



via electronic submission

July 26, 2019

Seema Verma
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Re: ACS CAN's Comments on Proposed 1332 Waiver

Dear Administrator Verma:

The American Cancer Society Cancer Action Network (ACS CAN) appreciates the opportunity to comment on the Delaware Department of Health and Social Services' Section 1332 waiver proposal. ACS CAN is making cancer a top priority for public officials and candidates at the federal, state and local levels. ACS CAN empowers advocates across the country to make their voices heard and influence evidence-based public policy change as well as legislative and regulatory solutions that will reduce the cancer burden. As the American Cancer Society's nonprofit, nonpartisan advocacy affiliate, ACS CAN is critical to the fight for a world without cancer.

ACS CAN supports a robust marketplace from which consumers can choose a health plan that best meets their needs. Access to health care coverage is paramount for persons with cancer and survivors. Research from the American Cancer Society has shown that uninsured Americans are less likely to get screened for cancer and thus are more likely to have their cancer diagnosed at an advanced stage when survival is less likely and the cost of care more expensive.¹ In the United States, more than 1.7 million Americans will be diagnosed with cancer this year – an estimated 5,870 in Delaware.² An additional 15.5 million Americans are living with a history of cancer – 55,460 in Delaware.³ For these Americans access to affordable health insurance is a matter of life or death.

ACS CAN supports Delaware's proposed reinsurance program. A well-designed reinsurance program can help to lower premiums and mitigate plan risk associated with high-cost enrollees.

¹ E Ward et al, "Association of Insurance with Cancer Care Utilization and Outcomes, *CA: A Cancer Journal for Clinicians* 58:1 (Jan./Feb. 2008), <http://www.cancer.org/cancer/news/report-links-health-insurance-status-with-cancer-care>.

² American Cancer Society. *Cancer Facts & Figures: 2019*. Atlanta: American Cancer Society, 2019.

³ American Cancer Society. *Cancer Treatment & Survivorship Facts & Figures 2019-2021*. Atlanta: American Cancer Society, 2019.

We note that the state estimates that the reinsurance program will reduce premiums by 13.7 percent in plan year 2020.⁴ These savings could reduce federal subsidy payments, and lower premiums for consumers not eligible for subsidies who enroll in coverage through the exchange.

The Department states that the number of issuers offering coverage in the individual market in Delaware has declined in recent years.⁵ A reinsurance program may encourage insurance carriers to continue offering plans through the exchange or begin to offer plans. The expected maintenance or increase in plan competition due to the reinsurance program also may help to keep premiums from rising. These premium savings could help cancer patients and survivors afford health insurance coverage and may allow some individuals to enroll who previously could not afford coverage. The Department estimates that enrollment in the individual market could increase as much as 2.3 percent because of the reinsurance program.⁶

We are pleased that the application states that “Delaware’s 1332 waiver would not require or encourage issuers to alter cost-sharing designs or network coverage. Delaware’s 1332 waiver also does not in any way seek to alter the requirements of coverage under state benefit mandates or under the ACA’s required coverages, including the essential health benefits requirement under section 2707 of the Public Health Service Act.”⁷ ACS CAN believes that patient protections in current law – including those mentioned here – are crucial to making the healthcare system work for cancer patients and survivors.

Conclusion

On behalf of the American Cancer Society Cancer Action Network, we thank you for the opportunity to comment on the proposed section 1332 waiver, which we believe will provide long-term viability of the individual market while not eroding important consumer protections. If you have any questions, please feel free to contact Jennifer Singleterry, Senior Policy Analyst at Jennifer.Singleterry@cancer.org or 202-585-3233.

Sincerely,



Kirsten Sloan
Vice President, Public Policy
American Cancer Society Cancer Action Network

⁴ Delaware Department of Health and Social Services. State of Delaware, 1332 State Innovation Waiver, Application to Establish a State Reinsurance Program. July 10, 2019. <https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Delaware-1332-Waiver-Application-July-10-2019.pdf>

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.



August 14, 2019

Honorable Alex Azar
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC

Honorable Steven Mnuchin
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Delaware Section 1332 Waiver Application

Dear Secretary Azar and Secretary Mnuchin:

On behalf of people with cystic fibrosis, the Cystic Fibrosis Foundation appreciates the opportunity to support Delaware's 1332 State Innovation Waiver application to operate a reinsurance program.

Cystic fibrosis (CF) is a life-threatening genetic disease that affects 30,000 children and adults in the United States. CF causes the body to produce thick, sticky mucus that clogs the lungs and digestive system, which can lead to life-threatening infections. As a complex, multi-system condition, CF requires targeted, specialized treatment and medications.

People with CF benefit from insurance marketplaces that offer affordable health plans that cover their complex health needs. The Cystic Fibrosis Foundation supports Delaware's creation of a reinsurance program that will make coverage more affordable and expand plan choice by encouraging insurer participation in the marketplace.

Reinsurance is an important tool to help stabilize health insurance markets. These programs help insurance companies cover claims for high cost enrollees, keeping premiums more affordable for everyone. For instance, a temporary reinsurance fund for the individual market established under the Affordable Care Act reduced premiums by an estimated 10 to 14 percent in its first year.¹ A recent analysis by Avalere of the seven states that have created their own reinsurance programs through Section 1332 waivers also found that these programs reduced individual market premiums by an average of 19.9 percent in their first year.²

The Cystic Fibrosis Foundation appreciates the opportunity to provide input on these important policy changes. As the health landscape continues to evolve, we look forward to working with the state of Delaware to ensure high quality, specialized CF care and improve the lives of all with cystic fibrosis. Please consider us a resource moving forward.

Sincerely,

Mary B. Dwight
Senior VP of Policy & Patient Assistance Programs
Cystic Fibrosis Foundation

Lisa B. Feng, DrPH
Senior Director of Access Policy & Innovation
Cystic Fibrosis Foundation

¹American Academy of Actuaries, Individual and Small Group Markets Committee. *An Evaluation of the Individual Health Insurance Market and Implications of Potential Changes*. January 2017. Retrieved from https://www.actuary.org/files/publications/Acad_eval_indiv_mkt_011817.pdf.

²Avalere. *State-Run Reinsurance Programs Reduce ACA Premiums by 19.9% on Average*. March 2019. Retrieved from <https://avalere.com/press-releases/state-run-reinsurance-programs-reduce-aca-premiums-by-19-9-on-average>.



August 16, 2019

Honorable Alex Azar
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Honorable Steve Mnuchin
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Delaware's 1332 Waiver Application

Dear Secretary Azar and Secretary Mnuchin:

Thank you for the opportunity to submit comments on Delaware's 1332 Waiver Application.

The undersigned organizations represent millions of individuals facing serious, acute and chronic health conditions across the country. Our organizations have a unique perspective on what patients need to prevent disease, cure illness and manage chronic health conditions. The diversity of our groups and the patients and consumers we represent enables us to draw upon a wealth of knowledge and expertise and serve as an invaluable resource regarding any decisions affecting state health insurance marketplaces and the patients that they serve. We urge the Departments to make the best use of the recommendations, knowledge and experience our organizations offer here.

Our organizations are committed to ensuring that any changes to the healthcare system achieve coverage that is adequate, affordable and accessible for patients. A strong, robust marketplace is essential for people with serious, acute and chronic health conditions to access comprehensive coverage that includes all of the treatments and services that they need to stay healthy at an affordable cost. Our organizations support Delaware's efforts to strengthen its marketplace by submitting this application to implement a reinsurance program, and we urge the Departments to approve the application.

Reinsurance is an important tool to help stabilize health insurance markets. Reinsurance programs help insurance companies cover the claims of very high cost enrollees, which in turn keeps premiums affordable for other individuals buying insurance on the individual market. Reinsurance programs have

been used to stabilize premiums in a number of healthcare programs, such as Medicare Part D. A temporary reinsurance fund for the individual market was also established under the Affordable Care Act and reduced premiums by an estimated 10 to 14 percent in its first year.¹ A recent analysis by Avalere of the seven states that have already created their own reinsurance programs through Section 1332 waivers found that these states reduced individual market premiums by an average of 19.9 percent in their first year.²

Delaware's proposal will create a reinsurance program starting for the 2020 plan year and continuing for five years. Based on the initial analysis commissioned by the state, this program is projected to reduce premiums by 13.7 percent in 2020 and increase the number of individuals obtaining health insurance through the individual market by up to 2.3 percent. In future years, the reinsurance program could decrease premiums by as much as 20 percent. This would help patients with pre-existing conditions obtain affordable, comprehensive coverage.

As states consider different ways to stabilize their marketplaces, our organizations are pleased that Delaware has submitted an application that is projected to improve coverage and affordability without compromising access to essential health benefits or jeopardizing other important protections that our patients rely on. We believe that this 1332 Waiver Application will help stabilize the individual market in Delaware and protect patients and consumers. Thank you for the opportunity to provide comments.

Sincerely,

American Heart Association
American Lung Association
Arthritis Foundation
Epilepsy Foundation
Hemophilia Federation of America
Leukemia & Lymphoma Society
National Multiple Sclerosis Society
National Organization for Rare Disorders
National Psoriasis Foundation

¹ American Academy of Actuaries, Individual and Small Group Markets Committee. *An Evaluation of the Individual Health Insurance Market and Implications of Potential Changes*. January 2017. Retrieved from https://www.actuary.org/files/publications/Acad_eval_indiv_mkt_011817.pdf.

² Avalere. *State-Run Reinsurance Programs Reduce ACA Premiums by 19.9% on Average*. March 2019. Retrieved from <https://avalere.com/press-releases/state-run-reinsurance-programs-reduce-aca-premiums-by-19-9-on-average>.



Nicholas A. Moriello, R.H.U.
President

August 14, 2019

VIA EMAIL (StateInnovationWaivers@cms.hhs.gov)

The Honorable Alex Azar
Secretary of Health and Human Services
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

RE: Delaware Section 1332 Waiver Comments

Dear Secretary Azar:

As the President of Highmark Blue Cross Blue Shield Delaware (“Highmark Delaware”), I am writing to comment on Delaware’s application for a State Innovation Waiver under section 1332 of the Patient Protection and Affordable Care Act (“Application”) wherein Delaware seeks to implement a state reinsurance program called the Delaware Health Insurance Individual Market Stabilization Reinsurance Program (“reinsurance program”) for plan years 2020 through 2024.

Highmark Delaware is in favor of programs promoting premium stability for individual health insurance policy purchasers and believes the creation of a state-based reinsurance program, which is properly managed and remains solvent, can benefit Delawareans. Highmark Delaware supported Delaware legislation advocating for a state reinsurance program, just as Highmark Delaware’s parent company, Highmark Inc., supported similar legislative efforts in Pennsylvania. Highmark Delaware supported Governor Carney and Secretary Walker’s decision to put forth an application for a Section 1332 State Innovation Waiver. As the only plan participating in Delaware’s individual insurance market, stabilizing the individual market continues to be a priority for Highmark Delaware.

The Absence of a Plan to Mitigate Reinsurance Program Funding Shortfalls

While Highmark Delaware supports efforts to stabilize Delaware’s Marketplace, Highmark Delaware has concerns regarding potential funding shortfalls for the reinsurance program, which could inhibit the individual market stability the program seeks to achieve. As stated in the Application, the reinsurance program will be funded with a 2.75% state assessment on insurers if the Federal Health Insurance Providers Fee pursuant to § 9010 of the Affordable Care Act (hereinafter “HIT”) is suspended for any calendar year or with a 1% state assessment on insurers if the HIT is in effect for any calendar year.

“The purpose of the assessment is to fully finance the State’s liability related to the proposed reinsurance program.” (Application, p. 6). The amount of state funding for the reinsurance program is directly tied to the existence of a federal tax and can vary greatly depending on whether the federal government determines whether the tax will be in effect for any given year. Additionally, the amount of federal pass-through funding for the reinsurance program can also vary year-to-year. States can receive less pass-through funding than expected in a given year, leaving the state to make up any shortfall. These various uncertainties in funding create a likelihood that in any given year, there could be a significant shortfall in funding for Delaware’s reinsurance program.

While the Application discusses the potential for a funding surplus and ramifications thereof (Application, p.6; Actuarial Analysis, p.3), the Application is silent on the issue of a funding shortfall. The Application does not discuss the likelihood of a funding shortfall, what will be done to stabilize the market should there be a shortfall, or how the state will mitigate the possibility of a funding shortfall. While a goal of the Application is to stabilize the individual market, the Application does not contain a plan for stabilizing the reinsurance program in the event there is a funding shortfall, which in itself could contribute to market instability and runs counter to the state’s intended goals.

The Lack of a Mechanism to Adjust Rates to Account for Uncertainties and Funding Shortfalls

Delaware House Bill 193 states in the event funding is insufficient to cover the reinsurance program, the Delaware Department of Health & Social Services “may suspend” the reinsurance program until funding is identified and secured. Neither the House Bill nor the Application account for other ramifications of a shortfall in funding, and do not address rate submission revisions to account for the absence of reinsurance. Minnesota’s reinsurance program permits insurers to revise their rate filings when the amount in the premium security plan account is not adequate to fully fund the approved payment parameters, which must be determined by July 1 prior to the applicable benefit year. Additionally, what would be the status of the state assessment in any calendar year if the reinsurance program is suspended?

Reliance on Adjusting Reinsurance Parameters to Fund the Program

Delaware’s Application states the Delaware Health Care Commission will adjust the reinsurance parameters, as necessary, to ensure the program remains fully funded (Actuarial Analysis p.2); however, the program cannot be “fully funded” if it does not meet the reinsurance parameters then in effect. An insurer’s rates will depend on the size of the funding pool and the reinsurance parameters. The state’s proposed timeline in determining reinsurance parameters is already problematic in terms of creating stability for the market in setting rates: 2020 rates were required to be submitted to the state in June and must be finalized in August, yet the reinsurance program parameters may not be finalized until January 1, 2020. While the state has indicated it will adjust reinsurance parameters to ensure the program remains fully funded, the Application also states that “[o]nce finalized, the parameters to be used for the 2020 plan year would not be expected to be modified for any reason.” (Application, p.5). Additionally, the proposed timeline continues to be problematic in future years of the reinsurance program: in each year, the rates for the following plan year are required to be submitted in June, approved by the state in

August, and the reinsurance parameters for that plan year are not expected to be finalized until January 1 of the plan year. The rates are always required to be set without required guidance that includes knowledge of the final reinsurance parameters for the plan year, and which parameters are subject to change during the plan year in the event there is a funding shortfall for the reinsurance program.

Highmark Delaware has been the sole insurer offering marketplace insurance coverage in Delaware's individual market since 2018. Highmark appreciates the need for stability in the individual market and increased affordability of health insurance for Delawareans, particularly those who do not qualify for premium subsidies. Nevertheless, Highmark Delaware remains concerned regarding the absence of details in the Application regarding a plan (1) to mitigate a funding shortfall, (2) the stated reliance on adjusting reinsurance parameters to "fully fund" the program, and (3) the lack of a mechanism in place for Highmark Delaware to adjust its rates to account for the uncertainty of the reinsurance parameters and funding shortfalls in the reinsurance program. Highmark Delaware encourages the state to formulate a mitigation strategy to address potential funding shortfalls.

On behalf of Highmark, thank you for the opportunity to voice these concerns. We appreciate the opportunity to provide feedback on Delaware's Application. If you have any questions, please contact Michael G. Warfel, Vice President of Government Affairs at michael.warfel@highmark.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Nicholas Moriello". The signature is fluid and cursive, with the first name "Nicholas" and last name "Moriello" clearly distinguishable.

Nicholas A. Moriello, R.H.U.
President

cc: The Honorable Trinidad Navarro, Delaware Commissioner of Insurance
The Honorable Kara Odom-Walker, Secretary of the DE Department of Health and Social Services
Michael G. Warfel, Vice President of Government Affairs