



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE GOVERNOR
HARRISBURG

THE GOVERNOR

September 8, 2017

The Honorable Lamar Alexander
Chairman
Committee on Health, Education, Labor and Pensions
United States Senate
455 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Alexander:

Thank you for your request for feedback from state insurance commissioners on opportunities to stabilize the individual health insurance market ahead of the 2018 policy year. Bringing stability to this market for the millions of Americans – including roughly 500,000 Pennsylvanians – who rely on it for access to quality, affordable health coverage is a priority for my administration.

As you may know, I have been working closely with a group of bi-partisan governors to advocate for common sense changes to our health care system that will, among other things, help bring stability to the individual market and that can be agreed to across partisan lines. The Affordable Care Act (ACA) is not perfect, but it has brought unprecedented gains in access to health insurance coverage and to health care services. I believe if we can look to common sense changes like those proposed by myself and my seven colleagues across the nation, we can begin to address some of the issues we see today without sacrificing the gains that have been made since the passage of the ACA. It is in that vein that I share my thoughts on how we can move towards a more stable individual market and ensure that our health care system is providing adequate coverage option for all who need it.

In response to the specific questions posed in your letter, any legislative action to stabilize the individual market must include funding for cost-sharing reduction (CSR) payments for the entirety of 2018 at the very least. When asked about issues creating instability in the market, insurers most often point to uncertainty surrounding the future of cost-sharing reductions and the individual mandate. At this point, the Trump Administration has failed to offer anything longer than a month-to-month commitment of these payments, despite calls for certainty from insurers, legislators, governors, Acting Secretary Miller, and other insurance commissioners around the country. This lack of certainty is driving the rate increase requests and insurer exits we see in markets around the country. Rates are calculated based on predetermined assumptions, and without a guarantee that CSR payments will be made, insurers must seek increases to account for the uncertainty.

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We are now less than three weeks away from our deadline to send final rates for the 2018 policy year to the Department of Health and Human Services (HHS). If legislative action does not come before the September 25 deadline, states would need significant cooperation from the Centers for Medicare and Medicaid Services (CMS) to make changes to rates to reflect any subsequent action taken to secure CSR payments for 2018. There is no guarantee that CMS and HHS will be amenable to making these changes if a firm commitment to CSR payments were to come before consumers begin paying for 2018 coverage, but my administration will do all that we can to try to pass the benefits of this commitment to Pennsylvania consumers.

Despite the limited timeline, I still believe that allocating funds for CSR payments should be a legislative priority. Providing security for these payments through 2018 and beyond would be a good step toward ensuring that insurers start the product development and filing process for 2019 on more stable grounds than they experienced this year. Even if we are too late to provide relief from premium increases for 2018, acting now can prevent the same situation from occurring or getting worse for 2019. I hope that the strict timeline will not deter action that will still have a large positive impact moving forward.

Legislative action including a long-term federal reinsurance program would also help moderate premiums, especially if action on CSR payments is unable to alleviate the impact of uncertainty for 2018. Some states are pursuing this type of program at a state level to stabilize their markets, but not all states are able to accomplish this without federal assistance. A \$15 billion federal reinsurance program was previously included in a proposal to replace the ACA. This funding along with certainty regarding CSR payments and enforcement of the individual mandate to help ensure a balanced risk pool, would be an effective way to help ease the burden of premium increases states have seen over the past few years.

To date, Pennsylvania has not pursued a state innovation waiver under Section 1332, but my administration is evaluating any and all options available that can help stabilize our individual market and address the affordability issues we see in our market place. Earlier this week, Teresa Miller, now Acting Secretary for Pennsylvania's Department of Human Services, testified before your committee on stabilizing individual markets, and in that testimony, she addressed opportunities to change and streamline the Section 1332 waiver process. I echo Acting Secretary Miller's suggestions for improvements in this process.

To improve upon the Section 1332 waiver process, states should be afforded flexibility to make targeted, exigent changes to stabilize the individual market; however, extensive application processes can be preserved for more comprehensive proposals. Given states' budget cycles and legislative processes, the current waiver process may be too long and cumbersome for states to achieve incremental but meaningful changes. Extensive processes that include a comprehensive public input period and legislative action could remain if states were to make significant changes to the structure of their markets. In addition, allowing states to build upon waivers already acquired by other states and considering budget neutrality across multiple waivers would be helpful for states considering waivers as an option to strengthen their markets.

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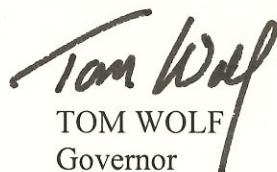
While flexibility may be afforded to states in certain circumstances, coverage improvements made possible by the ACA should not be jeopardized through waivers. Using waivers to eliminate consumer protections would create an inequitable health insurance system, and I firmly believe that Americans are entitled to the baseline protections of the ACA no matter where they live. Any changes to streamline the process to obtain a Section 1332 waiver should not permit states to use these waivers to effectively gut the Affordable Care Act without actually repealing the law.

If Congress were to move forward on these changes – appropriation of funding for CSRs, adoption of a robust federal reinsurance program, the addition of more flexibility through the 1332 waiver process that would not jeopardize the ACA's most critical consumer protections, and while at the same time ensuring that the individual mandate is appropriately enforced – I believe we can put individual markets across the country on a path to stability and give states the tools that we need to implement changes tailored to the unique circumstances of our market. I am also hopeful that these changes would contribute to the moderation of premium growth and begin to tackle the affordability issues that are so important to consumers. Most critically, I believe this stability can be achieved without undoing the important progress made by the ACA to expand coverage and access to care across the nation.

Thank you again for considering the feedback provided and for your commitment to stabilizing this market and helping the millions of consumers around the country who rely on it for access to quality and affordable health care. This response is very similar to what former Commissioner Miller provided to your office earlier this year: we stand by our January 13th letter as ably articulating effective ways to stabilize this market. If you have additional questions, please feel free to reach out to the legislative director at the Pennsylvania Insurance Department, Abdoul Barry, at abbarry@pa.gov or at 717-783-2005.

I look forward to working with you as this process continues.

Sincerely,


TOM WOLF
Governor


JESSICA K. ALTMAN
Acting Insurance Commissioner

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Enclosure: August 31, 2017 Bipartisan Governor's Letter

Cc: United States Senator Patty Murray
United States Senator Bob Casey
United States Senator Pat Toomey