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**Date:** February 15, 2023

**Bill # / Title:** Senate Bill 365 – Health Insurance - Qualified Resident Enrollment Program (Access to Care Act)

**Committee:** Senate Finance Committee

**Position:** Letter of Information (LOI)

The Maryland Insurance Administration (MIA) appreciates the opportunity to provide information regarding Senate Bill 365.

Senate Bill 365 requires the Maryland Health Benefit Exchange to establish and implement the Qualified Resident Enrollment Program (“the Program”) to allow qualified residents to obtain coverage, facilitate the enrollment of qualified residents in qualified health plans, and, based on the availability of funds, provide premium assistance and cost-sharing reductions to qualified residents. The Program will allow consumers who were previously ineligible to purchase coverage through the Exchange due to their immigration status, to have the opportunity to enroll in coverage through the Exchange.

The MIA understands that the Program established through Senate Bill 365 has the potential to decrease the uninsured population in the State. The MIA, however, has noted a technical issue regarding the funding sources identified in the bill as drafted that can be addressed with a technical amendment.

Maryland applied for and was granted a waiver under Section 1332 of the Patient Protection and Affordable Care Act (“ACA”) to implement a state reinsurance fund in an effort to lower premiums and increase enrollment in the State. Under the waiver, Maryland began receiving federal pass-through funds to supplement state funding for the state reinsurance program in 2019. In 2022, this body amended § 31-107 (g)(4)(i) of the Insurance Article to require that federal pass-through funding received through the 1332 waiver only be used for the reinsurance program.

**As currently drafted, Senate Bill 365 conflicts with the funding use limitation set forth in § 31-107(g)(4)(i).** Senate Bill 365 would enact a new § 31-124(D)(1), which includes “any pass-through funds received from the federal government under a waiver approved under § 1332 of the Affordable Care Act” as a funding source for the Program.

The MIA notes that legislation to create the Program was introduced during the 2022 legislative session. At that time, it was envisioned that Maryland would apply for a separate 1332 waiver to support the proposed Program. CMS has since advised that two separate 1332 waivers are not permissible; there can only be one 1332 waiver per state per marketplace. So, in order to establish the Program, the State will be required to amend the existing 1332 waiver to include the Program. When CMS approves the amendment, there will still only be a single 1332 waiver for the Maryland Individual market, with a single source of pass-through funding that the federal government would permit to be used for all programs under the waiver. However, at present Maryland law only allows the federal pass-through funding to be used for one of those programs: the state reinsurance program.

This conflict can be resolved either by amending § 31-107 to allow federal pass-through funding received through a waiver approved under § 1332 of the ACA to be used for the Program, or any program approved under the waiver or, alternative, § 31-124(D)(1) be removed from the proposed bill.

Thank you for the opportunity to provide this letter of information. The MIA is available to provide additional information and assistance to the Committee.