STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
BUREAU OF INSURANCE
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04333-0034

Paul R. LePage
GOVERNOR

Eric A. Cioppa
Superintendent

January 28, 2013

Centers for Medicare & Medicaid Services
Department of Health and Human Services
ATTENTION CMS-9964-P
PO Box 8016
Baltimore MD, 21244-8016

Emailed to Dawn Horner at Dawn.Horner@CMS.hhs.gov

Under the Affordable Care Act, each state is directed to operate a transitional reinsurance program "to make reinsurance payments to health insurance issuers described in subparagraph (A) that cover high risk individuals in the individual market." In the Notice of Benefit and Payment Parameters for 2014, the Secretary has proposed amendments to 45 CFR Part 153, Subpart C, to provide that this program will be administered through a single national reinsurance pool, in order "to provide reinsurance payments in an efficient, fair, and accurate manner, where they are needed most, to effectively stabilize premiums nationally," explaining further that this "minimizes the administrative burden of collecting contributions" and will also leverage economies of scale." and that "Because reinsurance contributions and reinsurance needs will vary significantly between States, we believe a policy of disbursing reinsurance payments solely in a State in which the contributions are collected would not meet the States' individual reinsurance needs."

While this may be true in general, these considerations point to a different conclusion in states that have already successfully implemented reinsurance programs. In Maine, the ability to establish and operate an effective program has already been accomplished, and the concerns of efficiency, economy, and resource allocation weigh in the opposite direction than they do in states where HHS or the organizers of a state-based startup would be working to establish a program. Insurers in Maine are already used to working with the existing programs, and significant resources have already been expended on building up the infrastructure to operate the Maine-based program, along with the know-how that comes from hands-on operational experience. There is also the possibility that our program will have a surplus fund balance at the end of 2013. If the program is allowed to remain in operation at the state level, that fund balance would be available to reduce the costs to the citizens of Maine in 2014.

The Maine Guaranteed Access Reinsurance Association (MGARA) is already carrying out precisely what Section 1341 mandates – stabilizing premiums in a guaranteed-issue, community-rated individual health insurance market by reinsuring the claims costs for high-risk individuals, financed by *per capita* contributions from the entire health coverage market (including administrators of self-funded plans). In other states, their existing high-risk programs are funded through a mechanism similar to the Transitional Reinsurance Program, and the ACA expressly contemplates that those states should be given the option to modify their programs so that their existing pool administrators can become their applicable reinsurance entities. PPACA § 1341(d); 45 CFR § 153.250 and Preamble to Proposed Amendments at 119.

Therefore, I strongly urge that you consider a narrowly tailored exemption from conflicting provisions of the Transitional Reinsurance Rule for Maine's reinsurance program.

Thank you for your consideration of this request.

Sincerely,

Eric Cioppa
Superintendent, Maine Bureau of Insurance