



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

200 Independence Avenue SW
Washington, DC 20201

February 7, 2013

Eric Cioppa
Superintendent, Bureau of Insurance
State of Maine
Department of Professional and Financial Regulation
34 State House Station
Augusta, Maine 04333

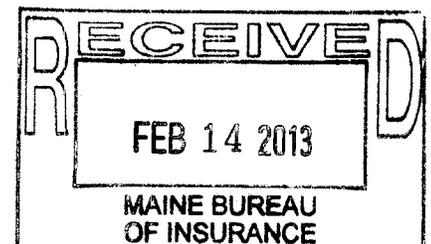
Dear Mr. Cioppa:

Thank you for your letter regarding the success of the Maine Guaranteed Access Reinsurance Association (MGARA) in stabilizing premiums in Maine's individual health insurance market. Because of this success, you are asking that the US Department of Health and Human Services (HHS) exempt the State of Maine from establishing a State-operated transitional reinsurance program or having HHS operate one on the State's behalf in accordance with the transitional Reinsurance Program requirement as set forth in Section 1341 for the Patient Protection and Affordable Care Act (ACA).

We have reviewed your request and determined that HHS has no authority to grant to a State a waiver or exemption from the transitional Reinsurance Program requirements of Section 1341 of the ACA. There is no express authority for such an exemption in Section 1341 or any other provision of the ACA. Moreover, Section 1341(a)(1) requires each State to establish a transitional Reinsurance Program that includes "in the Federal standards or State law or regulation the State adopts and has in effect under section 1321(b) the provisions described in [Section 1341(b) of the ACA]..." Therefore, we believe that Maine must establish a transitional Reinsurance Program that meets the requirements of Section 1341(b) of the ACA, as well as any federal standards set forth in the Final Rules of the Standards Related to Reinsurance, Risk Corridors and Risk Adjustment published in the Federal Register on March 23, 2012, as well as the upcoming Final HHS Notice of Benefit and Payment Parameters for 2014. As set forth in the Final Rules of the Standards Related to Reinsurance, Risk Corridors and Risk Adjustment published in the Federal Register on March 23, 2012, if Maine does not elect to establish a Reinsurance Program, HHS will establish a Reinsurance Program for Maine.

However, from the description you provide, it appears that Maine could choose to operate a transitional Reinsurance Program under the authority of Section 1341 of the ACA using

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MGARA and your other existing operations. Or, MGARA can continue to operate a state-only program that would use only state authority for reinsurance collections and payments.

We would like the opportunity to discuss these options with you so you can make a fully informed choice about the future of reinsurance in your state. You may call your State Officer, Dawn Horner, at 410-786-1664 to set up such a call or please feel free to contact me personally if you would like to discuss this further. I can be reached at sharon.arnold1@cms.hhs.gov.

Sincerely,

A handwritten signature in cursive script that reads "Sharon Arnold".

Sharon B. Arnold, Ph.D., Director
Payment Policy & Financial Management Group
Center for Consumer Information and Insurance Oversight