



Michael T. Caljouw
Vice President
State Government & Regulatory Affairs

August 4, 2017

Louis Gutierrez, Executive Director
Commonwealth Health Insurance Connector Authority
100 City Hall Plaza
Boston, MA 02108

Re: Comments on Draft Request for State Flexibility to Support Commercial Insurance Market Stability and Reforms (Draft Request for State Flexibility)

Dear Executive Director Gutierrez:

This letter provides the comments of Blue Cross and Blue Shield of Massachusetts (“BCBSMA”) on the July 24, 2017 “Draft Request for State Flexibility”. Massachusetts and BCBSMA continue to be national leaders in reducing the number of uninsured while offering high-quality, affordable coverage. While we support the market-based philosophy behind much of the current plan, certain key issues noted below merit changes prior to submission and substantive dialogue with the federal authorities:

1. The Vibrant Use of Massachusetts Rating Factors

Flexibility is critical for the continued use of the state-based rating factors. Action on this request is time-sensitive. Health plans make their next rate filing on January 1, 2018 for the second quarter of 2018 – a filing that includes coverage into 2019.

As seen prior to the Affordable Care Act, the vibrant use of rating factors are important tools for Massachusetts small businesses. A 2013 Oliver Wyman report for the Commonwealth on their impact established that over 180,000 small group enrollees could see premium increases of more than 10 percent if the state rating factors were to be eliminated. As the Draft Request for Flexibility states, although exact estimates may change, “they are indicative of the potential swings in premium rates that could arise....”

BCBSMA strongly supports a flexible approach strengthening employer-based coverage at a critical time. Specifically, the group size and group purchasing cooperative factors should be employed, as they were for many years, as key mechanisms for stability and cost relief. Massachusetts should pursue the flexibility to re-employ these factors, currently at a reduced rate, to their full impact.

T :: 617.246.3499 F :: 617.246.3824 E :: michael.caljouw@bcbsma.com

101 Huntington Avenue, Suite 1300 | Boston, MA 02199-7611 | www.bluecrossma.com

Blue Cross Blue Shield of Massachusetts is an Independent Licensee of the Blue Cross and Blue Shield Association

2. Risk Adjustment in the Commonwealth

Risk Adjustment is mandated under federal law. See 42 U.S.C. section 18063. Moreover, federal regulations implementing the law clearly state that “[a] state, or HHS on behalf of the State, must implement risk adjustment for the 2014 benefit year and every benefit year thereafter.” 45 C.F.R. section 153.310(e). For purposes of the risk adjustment program, the requirements imposed by the ACA and the standards set forth in the regulations are binding upon the States and may not be waived. In fact, Massachusetts has transitioned complete oversight of the Risk Adjustment back to the federal government and its consistent nation-wide methodology. Moreover, there have been numerous efforts to repeal or replace various elements of this law and at no time was there any credible attempt to amend or end this mandatory program.

Furthermore, as a policy matter, Risk Adjustment prevents adverse selection against health plan members with comparatively higher actuarial risk and promotes competitive rates for these members. More than a quarter of a million Massachusetts consumers - through BCBSMA and other plans - have already benefitted from Risk Adjustment through significantly lower premiums.

3. Section 125 Plans and Private Market Coverage in Massachusetts

Section 125 plans, drafted precisely, can provide additional options for non-benefit eligible employees to help in the purchase of non-group coverage. In fact, BCBSMA had offered our own Voluntary Blue program after the passage of Chapter 58. Notably, there was very little interest by employers and enrollment in this program remained low.

The Draft Request for Flexibility asserts factors leading to increased interest in the Section 125 plans. If Section 125 plans are authorized, we recommend that enrollment not be restricted to the Connector and that flexibility be applied to enrollment in health plans directly. Also, if authorized, we recommend that this be an optional, rather than mandated, tool and that there be no mandate on employers or health plans to participate.

4. Massachusetts and the Federal Small Business Health Care Tax Credit

Federal law restricts small business health care tax credits to a very limited subset of small employers. For a variety of reasons, including these limits, there has been very low awareness and use of such credits. If such credits are made more widely available for small groups, BCBSMA strongly recommends that they not be limited to the Connector. In order to maintain a level playing field and provide greater relief to small groups, flexibility should allow small groups to use such credits directly from private market health plans, making coverage for small employers more affordable and accessible. Any request for flexibility should include language to expand the availability to employers buying direct from health plans.

Under the more limited version of the Draft Request for Flexibility, the tax credit should only apply to groups that stay together. Without such a restriction, there will be adverse selection (associated with the Employee Choice program).

5. Flexibility for Premium Stabilization

Should funding for Cost Share Reductions not be made available, BCBSMA supports Massachusetts flexibility for a Premium Stabilization Fund with resulting federal APTC/PTC savings issued to the Commonwealth. The details of this complex issue are important and we pledge to work with you and other stakeholders on the same.

We look forward to our continuing and productive dialogue on these matters.

Sincerely,



Michael T. Caljouw

cc: Gary Anderson, Commissioner of Insurance
Kevin Beagan, Deputy Commissioner of Insurance
Audrey Gasteier, Chief of Policy & Strategy
Emily Brice, Deputy Chief of Policy and Strategy