

February 5, 2021

Elizabeth Richter  
Acting Administrator  
Centers for Medicare and Medicaid Services  
200 Independence Avenue  
Washington, DC 20002

**VIA E-Mail**

Dear Acting Administrator Richter,

Minnesota has long led the nation in progressive health reforms. In 2016, we again led the country. Recognizing that individual market premiums and participation were unstable at the time, Minnesota was one of the first states to create a reinsurance program to promote market stability. Through a Section 1332 waiver, **Minnesota committed to spending hundreds of millions of dollars of state funds to support the individual market** in this way.

State policymakers worked closely with federal officials to craft legislative language for our reinsurance program that would not negatively affect federal funding for Minnesota's health care programs. While reinsurance would artificially lower premiums for consumers in the individual market, and federal funding for BHP is calculated based on individual market premiums, CMS and Treasury recognized that this investment of state funds should not result in reduced federal funding overall.

**Under the previous Administration, however, CMS and Treasury erred by not approving Minnesota's waiver request in full**, which resulted in reduced federal funding for our BHP without compensating with increased funding via 1332 passthrough. This arbitrary decision has unfairly pitted stability in the individual market against federal funding for public problems, ultimately to the disadvantage of Minnesotans.

The federal government's decision to deny part of Minnesota's 2016 waiver request was based on a plainly flawed and inconsistent methodology that calculated our reinsurance payment with the existence of the *BHP* taken into consideration but independently calculated our BHP payment without the existence of *reinsurance* taken into consideration.

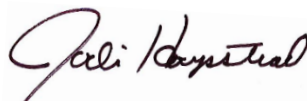
This was clearly a mistake four years ago, so **what we are requesting now is for CMS and Treasury to quickly correct the mistake moving forward**. This correction would be consistent with the parameters of Minnesota's original 1332 waiver request from 2016 and with the federal government's stated positions late that same year. In doing so, it would undo a harmful, arbitrary, and inconsistent position taken by the previous Administration.

We would welcome conversations with CMS and Treasury about the best way to accomplish this request.

Sincerely,



Grace Arnold, Commissioner (Temporary)  
Minnesota Department of Commerce



Jodi Harpstead, Commissioner  
Minnesota Department of Human Services

Cc: Jeff Wu, Christen Linke Young, Jeff Grant, Anne Marie Costello



*Administrator*

Washington, DC 20201

June 21, 2021

Grace Arnold, Commissioner (Temporary)  
Minnesota Department of Commerce  
85 7th Place East, Suite 280  
Saint Paul, MN 55101

Jodi Harpstead, Commissioner  
Minnesota Department of Human Services  
540 Cedar Street  
Saint Paul, MN 55101

Dear Commissioners Arnold and Harpstead:

Thank you for contacting the Centers for Medicare & Medicaid Services (CMS) on February 5, 2021, to share your concerns regarding Minnesota's State Innovation Waiver under section 1332 of the Affordable Care Act (ACA), which was approved in part on September 22, 2017. Section 1332 waivers are reviewed and approved by the Departments of Health and Human Services (HHS) and the Department of the Treasury. We have been reviewing the concerns raised in your letter and wanted to provide an update. CMS intends to propose and solicit comments on potential approaches to address the intersection of section 1332 waivers and Basic Health Programs (BHP) in a future BHP rulemaking.

We appreciate Minnesota's longstanding commitment to providing affordable health insurance, and look forward to working with the state on this matter.

Sincerely,

A handwritten signature in blue ink, reading "Chiquita Brooks-LaSure". The signature is written in a cursive style.

Chiquita Brooks-LaSure  
Administrator