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TESTIMONY OF THE MARYLAND INSURANCE ADMINISTRATION BEFORE THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE

FEBRUARY 10, 2022

HOUSE BILL 413 – HEALTH INSURANCE – INDIVIDUAL MARKET STABILIZATION – EXTENSION OF PROVIDER FEE

POSITION: SUPPORT

Thank you for the opportunity to provide written comments regarding House Bill 413.

HB 413 amends § 6–102.1 of the Insurance Article to extend the 1% health insurance provider fee through 2028. This fee has been used to fund the State Reinsurance Program (SRP) under the Section 1332 State Innovation Waiver, which has successfully stabilized the Individual Marketplace by reducing rates by over 31%, which has helped to reverse the significant enrollment decline and grow the market by more than 22% since the low reached in December 2018. 1332 Waivers are approved for 5-year periods, and 2023 is the last year of the current waiver. The purpose of extending the fee is to provide funding for a second 5-year waiver period and enable the Maryland Health Benefit Exchange (MHBE) and their consulting actuaries to submit a completed renewal waiver application, which includes a detailed actuarial projection to demonstrate that funding will be sufficient to cover costs, by March of 2023 as required by Centers for Medicare & Medicaid Services (CMS).

When the original waiver was first proposed during the 2018 legislative session, the carriers in the Affordable Care Act (ACA) marketplace had lost a cumulative $500 million from 2014-2018 due to the ACA rates being inadequate to cover the much larger than expected claims cost of the guarantee-issue non-underwritten ACA marketplace. The MIA had approved large 20 to 40% increases in 2017 and 2018 (driven by claims far exceeding premiums), and this had resulted in large 15% declines in annual enrollment. This was the beginning of an “anti-selection” spiral where large rate increases lead to healthier than average members lapsing, which increase the average claims costs of those remaining, necessitating additional increases which drive further lapses of the relatively healthy, in a repeating cycle. Once anti-selection spirals are entered, it is often impossible for premiums to ever catch up to claims and the pool just continues to shrink and increase in claims cost. Pre-ACA, carriers would respond to these spirals by closing the pool off to new entrants and launch a new product to start a fresh pool, but with guaranteed issue and renewable ACA policies, this is not an option. A different solution was needed.

This solution was the SRP, which has been a resounding success at halting the anti-selection spiral and first stabilizing and then growing the Individual marketplace. The SRP program has lowered average Individual rates by a cumulative 31.7% since 2018, and this reversed the enrollment losses and led to enrollment growing from 179k at the end of 2018 to 229k as of the middle of 2021. Based on on-exchange enrollment gains during the 2022 enrollment period, the enrollment growth is going to continue into 2022. This new enrollment has on average been younger and healthier and has helped to reverse the anti-selection that occurred prior to the SRP. **Per the Kaiser Family Foundation, the SRP has pushed MD rates to the lowest in the nation for both 2021 and 2022.** This is largely due to Maryland's reinsurance program being the largest and most ambitious program out of the 14 states that have been granted 1332 waivers, and puts Maryland as a leader in the nation.

It is absolutely essential for Maryland to renew its 1332 waiver. If the waiver were to not be renewed and the SRP was to abruptly end, rates in the Individual market could be expected to increase by over 50% in the first year that the waiver expired, which would re-start the anti-selection spiral and lead to 20%+ increases for at minimum several years after that. Rates would be expected to double or even triple within five years with enrollment once again plummeting. Uninsured rates would increase and the Individual market would no longer provide a meaningful safety net for those who need coverage because they are self-employed or to bridge gaps between employer-sponsored coverage

While alternative sources of funding for a 1332 waiver are utilized in other states and could potentially be utilized in Maryland, extending the current 1% fee is the easiest and least disruptive way to fund the SRP. Since the 1% fee is already built into rates in all market segments, which are subject to § 6–102.1, extending the fee will be rate neutral and will not result in any rate increases for any Maryland residents. Since the MIA is already collecting the fee, there are no additional administrative costs or considerations that need to be considered as would be the case with other funding sources. While the MIA does not oppose the exploration of alternative funding sources via a workgroup, we do recommend that the assessment be extended in the short-term so that there is no risk that the 1332 waiver renewal will not be completed in time.

While it may initially seem that the SRP only benefits the Individual market and does not benefit the other markets which are being assessed. The MIA would like to point out that there are actually a variety of benefits. First, the Individual marketplace serves as a safety net for those who lose their employer-sponsored coverage, such as those aging off their parent's plan at age 26 or those who are temporarily unemployed. The SRP provides these people with an extremely affordable option compared to COBRA premiums, and has been an especially valuable safety net over the last two years when many people temporarily lost their employer-sponsored coverage due to the COVID-19 pandemic. Second, employers have been increasingly utilizing Qualified Small Employer HRAs (QSERAs) and Individual Coverage HRAs (ICHRAs) which were introduced by the federal government in 2016 and 2019 respectively. These HRAs both allow employers to contribute tax-advantage money to an HRA account which can then be used by the employee to purchase an Individual plan from the marketplace. These employees do directly benefit from the lower premiums afforded by the SRP, and make these HRA options a valuable alternative for employers wishing to provide coverage to their employees without directly purchasing insurance. Finally, ACA dental enrollment increased 39% from 2019 to 2021, and is expected to have another double digit year of enrollment growth based on early MHBE data. Given that both rates and benefits have been stable over this time, it is reasonable to attribute this growth to be at least partially driven by consumers using some of their premium reduction on the medical rates to take the opportunity to add a dental plan.

With respect to whether the 1% state fee is necessary to allow the SRP continue to function, the MIA would like to discuss the financial condition of the program and the large amount of uncertainty that remains in projecting the costs out through the next 5-year waiver period. A useful metric is to measure the size of the annual federal pass-through in relation to the cost of the program. In 2019, the pass-through percentage was 106%, meaning the federal pass-throughs exceeded the cost of the program. Likewise, in 2020, the pass-through percentage was 112%. This left the state with $67 million of unused pass-through and $345 million of unused state funds as of the end of 2020, the last plan year where numbers are finalized. For 2021, the costs of the program will not be known until June, but are currently projected to be $435 million. When the pass-throughs were originally announced, they would have funded 80% of this cost, which would have meant all of the unused pass-throughs from the first two years would have been used up and the state would have contributed $20 million. However, when the American Rescue Plan (ARPA) passed in mid-2021, this significantly increased the number of individuals eligible for a federal Advance Premium Tax Credit (APTC), which significantly increased the amount of pass-throughs. With the revised pass-throughs, the state is projected to be 110% funded for 2021. However, note that there is still a very real possibility that actual reinsurance costs could come in significantly higher than $435 million (which has not been explicitly updated for potential COVID-related costs) and that the pass-through percentage could end up being slightly below 100% for 2021.

In general, Maryland is one of only two states (the other is Alaska) that has received pass-throughs exceeding 100% of costs. The average pass-through percentage in 2020 was 67% and the average pass-through percentage in 2021, prior to ARPA, was 60%. When the enhanced APTCs under ARPA expire, currently scheduled for 2023, the expectation is that the Maryland pass through percentage will significantly decline. The best case scenario is likely the 80% that would have occurred in 2021 without ARPA. The worst case scenario could be as low as 50%. This means that the state will need to cover 20 to 50% of ongoing annual costs. The state's 1% fee would be expected to bring in 2024-2028 would be projected to generate an average of $139 million per year, while the expected costs to maintain the SRP at its current level is expected to cost $619 million per year. This means that the fee would be sufficient to fund the program on an ongoing basis only if pass-throughs come in close to the best case expectations.

In closing, for the reasons explained above, the MIA supports HB 413, and urges the committee to give it a favorable report as an important consumer protection.