



*The Commonwealth of Massachusetts  
Commonwealth Health Insurance Connector Authority  
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Executive Director

December 4, 2020

Department of Health and Human Services  
ATTN: RIN 0991-AC24  
200 Independence Avenue, S.W  
Washington, DC 20201

**Re: Notice of Proposed Rulemaking, “Securing Updated and Necessary Statutory Evaluations Timely”  
(Published in Federal Register Volume 85, Number 214, page 70096 on November 4, 2020)**

To Whom It May Concern:

The Massachusetts Health Connector (“Health Connector”), a state-based Marketplace (SBM) authorized under the Patient Protection and Affordable Care Act of 2010 (“ACA”), appreciates the opportunity provided by the Department of Health and Human Services (HHS) to comment on the proposed rule, **“Securing Updated and Necessary Statutory Evaluations Timely” (SUNSET)**.

Founded in 2006 as part of bipartisan state health reform, the Massachusetts Health Connector is the longest-running State-Based Marketplace (SBM) in the country. The Health Connector is designed to connect Massachusetts residents and small businesses with high quality, affordable health coverage and to promote universal health coverage in the Commonwealth. Today, the Health Connector serves over a quarter-million Massachusetts residents, including approximately 300,000 individuals as well as over 8,000 small business employees. The Health Connector’s efforts have contributed to the Commonwealth’s status as one of the healthiest states in the nation,<sup>1</sup> with a nation-leading health insurance rate over 97%,<sup>2</sup> and the lowest-cost average Marketplace premiums in the country.<sup>3</sup>

The Health Connector appreciates the opportunity to comment on the proposed SUNSET rule. As a regulatory agency itself, the Connector agrees that it is important to periodically review and update and, when warranted, rescind regulations to reflect updated policy and practices. However, the Connector has serious concerns about the consequences of imposing an automatic expiration of any regulation that is not timely reviewed. We are concerned about important and necessary regulations inadvertently expiring if not reviewed within the proposed rule’s designated timeline. HHS notes that the risk of regulations expiring because of failure to assess or review regulations in a timely manner would be mitigated by public awareness and comments. However, this is not a reasonable expectation of the public, especially given the volume of regulations that would be subject to the rule.

<sup>1</sup> See [www.mass.gov/news/massachusetts-named-healthiest-state-in-the-nation](http://www.mass.gov/news/massachusetts-named-healthiest-state-in-the-nation).

<sup>2</sup> U.S. Census Bureau, at [www2.census.gov/programs-surveys/demo/tables/p60/264/table6.pdf](http://www2.census.gov/programs-surveys/demo/tables/p60/264/table6.pdf).

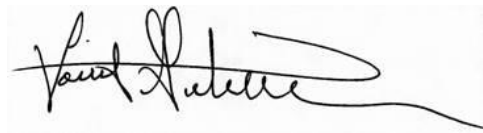
<sup>3</sup> Analysis of CMS Public Use Files, at [www.cms.gov/CCIIO/Resources/Data-Resources/marketplace-puf.html](http://www.cms.gov/CCIIO/Resources/Data-Resources/marketplace-puf.html).

While HHS has indicated that some regulations impacting ACA Marketplaces may not be impacted by the rule due to shared jurisdiction with other agencies, any such regulatory uncertainty is of material concern to us. Further, beyond Marketplace-specific regulations, there are vital HHS regulations of interest to the Health Connector that may unintentionally expire under the SUNSET rule, and as a result, cause harm, unpredictability, and disruption to health coverage, health care, and the broader health insurance market in which we operate.

The SUNSET rule claims that it aims to minimize burden on small entities; however, the proposed rule may inadvertently expire regulations that states, state agencies, and residents rely on, not because their content is no longer valid, but for purely administrative reasons. For these reasons, and in the interest of avoiding undue uncertainty in the health coverage landscape, the Health Connector respectfully requests that HHS not finalize the proposed SUNSET rule.

We thank you for consideration of our comments and look forward to working with HHS to ensure important regulations protecting health and health care in the U.S. remain relevant and in effect.

Sincerely,

A handwritten signature in black ink, appearing to read "Louis Gutierrez", with a long horizontal flourish extending to the right.

Louis Gutierrez  
Executive Director