in double compensation for high-risk members, both from the reinsurance program and from risk adjustment. This finding

² Wakely Consulting Group. (March 15, 2018). *State of Maryland: Individual Market Stabilization – Reinsurance Analysis*, 7.

may be important to many other states considering reinsurance-like proposals under Section 1332 to help stabilize their markets. Specifically, if appropriate changes to risk-adjustment are not made, a reinsurance program could lead to pricing inefficiencies and distortions that negatively impact the market and could work against the goals of the reinsurance program overall.”³ Similarly, the American Academy of Actuaries has recommended against compensating insurers twice for the same risk.⁴

Kaiser Permanente appreciates the steps that Maryland is taking to address these concerns. The MHBE retained the Wakely Consulting Group to analyze the potential overlap between the federal risk adjustment program and the proposed reinsurance program. The Wakely analysis demonstrates that significant double payments would occur if there are no adjustments to the reinsurance program. In the MHBE’s Board of Trustees meeting on July 16, staff described \$44 million in double payments if no adjustments are made — an amount that could be higher depending on whether submitted rates for 2019 are approved.

Maryland is considering an approach to adjust for the double payment, but the approach raises additional concerns. The Maryland Insurance Administration (MIA) has proposed adjusting for only a portion (\$26 million) of the double payments so that the medical loss ratios (MLRs) for healthy and sick enrollees are equalized. Kaiser Permanente disagrees with the MIA’s analysis that focuses on equalizing MLRs to determine how much of an adjustment should be made for double payments. Using MLRs as the determining factor distorts the analysis because premiums differ significantly across the claims experience cohorts. The same MLR for a high-cost member versus a low-cost member would produce dramatically different profitability and would not exert the downward pressure on premiums that the reinsurance program is designed to deliver.

Kaiser Permanente believes an adjustment should be made that accounts for the entire amount of double payments (\$44 million) that was identified in the Wakely analysis, thereby maximizing the use of federal dollars and optimizing the market stabilization effect of the reinsurance program. Adjusting for only a portion of the double payment would disrupt the profitability pattern of the individual market. It also would dampen the market stabilization effect of the reinsurance program.

Maryland’s program should not have the unintended effect of creating market distortions among products offered by the remaining two carriers in the individual market. The program design should promote stabilization and create a market that is more attractive to new entrants.

MHBE Should Include Quality and Utilization Management Incentives.

As the United States moves towards value-based payment in health care, a state reinsurance program should not move its individual market in the opposite direction. Maryland should

³ Milliman. (August 2017). *Pairing Risk Adjustment to Support State 1332 Waiver Activities*. Retrieved from <http://www.milliman.com/insight/2017/Pairing-risk-adjustment-to-support-state-1332-waiver-activities/#>.

⁴ American Academy of Actuaries. (May 2017). *How Changes to Health Insurance Market Rules Would Affect Risk Adjustment*. Retrieved from <http://www.actuary.org/content/how-changes-health-insurance-market-rules-would-affect-risk-adjustment>.

include incentives in the reinsurance program aligned with broader policy goals related to quality, utilization management and innovation. Incentives should reward quality in care delivery through strategies such as the use of payment multipliers for high clinical quality ratings on preventive care measures.

Integrated care systems frequently outperform PPO models in quality and cost-effectiveness. PPOs may be more expensive because of inefficiencies, such as ineffective care management, not just higher risk profiles. Maryland's reinsurance program should reward high-performing models and avoid compensating plans for inefficiencies.

We believe Maryland should include payment multipliers in its design of reinsurance payments based on: 1) independent, third-party estimates of product and network cost-effectiveness and efficiency for each of Maryland's individual market products; and 2) achieving the highest ratings in clinical quality from the Maryland Health Care Commission's independent quality rating program. We believe this approach is consistent with the state and CMS's broader health policy goals. The CMS Checklist for Section 1332 State Innovation Waiver Applications requires states to address "whether the reinsurance program includes incentives for providers, enrollees, and plan issuers to continue managing health care cost and utilization for individuals eligible for the described reinsurance (if any)."⁵

With regard to the network efficiency factor, in the attached letter, Milliman estimates that a well-managed HMO in the Maryland marketplace has a 27 percent advantage over the state's PPO. Maryland should allocate reinsurance program dollars to reward this efficiency, not reduce or eliminate its benefit.

These recommendations would distribute the benefits of the Maryland Reinsurance program more evenly to all Marylanders in the individual market. Those enrolled in the one available PPO would still benefit disproportionately, but to a lesser extent.

MHBE Should Use the EDGE Server to Administer the Reinsurance Program.

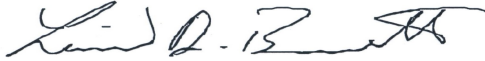
Kaiser Permanente believes the claims data collected through the EDGE Server should be used for administering Maryland's reinsurance program. Maryland used the EDGE Server for the state-based supplemental reinsurance program and it will be most efficient to use it again for this purpose. In addition, the EDGE Server data is used for the federal risk adjustment program. Using the EDGE Server data would facilitate the calculation of duplicate payments in the reinsurance program. EDGE servers are structured the same way for all carriers, so using them for the administration of the reinsurance program would be the optimal approach.

⁵ See <https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Checklist-for-Section-1332-State-Innovation-Waiver-Applications-5517-c.pdf>.

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We appreciate the opportunity to comment on this waiver application. Please contact me at Laird.Burnett@kp.org or 202-216-1900 with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Laird D. Burnett". The signature is fluid and cursive, with the first name "Laird" being the most prominent.

Laird Burnett
Vice President
Government Relations
Kaiser Permanente