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Maryland
INSURANCE ADMINISTRATION

TESTIMONY OF
THE
MARYLAND INSURANCE ADMINISTRATION
BEFORE THE
SENATE FINANCE COMMITTEE

MARCH 24, 2022

HOUSE BILL 536 – MARYLAND INSURANCE COMMISSIONER - AUTHORITY - FEDERAL HEALTH
EMERGENCY

POSITION: LETTER OF INFORMATION

Thank you for the opportunity to provide written comments regarding House Bill 536. HB 536 is an emergency bill that is proposed to address two issues that arose out of the COVID-19 pandemic.

First, HB 536 amends § 2-115 of the Insurance Article to expand the circumstances when the Maryland Insurance Administration (MIA) Commissioner is authorized to activate her emergency powers to include situations where a national or public health emergency, that within the Commissioner's discretion affects the state, is issued by the President of the United States under the federal National Emergencies Act or by the Secretary of Health and Human Services under the federal Public Health Service Act. Currently, the law limits the Commissioner's ability to activate emergency powers to situations when the Governor has declared a state of emergency under the Public Safety Article or the President has issued a major disaster or emergency declaration under the federal Stafford Act that impacts the state.

The MIA believes that the expansion of the circumstances in which the Commissioner is authorized to activate her emergency powers will enable the MIA to better assist both industry and consumers during emergency events, via waivers of certain requirements and the imposition of other requirements that are appropriate based on the circumstances of the emergency.

Second, the bill includes uncodified text in Section 2 that requires carriers offering Medicare supplement plans in Maryland to provide a 63-day guaranteed issue period during

which eligible individuals may enroll in any Medicare supplement policy without underwriting or imposition of a pre-existing condition exclusion.

Under current state law, individuals are eligible for a 6-month open enrollment period for Medicare supplement coverage following the individual's enrollment in Medicare Part B. Typically, when an individual who is enrolled in Medicaid becomes eligible for Medicare Part B, the individual is terminated from the Medicaid program and is then able to take advantage of the 6-month open enrollment period for Medicare supplemental coverage. However, during the federal Public Health Emergency (PHE) for the COVID-19 pandemic, the federal government directed state Medicaid programs to cease terminations for Medicaid enrollees who enrolled in Medicare Part B, for the duration of the PHE.

Now that the PHE has extended well beyond 6 months, there is a growing number of Medicaid enrollees who have been enrolled in Medicare Part B for more than 6 months. Once the Medicaid program resumes terminations of Medicare enrollees after the PHE ends, these individuals will no longer be eligible for guaranteed issue of a Medicare supplement policy. Consequently, through no fault of their own, impacted individuals with pre-existing conditions who cannot satisfy a carrier's underwriting requirements will be unable to enroll in a Medicare supplement policy.

The uncodified text in Section 2 of the bill ensures that these individuals will have a 63-day period following the later of the date they are terminated from Medicaid or notified of Medicaid termination to enroll in a Medicare supplement policy without underwriting. Advocates for Maryland seniors have contacted the MIA about this issue numerous times during the pandemic, and the MIA believes that passage of HB 536 will effectively address the issue in a manner that is equitable to both consumers and the insurance industry.

The MIA thanks the committee for its attention to this information concerning HB 536.