Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc
2101 East Jefferson Street
Rockville, Maryland 20852

[Date of Hearing]

The Honorable Shane E. Pendergrass
Health and Government Operations Committee
House Office Building Room 240
6 Bladen Street
Annapolis, Maryland 21401

RE: HB 413 – Oppose Unless Amended

Dear Chair Pendergrass and Members of the Committee:

Kaiser Permanente regretfully opposes HB 413, Health Insurance – Individual Market Stabilization – Extension of Provider Fee. While we support the State Reinsurance Program, we note that this legislation does not make changes to that program, and we believe substantial amendments are needed to address the concerns outlined below.

Kaiser Permanente is the largest private integrated health care delivery system in the United States, delivering health care to over 12 million members in eight states and the District of Columbia.[1] Kaiser Permanente of the Mid-Atlantic States, which operates in Maryland, provides and coordinates complete health care services for approximately 800,000 members. In Maryland, we deliver care to over 460,000 members.

We generally support the State Reinsurance Program and the policy goals of lowering premiums, increasing enrollment, and stabilizing the market by mitigating the impact of certain high-risk claims. We acknowledge that the Program has achieved its intended purpose by lowering premiums in the individual market by over 30% within two years. Kaiser Permanente applauds the Governor and the General Assembly for their leadership on this and other initiatives to make insurance more affordable for Marylanders and recognizes the hard work that's gone in to establishing this program.

I. The Program's financing mechanism is flawed and merits reconsideration in advance of passing legislation extending the tax past 2023.

- **The tax is not calibrated to the Reinsurance Program and is being used for other purposes.** For 2019, health carriers and MCOs were subject to an assessment of 2.75% of its premium tax liability for 2019 and 1% of premium tax liability for 2020 through 2023. By the end of the Program's second year, the tax had generated approximately $600 million in surplus, of which the Governor and General Assembly diverted over $280

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[1] Kaiser Permanente comprises Kaiser Foundation Health Plan, Inc., the nation's largest not-for-profit health plan, and its health plan subsidiaries outside California and Hawaii; the not-for-profit Kaiser Foundation Hospitals, which operates 39 hospitals and over 650 other clinical facilities; and the Permanente Medical Groups, self-governed physician group practices that exclusively contract with Kaiser Foundation Health Plan and its health plan subsidiaries to meet the health needs of Kaiser Permanente's members.

million to other purposes. Nevertheless, the program retains a surplus of over $350 million, and the Exchange projects that even under its most conservative assumptions, the program will have more than $200 million in surplus funds by the end of 2023. See Appendix 1.

- **Additional funding has become available.** State-based reinsurance programs were particularly useful after expiration of the temporary federal reinsurance program and when ACA market premiums were rising in most markets; they helped limit premium increases for consumers. However, the policy landscape has significantly changed recently.

  - The American Rescue Plan Act (ARPA) increased ACA premium subsidies for those eligible by reducing the share of income consumers are expected to contribute towards their premium and extending subsidies above 400% of FPL – giving many more enrollees access to low-cost or even zero-dollar coverage in the individual market.

  - These federal subsidy changes have greatly increased the federal pass-through funding for states with 1332 waivers, including Maryland – which received an additional $139M after recalculation due to passage of ARPA – for a total of over $474M in 2021 alone.

  - In addition to federal changes, Maryland is implementing a first-in-the-nation young adult subsidy program, which will supplement the federal premium subsidies in the individual market for plan years 2022 and 2023. All carriers supported this program.

- **Even more funding may become available in the near future.** The ARPA subsidy expansions described above currently expire after the 2022 plan year, but Congress is actively considering extending or making permanent these changes. If Congress takes further action, the Exchange projects Maryland would receive an additional $67,972,478 in 2023 alone.

- **Maryland has taken other steps to improve the risk pool.**

  - The General Assembly created the Young Adult Subsidies Program, noted above, which is designed to bring younger – and presumably healthier – people into the individual market, improving the risk pool.

  - Maryland was the first state to implement an Easy Enrollment Health Insurance Program, which allows Marylanders to check a box on their tax return to have the Maryland Health Benefit Exchange to estimate their eligibility for coverage and facilitate enrollment.

- ➢ Maryland has had a COVID Special Enrollment Period open nearly continuously since the beginning of the pandemic, allowing individuals to enroll in health coverage at any time.

II. While the tax facilitates lower premium rates in the individual insurance market, it increases health care costs elsewhere.

- **Maryland's reinsurance tax raises the cost of health coverage for businesses.**

  - ➢ The tax applies only to fully insured health plans, which are typically purchased by businesses with less than 50 employees. Since premium taxes are built into the costs of health coverage, it increases costs for those who can least afford it — small businesses and individuals and families who purchase their own insurance, i.e., those who have been hit hardest by the pandemic.

  - ➢ Conversely, the tax does not apply to self-funded coverage, which makes up the majority of the Maryland health insurance market. Self-funded coverage is generally purchased by businesses that can afford to cover the cost of all claims.

  - ➢ The tax disproportionally impacts the members of a carrier with a larger proportion of fully-insured business, such as Kaiser Permanente.

- **The tax increases the cost of Medicaid.** In addition to taxing carriers, the reinsurance tax is levied against Managed Care Organizations who participate in the Medicaid HealthChoice program. In order to ensure actuarially-sound rates, the Maryland Department of Health must build the tax into the rates paid to MCOs by drawing down additional federal dollars and matching it with state funds.

III. We recognize that there is tremendous interest in applying for a second 5-year waiver for the Reinsurance Program and in that spirit offer the following recommendations to achieve that objective while addressing the concerns outlined above:

- **Request a 1332 waiver extension.** We recommend that the state apply for a one-year extension of it's current 1332 waiver – through 2024 – to evaluate the impact of the additional federal subsidies, the Young Adult Subsidy Program, the Easy Enrollment Health Insurance Program, the COVID Special Enrollment Period, and any other relevant programs to determine the level of funding needed for the program going forward.

- **Make full use of federal money and prevent further diversion of state tax dollars.** We recommend that the General Assembly adopt language preventing the Maryland Health Benefit Exchange from holding more operating and administrative funds than is necessary to fund the Program until the end of its waiver period. If additional federal money is received, it should be used to supplant what carriers are required to pay through the tax.

- **Exempt stand-alone dental and vision carriers from the Resinsurance tax.** These plans cannot participate in the Reinsurance Program and their premiums are extra sensitive to minor taxation. Almost every state that passed reinsurance bills after Maryland exempted these plans.

- **Establish a workgroup** to evaluate the State Reinsurance Program (with assistance from an actuarial firm), provide input on a 1332 waiver application, and make recommendation for any further legislation needed in 2023.

Thank you for the opportunity to comment. Please feel free to contact me at Allison.W.Taylor@kp.org or (202) 924-7496 with questions.

Sincerely,

Allison Taylor
Director of Government Relations
Kaiser Foundation Health Plan of Mid-Atlantic States, Inc.

Actual & Projected SRP Fund Expenses and Income

	2019	2020	2021 Est.	2022 Est.	2023 Est.: ARPA Ends	2023 Est.: ARPA Continues
SRP Cost	$352,798,597	$400,106,654	$432,632,395	$491,646,596	$505,995,722	$505,995,722
Budget Transfer*		$100,000,000	$100,000,000			
YA Subsidy*				$20,000,000	$20,000,000	$20,000,000
Health Equity*					$15,000,000	$15,000,000
Fed. Funding	$373,395,635	$447,277,359	$474,542,755	$289,191,236	**$243,752,593**	**$309,725,071**
State Funding	$326,606,485	$118,662,884	$124,158,202	$118,896,671	$125,554,885	$125,554,885
End of Year Balance – Fed.	$20,249,819	$67,317,912	$109,228,272	$0	$0	$0
End of Year Balance - State	$326,606,485	$345,229,369	$369,387,571	$375,057,154	**$203,368,910**	**$260,821,399**

*Can only be funded with state dollars.
Cost and funding projections from Lewis & Ellis 10-year projections as of 7/14/21. Cost and funding actuals from CMS and MIA.