**Maine's 1332 Waiver Amendment Additional Information – July 5, 2022**

Maine prepared this document with additional information as requested by the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Consumer Information and Insurance Oversight (CCIIO) and the Department of the Treasury and in response to the public comments submitted through April 26, 2022.

1. How were changes from the American Rescue Plan Act (ARPA) included in the modeling in the waiver amendment application?

Maine's 1332 waiver application, on pages 37 and 55 of the actuarial analysis, discusses the estimated impact if ARPA were continued for plan years 2023 and 2024 for the merged individual and small group market in Maine. The excerpt is below:

ARPA – "enacted by Congress and signed by President Biden in March 2021 – changed the required premium contribution schedule, increased federal subsidies for individuals and families with income below 400% FPL, and extended subsidies to those with earnings above 400% FPL. These changes are in effect for 2021 and 2022. Congress is considering legislation that would extend the ARPA premium contribution schedule beyond 2022. Based on current law, this report does not assume the enhanced premium subsidies will continue beyond 2022. However, scenario testing using the ARPA premium subsidies was conducted."

"Gorman analysis shows that the additional premium subsidies under ARPA will decrease pooled market premiums by an additional 0.3% to 0.8% in 2023 and by an additional 0.2% to 0.7% in 2024 on top of the current premium reductions outlined in this report under the with waiver scenario. This is equivalent to an additional \$2.4 to \$5.9 million in federal pass-through funding in 2023 and an additional \$2.0 to \$5.0 million in passthrough funding in 2024."

Maine assumes that some of the new enrollment from ARPA's increased subsidies will persist in 2023, even if the extension is not granted.

**Questions from June 2, 2022 email from CCIIO**:

1. The state noted there have been losses in coverage in the small group market. Where does the state believe those losses in the small group enrollment are going? For example, are they moving to other coverage or does the state believe they are going uninsured?

Maine Bureau of Insurance (MBOI) and Maine insurers are not able to track specifically what happens to covered individuals when small groups drop their health insurance. We do have some general observations about the decrease to small group enrollment.

In 2014, sole proprietors that were previously included in the Maine small group market were required to switch to the individual market due to the change in eligibility under the Affordable Care Act (ACA).

MBOI collected and reported on stop loss insurance enrollment for small employers for years 2019-2021. Twenty-eight insurance carriers reported Maine stop loss data for 2021 and of those, ten carriers reported more detailed data because they sold small group employer policies. Of those reporting carriers there were 1,902 employer groups with stop loss coverage, including 512 small employer groups. The total number of small employer groups with stop loss coverage has not changed by more than a few employer groups during the reporting years 2019 through 2021. The total number of covered employees in stop loss insurance from the small employer groups has increased steadily each year from 7,599 in 2019 to 7,950 in 20210 and 8,446 in 2021. MBOI added covered lives to the reporting requirements for 2021 and the total covered lives reported was 13,953 including dependents for small employer groups with stop loss insurance.[1]

Small group premiums have risen faster than both individual market premiums and wage growth in Maine in recent years, which likely contributed to a decline in enrollment. Small group enrollment is expected to increase if small group premiums decline.[2]

The COVID-19 pandemic had a major effect on small businesses in Maine and the nation. However, unemployment rates have returned to pre-pandemic levels and anecdotal information suggests that small businesses have been offering health insurance to attract workers in a tight labor market.

<u>2. Does the state legislation prevent the PMPM assessment from being passed onto consumers?</u>

Reinsurance funding is supported by the $4.00 PMPM assessment, but it is not contingent upon approval of the 1332 Waiver.[3] The assessment is part of the baseline (without a waiver) consideration. Maine statute. 24-A MRSA Section §3957 provides for the collection of funds necessary to carry out the powers and duties of the association under §3955. MGARA assesses each insurer doing business in Maine an amount not to exceed $4 per month per covered person enrolled in medical or stop loss insurance insured, reinsured or administered by the insurer. The insurer builds this assessment into the cost of insurance. For carriers in the individual market the assessment is offset by the reinsurance receivables and in the merged market this will also be reflected in small group rates.

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[1] Employee Benefit Excess Insurance Report, Prepared by the Maine Bureau of Insurance May 2022, https://www.maine.gov/pfr/insurance/sites/maine.gov.pfr.insurance/files/inline-files/employee_benefit_excess_insurance_report.pdf.

[2] http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2808-B.html.

[3] PL 653 (LD 2007) changed the $4.00 PMPM assessment so that it is no longer contingent on the Section 1332 Innovation Waiver.

**Questions from May 27, 2022 email from CCIIO:**

1. Some commenters have expressed concerns that the small group market will see decreased participation from carriers and reduced competition, particularly with carriers that cover a small portion of the membership in the small group market. This commenter asserted that merging the markets would require carriers to participate in both markets or withdraw.

We understand that the state's authorizing legislation includes a requirement that a carrier offering a pooled market plan must offer the same plan to all individuals and small employers within any service area where the carrier has made the plan available.

o Please confirm the requirements for participation in the individual and small group market.

Maine Regulation Rule Chapter 856: Combination of the Individual and Small Business Health Insurance Risk Pools, Section 5 (1)(A) requires every carrier offering any pooled market health plan to offer the same plan to all individuals and small employers within any service area where the carrier has made the plan available, subject to the network capacity limitations of 24-A M.R.S. §§ 2736-C(3)(A)(2) and 2808-B(4)(A)(2). Carriers will submit both individual and small group filings for the merged market. It is a policy goal of the State of Maine to promote additional carriers and competition in its health insurance market given evidence that this promotes lower costs and higher quality.

That said, Section 5 (1)(C) of Rule 856 does not require carriers to market all pooled market health plans in the same manner to all customers. A carrier may vary its marketing strategies and distribution channels, including the decision whether to offer a plan on the Maine Health Insurance Marketplace established pursuant to 22 M.R.S. §5403, between one plan and another, between one service area and another, or between individuals and small employers, as long as the carrier does not discriminate on the basis of actual or perceived health risk or other prohibited classifications.

o Could the state also explain what it assumed with regard to issuer participation under the amended waiver compared to the baseline and why?

Maine adopted a conservative approach to its modeling, assuming no change in issuer participation by the actuaries under the amended waiver application. None of the current carriers have indicated they are leaving the Maine market. Aetna confirmed in writing on May 31, 2022 its intent regarding its individual market reentry as part of participation in the merged small group and individual markets for plan year 2023. All six carriers in the merged market, including an additional newly licensed carrier, have participated actively in Clear Choice stakeholder meetings to develop standardized plans for 2023 and filed rates for small group and individual plans.

Maine licensed a new carrier, Taro Health Plans of Maine, Inc. as a domestic HMO on May 27, 2022. It intends to start by selling individual and small group policies in Cumberland County for 2023.

In addition, Maine has policy that discourages carriers from leaving its market. 24-A MRSA Section 2736-C (4)(C) and §2850-B states that carriers who cease to write new business in the individual or small group health plan market are prohibited from writing new business in that market for a period of 5 years from the date of notice to the superintendent unless the superintendent waives this requirement for good cause shown.

Proposed rate filings were submitted on June 27 by all six carriers for small group and individual plans assuming the merged market and reinsurance extending to small groups. The proposed weighted average rate increase filed by the insurers for the individual plans is 14.72%. The proposed weighted average rate increase filed by the insurers for small group plans is 3.42%. Final rates are due on July 20 after review by the Bureau.

<u>2. Some commenters are concerned that some small group members will migrate to self-insurance. Does the state anticipate any migration from the small group to self-insurance in the baseline and under the amended waiver? Please explain how the state came up with these assumptions.</u>

Maine reviews and approves stop loss insurance products and recently started collecting enrollment counts specifically for small group coverage. Due to concerns that healthier groups were leaving the small group insured market and moving to level-funded stop loss coverage, Maine implemented a regulation to clarify the requirements and start collecting enrollment data. Maine’s regulation Rule 135 effective September 18, 2019 increased the specific attachment point for stop-loss coverage from $20,000 to $28,700 and Section 5 prohibits issuing to groups with 10 or fewer enrolled employees. MBOI will continue to monitor potential shifts and will consider further action, if necessary, to prevent adverse selection into the regulated small group coverage.

The amended waiver application assumed small group membership would continue to decline in the baseline. Assumptions were also made about worsening morbidity in the small group market as a result of the decline in enrollment. This is described in the section of the actuarial report entitled "Enrollment Projections and Assumptions- Small Group Market."

The estimates of the effects of the waiver amendment assumed increase in enrollment for insured groups that return to the insured market as rates decrease due to the effects of the merged market and reinsurance. Self-insured plans also pay the fee that supports reinsurance; small groups would, under the waiver amendment, be able to benefit from reinsurance for the first time which may serve as an incentive to remain in or switch to the fully insured market.

3. One commenter asserted that the state has overstated the contraction of the small group market, and that the enrollment declines and premium increases in recent years have been quite modest; e.g., the average 2022 rate increase across all small group carriers was only 3.4% and compares favorably with the expected premium increases in the individual market under the amended waiver. The state's application notes that "Over the past several years, premiums in Maine' s small group market increased, and the number of employees and dependents covered has declined. The expected premium reductions resulting from the waiver could slow or reverse this adverse trend."

o Could the state share the premium trends for the past 5 years in the small group market, SLCSP, and individual market that is available to evaluate the trends in the Maine market?

Individual and small group figures below are statewide. SLCSP varies by service area.

| Average Rate Increases | | | |
|---|---|---|---|
| Year | Individual | SLCSP | Sm Group |
| 2018 | 27.1% | 33.6% to 35.4% | 9.8% |
| 2019 | -0.5% | -6% to -12.9% | 10.0% |
| 2020 | -2.1% | -2.2% to -7.1% | 6.9% |
| 2021 | -11.3% | -13.5% to -22.8% | 4.3% |
| 2022 | -2.3% | -11.9% to 0.1% | 3.4% |

- Can the state also provide historical data from 2018-2022 on actual statewide average premiums pmpm (not rate changes, as presented above) for both the individual and small group markets?
  There will be some difference from percent increases above due to using only annual filings and using the URRT for ease of data collection. Historical average pmpm from annual URRT filings:

  | | Average PMPM | |
  |---|---|---|
  | | Individual | Small Group |
  | 2018 | 700 | 450 |
  | 2019 | 651 | 486 |
  | 2020 | 633 | 521 |
  | 2021 | 540 | 543 |
  | 2022 | 523 | 551 |

  From the waiver amendment application Table 10, page 26 individual average pmpm for 2020 was $633 and on Table 17, page 34 small group pmpm for 2020 was $521.
  https://www.maine.gov/pfr/insurance/sites/maine.gov.pfr.insurance/files/inline-files/public-form-gorman-presentation-012822.pdf
  From Gorman analysis: Average pmpm for individual market 2021 $540, 2022 $523 and for small group market 2021 $543 and 2022 $551.

- Looking at Table 7 on PDF pg. 130 of the state's waiver amendment application, the average rate changes for the small group market (excerpt copied below) are different

from the average rate increases presented above. Can the state clarify the discrepancy in these values?
The table above reflects increases posted to the Bureau website based on weighted averages from quarterly filings for small group and annual filings for individual. The increases below were extracted from URRTs filed by the carriers. For 2019 through 2021, this estimate is based on a weighted average of renewing plan rate changes weighted by experience period or current enrollment from Worksheet 2 of the URRTs and includes both on and off exchange plans. For 2022, the estimate is based on average rate changes by insurer reported by the Maine BOI weighted by March 2021 enrollment. The differences may be due to quarterly revisions not captured by the Bureau website posting.

| **Year** | **Small group average rate changes (Table 7 PDF pg. 130)** |
|---|---|
| 2018 | *Not provided* |
| 2019 | 11.0% |
| 2020 | 8.8% |
| 2021 | 5.5% |
| 2022 | 3.2% |

4. Footnote #1 on p. 4 of the actuarial report in Maine's application notes that 3 insurers currently offer in the individual market and 5 in the small group market, and that pooling the markets may lead the number of insurers in the individual market to increase. Is the alternative that the two small group market insurers would exit? What has Gorman assumed with respect to insurer participation in each market under the waiver versus absent the waiver?

o Do all three insurers that participate in the individual market also participate in the small group market (i.e., are there 5 different insurers total)?

Yes, Anthem, Community Health Options and Harvard currently participate in the individual and small group market in Maine. Aetna and UnitedHealthcare currently only participate in the group market in Maine. We are expecting all five carriers to offer both individual and small group plans in 2023 under the merged market. There is an additional carrier, Taro Health that was just licensed to sell plans in Maine for 2023. It intends to offer individual and small group plans in Cumberland County in 2023.

o Are the insurers that participate in one market and not the other generally lower-cost or higher-cost than the insurers that participate in both markets?

Aetna and UnitedHealthcare are the two carriers that only participate in the small group market. Aetna has less than a 1% market share in the small group market in Maine. Aetna tends to have higher-cost premiums for small group ACA plans. UnitedHealthcare has about an 8% market share in the small group market in Maine. UnitedHealthcare has competitive rates and often lower-cost premiums. Market share is tracked and posted on

the Bureau website:
[https://www.maine.gov/pfr/insurance/sites/maine.gov.pfr.insurance/files/inline-files/2022-market-snapshot-small-group.pdf](https://www.maine.gov/pfr/insurance/sites/maine.gov.pfr.insurance/files/inline-files/2022-market-snapshot-small-group.pdf). Rate charts for small group premiums are also posted: [https://www.maine.gov/pfr/insurance/consumers/health-insurance-for-small-businesses/small-group-health-rates](https://www.maine.gov/pfr/insurance/consumers/health-insurance-for-small-businesses/small-group-health-rates).

o For the insurers that participate in both markets, does each insurer offer the same number of plans in each market?

Carriers offer different number of plans in the individual market from the small group market in Maine in 2022. Maine's rate filings are public when they are submitted and provide information about plans offered and a summary of the cost-sharing for each plan. The Bureau reviews and approves rate filings.

One large carrier has 11 plans for the individual market and 38 small group plans for 2022. This is roughly the same number they had in 2021 (12 plans for individual and 38 small group plans). Another carrier has 20 individual plans and 18 small group plans in 2022 slightly less than in 2021 by 2 for individual and 5 more for small group. With extension of standardized (Clear Choice) plan to the small group market, the number of small group plans in 2023 is expected to decline to levels similar to those of the individual market. There are 19 standard plans and a catastrophic plan for each product type or network in the small group market for 2023. Carriers are also able to offer up to three alternative plans. There will still be meaningful plan choices after implementation of standardized plans.

o If an insurer offers more plans in one market than the other, does the state/Gorman project that the insurer would reduce its plan offerings in the market where it currently offers more plans or expand its plan offerings in the market where it currently offers fewer plans? What information is this projection based on?

The conservative assumption in the actuarial analysis is that the number of plans offered in the individual market and small group market would be unaffected by the merge. Carriers are able to continue targeting or marketing certain plans either to the individual or small group market similar to before the merge. We do not assume that the merged market will further reduce the number of plan choices.

5. What are MGARA considerations for the reinsurance attachment point for 2023?

Attached is Milliman's memorandum regarding MGARA'S 2023 Reinsurance Thresholds as approved by the MGARA Board and Bureau of Insurance. Below are several comments on results of this analysis that are informative to the 1332 Waiver application.

MGARA will use $31.6 million in surplus to fund the reinsurance program for the merged market in 2023 as they target between a 900%-1000% RBC (risk-based capital) for solvency. The use of this surplus significantly increases the premium reductions for pooled market premiums and federal grant estimates. Thresholds of $90,000 to $275,000 as reported in Gorman's analysis will be kept but the coinsurance will be set at 100% within the reinsurance corridor. Coinsurance will remain at 100% similar to 2022 to provide consistency year to year.

The assumed reduction in market rates is projected to be 10.5% based on the merged reinsurance program by Milliman for 2023, bringing in an estimated $41.5 million in pass through funds compared to $22.8 million in Gorman's analysis. The 1332 waiver application currently being reviewed assumes no use of MGARA surplus funds (outside of the $8.6 million in ARPA funds from 2021) so these estimates from Milliman are much more favorable.

- If the merged market does not go through for 2023, Milliman is estimating a 24.5% reduction to individual market rates, $95.2 million in federal grant revenue which would generate an additional $4 million surplus for MGARA and achieve an estimated RBC of 1259%. This scenario would still maintain a large surplus for MGARA and benefits an estimated 70,357 insured individuals versus 122,616 individuals in a merged market assuming 2022 enrollment as reported by carriers.[4]

6. For reference, can the state share online links to the below actuarial reports?
https://www.maine.gov/pfr/insurance/news-public-notices/other-news-and-updates/merged-markets-options
https://www.maine.gov/pfr/insurance/news-public-notices/other-news-and-updates/mgara-information

- On behalf of the BOI, Gorman's updated study completed in December 2021
- On behalf of MGARA, Milliman's study completed in 2020 that explored the potential for a merged market in Maine

7. Could the state confirm the parameters for the reinsurance program for 2023? Also could the state confirm if the state is considering any changes to the program size for the waiver? We noted that one of the state analyses for the waiver proposed using a surplus to fund the reinsurance program which could potentially address commenters concerns regarding affordability for individual market enrollees?
Information added to the response above.

[4] https://www.maine.gov/pfr/insurance/sites/maine.gov.pfr.insurance/files/inline-files/2022-market-snapshot-small-group.pdf.
https://www.maine.gov/pfr/insurance/sites/maine.gov.pfr.insurance/files/inline-files/2022-market-snapshot-individual.pdf.