



August 23, 2017

Audrey Morse Gasteier  
Commonwealth Health Insurance Connector Authority  
100 City Hall Plaza, 6<sup>th</sup> Floor  
Boston, MA 02133

Dear Ms. Gasteier:

On behalf of the Massachusetts Association of Health Plans (MAHP), which represents 17 member health plans that provide coverage to more than 2.6 million Massachusetts residents, we thank you for your continued commitment and ongoing advocacy as you work to preserve stability in the Commonwealth's health insurance market. We appreciate the opportunity to provide feedback on the state's request for federal flexibility to ensure a sustainable Massachusetts health care system.

**Premium Stabilization Fund Cost Sharing Reductions**

We support the funding request included in the Commonwealth's draft 1332 waiver application for pass-through funds from the federal government should federal CSR payments be reduced or eliminated to ensure the stabilization and viability of the state's individual health insurance market. We believe that the proposed solution will ensure that consumer choice and access to affordable coverage is maintained, while minimizing disruption for low-income state residents.

Our most immediate concern, and one we know you share, is the continuation of Cost Sharing Reduction Payments (CSRs). The loss of these federal subsidies to assist low-income individuals in obtaining medical care will substantially erode our state's coverage gains. Neither Congress nor the Trump Administration has made a commitment to continue CSR funding and it is unclear whether the payments will be forthcoming in subsequent months; conversely, the federal Administration has authority to terminate monthly CSR payments at any time and has repeatedly threatened to do so.

The continuation of CSR payments for 2017-2019 is critical to protect Massachusetts consumers. It is essential for health plans and the consumers they serve to know that funding for cost sharing reduction subsidies will continue uninterrupted. As you know, this financial assistance makes health care more affordable for lower-income enrollees who might not purchase coverage without this support, by directly reducing the out-of-pocket costs for these enrollees, including deductibles, copayments, and coinsurance amounts. Individuals and families with incomes up to 250 percent of the federal poverty level enrolled in the state's ConnectorCare program represent 78 percent of all commercial health plan members who obtain coverage in the individual market through the Health Connector. In 2016, there were 244,400 ConnectorCare enrollees who were able to benefit from these cost sharing reductions.

If this funding is lost, coverage for these low-income individuals will be in grave jeopardy. For the remainder of 2017 (August through December), approximately \$46 million in federal funding is due to the health plans offering coverage to Massachusetts residents; in 2018, an estimated \$125 million in federal funding will be owed. Failure to have a contingency plan in place could expose the more than 155,000 current enrollees and participating health plans to hardship that will threaten access to coverage. Consumers who benefit from these federal subsidies will likely be unable to afford health insurance.

A number of states have taken preemptive measures to address the possible loss of CSR payments. The approach outlined in the federal flexibility request proposal is one creative option for the state to pursue in an effort to protect financing from the federal government and insulate low-income enrollees from the resulting costs if the federal government backs out of its obligation. We would like to continue to work with your Administration on contingency planning should the Trump Administration signal elimination of CSR payments; in the absence of an alternative viable state solution to continue the provision of cost sharing reductions to the ConnectorCare population, we support the efforts by the state to secure federal funding for the continued subsidization of low-income members in the individual market should CSR payments be reduced or eliminated.

Additionally, we believe it is critical that the waiver request be amended to include explicit language that makes clear that all pass-through funding received from the federal government and deposited into the Commonwealth Care Trust Fund shall be utilized only for direct reimbursement to the health plans participating in the ConnectorCare program to reimburse at 100% of the actual CSR payment obligations based on year-end membership and utilization. Moreover, the transfer of funds into and out of the Commonwealth Care Trust Fund must be transparent and traceable, allowing the state and carriers to fully understand the flow of funds.

Finally, we request that the flexibility request be amended to make clear that the Commonwealth is requesting that the alternative payment structure outlined in the request go into effect *only* in the event that federal CSR payments are reduced or eliminated. Such a contingency is important as the ideal outcome for all parties would be the continuation of the status quo with the federal government subsidizing CSR payments on a dollar-for-dollar basis. The federal government has already approved one contingent 1332 waiver request (Alaska's waiver approval was contingent on the passage of certain state legislation), and should be supportive of this contingency from a budget neutrality perspective.

### **Flexibility Relative to Rating Factors**

We strongly support the state's request for authority to continue to allow health plans to apply state-based rating factors beyond the 2018 plan year. The additional flexibility secured by the state has allowed Massachusetts' health plans to continue to use our state-specific rating factors over an extended phase-out period in order to preserve stability in product pricing. The elimination of the state's rating factors once the transition period ends on January 1, 2019 could further exacerbate the challenges that small businesses are facing, driving up costs for many of them. As maintaining the state's rating factors has been an important issue to the business community, we would urge that the Commonwealth seek a permanent waiver that permits the state's current rating factors to continue for all merged market offerings to protect small businesses.

### **Extension of Small Business Tax Credits to Off-Exchange Coverage**

Additionally, we support the Commonwealth's request to administer the federal Small Business Tax Credit at the state level in order to better support Massachusetts employers' ability to purchase commercial coverage in the small group market for their employees. There has been limited uptake of these tax credits among small businesses due to the administrative complexity and a low level of awareness. However, our health plans have strong relationships with the small business community and are confident that the

extension of tax credits to plan members enrolled in coverage outside of the Health Connector would serve to expand the population who is able to take advantage of the financial savings offered.

### **Risk Adjustment**

Finally, we support the creation of a multi-stakeholder workgroup committed to considering whether there exists a need within the Massachusetts market to continue risk adjustment. As you are aware, the marketplace has undergone considerable changes over the last several years due to the ACA. While the ACA has helped to further expand coverage and build upon our state's health reform efforts, various aspects of the law and its implementation have created significant disruption for consumers, employers, health plans and providers. An overwhelming majority of policymakers, advocates, and consumers across the country can agree that the federal health care law is not perfect, but can continue to be improved upon in a number of ways to the benefit of all stakeholders in the system.

Recently, the MAHP Board of Directors voted 11-3 (with three abstentions) to support suspension of the risk adjustment program in favor of the establishment of a more equitable and predictable system for addressing potential adverse selection issues among the health plans. Supported by a majority vote, the Board further agreed that risk adjustment should be suspended until such time as a workgroup of impacted stakeholders can come together to develop a methodology that is both predictable and ensures competition in our market place.

Risk adjustment provisions included in the ACA were intended to stabilize state marketplaces during implementation of federal market reform rules. However, many of these market reform rules, including guaranteed issue and modified community rating, as well as the existence of a merged market and an individual mandate, have been in place for many years in our state. Instead of stabilizing our marketplace, risk adjustment has had the opposite effect in Massachusetts, requiring the transfer of millions of premium dollars between health plans each year, affecting the overall stability of our state's insurance marketplace, and directly contributing to premium increases for employers and consumers.

We continue to have serious concerns about the impact of risk adjustment on the marketplace and the upward pressure it is putting on premium rates for consumers and employers. We believe that federal rules and recent actions contemplate state flexibility in the administration of the risk adjustment program. In May of 2016, CMS released an interim final rule that included a section on risk adjustment. Specifically, the section states:

“Based on our experience operating the 2014 benefit year risk adjustment program, HHS has become aware that certain issuers, including some new, rapidly growing, and smaller issuers, owed substantial risk adjustment charges that they did not anticipate....we are sympathetic to these concerns and recognize that States are the primary regulators of their insurance markets. We encourage States to examine whether any local approaches, under State legal authority, are warranted to help ease this transition to new health insurance markets.”

It is well understood that the state's interest in cost containment efforts, including our cost benchmark, innovative product designs that drive care to low cost providers, and tiered and limited network products that are statutorily required to be sold at a premium differential of 14 percent lower than broad-network products, are efforts to make health coverage more affordable for consumers, especially small businesses. These stated policy goals are significantly undermined by the current risk adjustment methodology that, in fact, discourages innovative product designs, adds to small group and individual premiums, and further thwarts competition in our merged market. We are committed to working with you and members of the proposed workgroup to examine the methodology, to ascertain where improvements can be made to accurately reflect the marketplace, and to ensure that risk adjustment promotes competition and stability in the health care system.

Our member plans remain committed partners in working with the State to ensure that Massachusetts keeps its coverage gains and that we can continue to be a leader in providing high quality health care that is affordable to our citizens. We know you share our interest in ensuring the continued success of our state's health reform efforts and avoiding the potential of higher health care costs for employers and consumers, and we support the Administration's request for flexibility on the issues that we have outlined.

Sincerely,

A handwritten signature in black ink, reading "Lora M. Pellegrini". The signature is written in a cursive, flowing style.

Lora M. Pellegrini  
President and CEO