MAINE GUARANTEED ACCESS REINSURANCE ASSOCIATION
Minutes of the Board of Directors
January 29, 2018

A special meeting of the Board of Directors of the Maine Guaranteed Access Reinsurance Association ("MGARA" or the "Association") was held at the offices of Pierce Atwood, LLP in Portland, Maine at 3:00 p.m. on January 29, 2018. Attendance is reflected in the record of attendance set forth below:

Joel Allumbaugh	Jim Koelbl
Jolan F. Ippolito, Chair	Kevin Lewis
Jennifer Juke	Bruce Nicholson
Edward J. Kane	Katherine Pelletreau
Dana Kempton	William M. Whitmore
David Howes	

Also in attendance were Laren Walker (administrator), Chris Howard and Emily Cooke (counsel) and David Williams and Tom Murawski, representatives of Milliman, Inc. (actuary).

1. Presentation of Updated Actuarial Analysis

Representatives of Milliman, Inc. presented a draft Actuarial Analyses and Certification and Economic Analyses in connection with the potential submission by the State of Maine of a State Innovation Waiver under Section 1332 of the federal Patient Protection and Affordable Care Act ("1332 Waiver").

The report represented the culmination of their work and Board interaction beginning in August 2017 and pursued through a series of interactive Board Work Sessions through which each of the key issues affecting the analysis was considered. The Work Sessions are summarized as follows (and in the Work Session Summaries referenced below and attached hereto:

Date	Principal Activities
September 11, 2017	Report on potential waiver application process under Section 1332 of the federal Patient Protection and Affordable Care Act ("1332 Waiver"): Schedule, allocation of responsibility for deliverables and status of communications with Bureau of Insurance (BOI) and federal Centers for Medicare and Medicaid Services ("CMS").
October 16, 2017	Discussion of external events and developments and potential impact on MGARA resumption of operations and 1332 Waiver.
November 27, 2017	Presentation and Board review of Milliman actuarial analysis in connection with potential 1332 Waiver. See November 27,

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	2017 Work Session Summary attached.
December 4, 2017	Presentation and Board review of updates to Milliman actuarial analysis based on Board input; Board discussion and consideration of numerous variables, proposed alternatives, and market developments. See December 4, 2017 Work Session Summary attached.
December 11, 2017	Presentation and Board review of updates to Milliman actuarial analysis based on Board input; substantial discussion of federal pass-through payment reliability risk and options to mitigate. See December 11, 2017 Work Session Summary attached.
December 18, 2017	Meeting with Eric Cioppa, Superintendent of Insurance, Tom Record (BOI counsel) and Marti Hooper (BOI actuary); discussion of BOI views regarding potential 1332 Waiver and relevant external legal and market developments; further discussion of federal pass-through payment reliability risk and options to mitigate. See December 18, 2017 Work Session Summary attached.
January 15, 2018 Quarterly Board Meeting	Regular quarterly Board meeting; approval of past minutes; administrator's financial report; presentation and Board review of Milliman report of actuarial analysis of specified conditions list; discussion of ceding mechanics.
January 22, 2018	Report on communications with CMS regarding proposed 1332 Waiver; discussion and analysis of program mechanics in the event of a resumption of operations. The board reviewed and confirmed the Key Decisions related to the Secton 1332 modeling being finalized by Milliman.

The Board further reviewed previous discussions and conclusions, including the potential benefits of a resumption of operations in the context of a 1332 Waiver as well as significant and continuing concerns regarding federal pass-through payment reliability risk and options to mitigate.

Following extensive discussion, on motion duly made and seconded, it was

RESOLVED: That MGARA support the State's Section 1332 Waiver Application through providing the required actuarial and economic analysis; <u>provided, however</u>, that such support shall be provided subject to the express condition that the Board provides <u>no assurance</u> that it will actually re-start MGARA operations until and unless one or more of the following conditions is satisfied:

1. The State of Maine provides assurance to MGARA that in the event federal pass-through payments are not paid by the federal government to MGARA within 30 days of their due date, then the State will pay to MGARA any such deficiency and MGARA will assign its rights to such pass-through payments to the State or otherwise reimburse the State when and if the past due pass-through payment is made; or

2. Legislation is enacted at the federal level that provides assurance of funding of pass-through payments or other amounts that the Board deems adequate; or

3. Legislation is enacted at the federal level that provides a different solution from a Section 1332 Waiver that the Board deems adequate to re-start MGARA operations.

There being no further business to come before the board, the meeting was adjourned.

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Duly Authorized Officer

Maine Guaranteed Access Reinsurance Association
Summary of Inputs and Discussion/Outcomes
Milliman Presentation and Board Work Session
November 27, 2017

Input	Discussion/Outcome
Goals of the financial model (the "Model") include: • Fiscal solvency and stability • Assessment of impact on the insurance market • Compliance with regulatory guardrails • Elements required in connection with an application for a 1332 State Innovation Waiver (a "1332 Waiver")	Informational -- Previously communicated and understood
Model accounts for various differences in the Maine insurance market post-implementation of the Affordable Care Act, including lower deductibles, mandatory Rx benefits, higher risk pool, and larger individual market	Informational
Model assumes no federally funded CSR for 2018	Informational -- Previously communicated and understood
Model has 4 baseline cases: 1. CSRs funded and Medicaid Expanded 2. CSRs funded and Medicaid not expanded 3. CSRs not funded and Medicaid expanded 4. CSRs not funded and Medicaid not expanded	Board members were unsure why restoration of CSRs in 2019 was seen as a possibility; Milliman explained that they used this as a dynamic variable but saw no specific driver for the assumption
Model includes numerous interdependent variables, producing an iterative/circular framework with the actuarial model and the economic model informing one amother. However, results were **stable across baselines**	Important confidence builder in that stability across baselines mutes the impact of some key variables – Medicaid expansion and CSR payment/lack of payment
Model assumes $4PMPM assessment	General agreement this is appropriate and consistent with statutory limits
Several attachment points explored but best Base Model assumes increased attachment points 90% @ $50,000 and 100% @ $80,000 in 2019 versus $7,500 and $32,500 in 2012)	General agreement this is appropriate and consistent with statutory flexibility to increase attachment points
Model assumes reserves of, alternatively, 5% and 10% of revenue	Board discussed and expressed strong agreement 10% is appropriate and necessary given current market

	conditions
Model assumes mandatory ceding conditions remain the same	This may require modification based on expectation that carriers may limit voluntary cedes (see below)
Kevin Lewis questioned the inter-relationship between reinsurance (whether transitional or a high risk pool) and risk adjustment.	Milliman to circulate Milliman article re this issue
Timing of receipt of federal Pass-Through Payments under a 1332 Waiver is uncertain (i.e., quarterly? annually? in advance/in arrears?)	Expected timing of Pass-Through Payments should be documented in a 1332 Waiver application, as this has critical implications for operational cash flow
Reliability of receipt of federal Pass-Through Payments is uncertain	• Board sees this as a significant area of risk for MGARA and for carriers • 2018 experience of other waiver recipients will be helpful but not dispositive, particularly given timing of 2019 rate filings • Uncertainty is likely to affect volume of voluntary cedes • This may suggest a corresponding expansion of the list of mandatory cede conditions • Note that APTCs were consistently funded, and these payments are essentially APTCs, while CSRs were not. The difference is that CSRs required an appropriation and APTC did not..
Impact of MGARA program on premium rates is in the 8% to 10% range over the life of the model	Generally viewed as a level of rate reduction that justifies MGARA re-start, but concerns regarding

	reliability of pass through payments remains.
Comments around whether the high attachment points and lack of information (Health Statements) would reduce voluntary ceding volume and effect on P/L and surplus.	Generally the reduction in voluntary ceding would likely be positive, as we can assume highly efficient voluntary ceding based on the ceding premiums charged. Milliman to study and report. Question whether we can eliminate voluntary ceding, but that is not allowed under the statute.
Concerns raised regarding the possible effect of carriers partially applying the full amount of the premium reductions suggested by the actuarial analysis.	Questions raised regarding whether The BOI would require the full impact be reflected based on the BOI’s Section 1332 modeling, absent data that points to a different conclusion.

Maine Guaranteed Access Reinsurance Association
Summary of Board Work Session Discussion/Outcomes
December 4, 2017

Input	Discussion/Outcome
Review of variables addressed in additional modeling based on inputs from November 27 meeting:	
• Correction to model to reflect more uniform application of premium reductions across benefit levels, resulting in (1) a reduction in premium change percentages and (2) a modest increase in the attachment points	Informational
• Modeled zero voluntary cedes, resulting in (1) a reduction in premium change percentages and (2) an increase in surplus, which would eventually push the premium change back up toward the expected baseline	Informational; general acknowledgment that a zero voluntary cedes environment would be less administratively complex for carriers
• Modeled 10% higher-than-expected claims, assuming lag in recognition of larger claims, resulting in a need for an offsetting premium reduction of ~3%	Informational
• Modeled impact where carriers apply less than the full amount of premium reduction in an effort to mitigate risk, resulting in (1) declining pass-through payments and (2) material loss each year	General consensus that Bureau would require full amount of premium reductions to be reflected in rates, absent data that points to a different conclusion
Question: Examples of states appropriating funds to cover a high-risk carrier in the event of failure of federal pass-through payments?	Nobody is aware of any states that have addressed this problem as yet. Some states have already appropriated funds to support their programs from inception.
Observation that a failure of federal pass-through payments would ultimately be borne by the carriers in the market in proportion to their respective exposure to the market	Consensus that this is accurate; concern as to implications for market stability and carriers' ability and willingness to bear this risk
Discussion of new market developments since 11/27 meeting, including Senate tax bill and potential repeal of individual mandate	Model identifies limited impact of a repeal of the individual mandate, given limited elasticity in the voluntary self-pay market
Discussion of impact of commencing MGARA assessments in 2018 (for a 2019 restart), where carriers have not priced assessment into their 2018 rates	Discussion whether and to what extent conditions differ now from MGARA's initial assessment prior to inception. The environment is more

	sensitive and carriers had more warning in 2012.

Joel Allumbaugh raised the following alternative proposal:
 	
• In an ACA environment, the market participants MGARA would target are unsubsidized individual market participants
  ○ Approximately 10K individuals, or ~15% of Maine's individual market
• Proposal would create a separate risk pool for this segment of the population
• Expected to result in significant rate relief for that segment
	• Consensus that this option should be explored, including:
	
	  ○ Availability of waiver for applicable risk pool provisions of the ACA
	
	  ○ Impact on premiums and consequential effect on federal bottom line (neutral effect required for 1332 Waiver)
	
	  ○ Whether legislative change to MGARA enabling statute would be necessary
	
	  ○ Degree to which significant premium reductions for the unsubsidized population could create new elasticity in the market, and potential effects
	
	• Acknowledgment that shift in model – particularly if it requires changes to MGARA statute – could delay resumption of operations to 2020
	
	• Consensus that Pierce Atwood should raise this potential alternative model with Bureau as soon as possible, to inform Bureau of the direction of board thinking and obtain Superintendent's input

Discussion of interrelationship between proposed model and the ACA's risk adjustment program	Consensus that this should be examined to confirm no inherent conflict
Procedural next steps	Consensus that, given various developments, no formal board votes are required as of this meeting; Pierce

	Atwood and Milliman authorized to follow up on factual items, and board to reconvene on Monday 12/11

Maine Guaranteed Access Reinsurance Association
Summary of Board work Session Discussion/Outcomes
December 11, 2017

Input	Discussion/Outcome
Report on Milliman's analysis of feasibility of the "Allumbaugh Proposal": Splitting individual market into subsidy-eligible and unsubsidized pools	
• Confirmation that the ACA's single risk pool requirement is a waivable provision under Section 1332	Informational
• **But** 1332 also requires that a waiver not result in increased costs to the federal government	Informational
• Milliman believes the subsidized pool will have a higher risk profile than the unsubsidized (off-Exchange) pool, which will result in increased costs to the federal government, violating the 1332 guardrail noted above	Informational

• Milliman examined possible solution of using MGARA assessments to make the federal government whole
• Problem: Above a 5.7% subsidized market increase, the assessments are insufficient to accomplish this
• Suggested means of mitigation all came up inadequate in Milliman's analysis:
    o Reducing average reinsurance claim amount
    o Reducing frequency of reinsurance claims
    o Increasing reinsurance thresholds
• All of these produced instability and potential insolvency for MGARA
	Informational

Question: Does expected migration out of the on-Exchange market offset the increase in premium in that market?	Milliman modeled this and found that the only movement was at the upper end of the market, close to 400% FPL; not seen as material
Question: Possible to maintain a single pool for rating purposes, but apply reinsurance to only one segment of that pool? Have we exhausted this possibility?	General interest in exploring further; additional discussion/analysis required
Question: Over the next 10 years, rates for the unsubsidized (off-Exchange) population are certain to rise. Can the analysis compare doing nothing versus	

intervening in a targeted way?	
Question: Can we apply for a 1332 waiver conditioned on the receipt of adequate assurances regarding receipt of pass-through payments?	General consensus that "adequate assurances" are likely to be elusive in a climate in which federal government disclaims its obligations with little to no notice; example of 4-day turnaround for CSR shutoff
Discussion of alternative means of obtaining assurance:	
• Obtain pass-through payments in advance	Possible, if federal government will agree Consensus that (1) question should be posed to CMS and (2) actual mechanism of pass-through payments should be researched
• State backstop (i.e., state covers MGARA in the event of a pass-through payment default)	Seen as politically uncertain/unlikely
• Build a reserve to cover such shortfalls	Seen as economically and politically infeasible
• Do nothing and await further developments	Acknowledged to be the default option
Question: How much time does the board have to make decisions for a 2019 restart?	Assuming continuing flexibility from Bureau on rate filings and willingness from CMS to move quickly, probably 45+ days from now to application submission drop-dead date
Procedural next steps	Consensus that Superintendent should be included in these discussions; board to reconvene, with Superintendent and other Bureau representatives, on 12/18

Maine Guaranteed Access Reinsurance Association
Summary of Board Work Session Discussion/Outcomes
December 18, 2017

Attending from the Bureau of Insurance ("BOI"): E. Cioppa, T. Record, M. Hooper

Input	Discussion/Outcome
Restating of basic background for BOI's benefit	Informational

<u>Superintendent's introductory remarks</u>
• Appreciation for the Board's work
• Strong predisposition to 1332 waiver and restart
• But understanding of carriers' concerns, particularly in light of experience with the risk corridor program and CSRs
• BOI has taken certain steps to attempt to mitigate these concerns, including:
    o Discussing with CMS
    o Speaking with Alaska's insurance regulators
• Collins proposal, if successful, will make funds available for reinsurance programs like MGARA
• BOI has experience with carriers filing two sets of rates; BOI's goal, if a 1332 waiver application is filed and a MGARA restart contemplated, would be to make rate decisions as late as possible to have the maximum possible information
• Acknowledgement that BOI cannot force carriers to remain in the market if a restart structure does not work for them
• Ultimately, if the state does not apply for the 1332 waiver, the state will have no chance to receive pass-through funding
	Informational

<u>Discussion of Collins proposal</u> Q: Is a high volume of 1332 waivers expected to result from the Collins legislation? A (BOI): Unclear. Other states seem to be undertaking the same kinds of deliberation that MGARA is wrestling with. Q: How would the Collins bill funds be allocated and how much would be available to Maine/MGARA? A (BOI): Unknown; the main variable is expected to be the number of states that ultimately apply. Q: What is the Trump administration's appetite for the Collins plan? A: Unclear. BOI: Our sense is that any 1332 waiver would need to proceed on a parallel timeframe with the Collins effort; waiting for the Collins process to conclude would not permit a MGARA restart to be reflected in 2019 rates.	Informational
<u>Discussion of possible approaches to mitigate pass-through payment risk</u> • Structure the timing of pass-through payments to maximize certainty of receipt? • Backstop from the state? • Conservative rate filings by the carriers to account for uncertainty (which would in turn result in lower pass-through payments)? • Observe national developments (Alaska, etc.) o BOI willing to remain in touch with Alaska throughout its 2018 experience • Incremental approach in the initial year(s) to limit MGARA's exposure? (See additional discussion below)	Group discussion
<u>Discussion of timing and milestones</u> BOI: We can accommodate rate filing amendments caused by significant extrinsic changes even late in the process Ideal timing: Submit initial 1332 waiver application by late January	Group discussion

<u>Discussion of 1332 waiver flexibility for structural/programmatic changes</u> Q: How rigid is the 1332 application and approval? How much room to adapt to extrinsic changes? A: CMS encourages open communication and is willing to be flexible. But once adopted, the approved waiver will serve to impose parameters on the program's operational structure and function that must be respected. These will inform the actuarial analysis that underpins the waiver.	Informational
<u>Discussion of possible incremental restart</u> Proposal: • Higher attachment points • Fewer auto-cedes • Lower exposure • Lower resulting rate impact • Coverage would then be increased in future years, if federal pass-through payments have been reliably made** **Acknowledgement that CSRs were reliably paid, until they weren't; reversal was fast and sudden. BOI: CMS distinguishes between APTCs versus CSRs.	Group discussion
<u>Discussion of possible cash flow structure</u> Proposal: • Use Collins plan funds for Year 1 • Use Year 1 pass-through funds for Year 2 of operation, and so on	Consensus to raise this possibility with Sen. Collins' office.
Acknowledgement that filing a waiver application generates momentum that can be hard to slow. Concern about political implications of changing course following a 1332 waiver. Recognition of significant risk to carriers if federal funding halts mid-year.	General consensus to carefully document the extent of the Board's/MGARA's commitment at each stage. Continued discussion of options for attempting to mitigate this risk, including possible incremental restart (see below).

Next steps & conclusions	Board and BOI consensus that 1332 waiver and restart process must be a partnership between BOI and the Board; without Board consensus, a 1332 waiver and/or restart cannot proceed. Consensus to move forward, working closely with BOI, with the intent of filing a 1332 waiver application, with the understanding that there will be breakpoints and decision points along the way.