Merrill's Wharf
254 Commercial Street
Portland, ME

ANNUAL REPORT TO JOINT STANDING COMMITTEE ON HEALTH CARE, INSURANCE AND FINANCIAL SERVICES

May 1, 2019

{W6674417.2}

I. INTRODUCTION

This report is submitted pursuant to 24-A MRS § 3955(5). Pursuant to that statute, the Maine Guaranteed Access Reinsurance Association (the "Association") is required to make an annual report to the Joint Standing Committee on Health Care, Insurance and Financial Services. The report must include information on the Association's financial solvency and administrative expenses.

II. BACKGROUND INFORMATION

Introduction. Prior to the implementation of the ACA, Maine was a leader in state-level innovation designed to reduce Mainers' healthcare costs and increase their access to affordable health coverage. The State's flagship innovation was Maine Guaranteed Reinsurance Association ("MGARA"), a legislatively established private nonprofit organization operating a reinsurance program for the higher-risk segment of the State's individual health insurance market. MGARA generated an approximate 20% annual rate reduction in that market during two years of operation governed by a Board of Directors consisting of 12 members, with 7 members appointed by the Maine Superintendent of Insurance and 5 members appointed by the member insurers .

In May 2011, the Maine State Legislature passed Public Law Chapter 90 "An Act to Modify Rating Practices for Individual and Small Group Health Plans and to Encourage Value-based Purchasing of Health Care Services" ("PL90"). Included in the many components of PL90 was the establishment of MGARA as a reinsurance program for the higher risk segment of Maine's individual health insurance market. The portion of PL90 establishing MGARA was codified at 24-A MRS c. 54-A.

MGARA was formally organized as a Maine non-profit corporation on January 23, 2012 and, following an initial start-up phase, commenced reinsurance operations on July 1, 2012. MGARA operated for an 18 month period beginning July 1, 2012 and ending December 31, 2013. Effective as of January 1, 2014, MGARA's operations were suspended. The suspension was scheduled to expire on December 31, 2023, unless an earlier re-start was authorized.

Program Description. As a foundational matter, the Board developed a basic mission statement for MGARA to be used as a guide and filter for all major decisions to be made in implementing its reinsurance program. The mission statement has two parts:

1. To operate the reinsurance program described in the Enabling Act in such manner as to maximize the impact of MGARA in lowering the cost of health insurance in Maine's individual market; and

2. To do so without jeopardizing the solvency of MGARA.

The reinsurance program operated by MGARA reinsures health insurance policies ceded to MGARA by primary carriers operating in Maine's individual health insurance market either voluntarily or on a mandatory basis based on the presence of certain specified high-risk conditions. MGARA's reinsurance program was intended to reduce insurance costs in Maine's individual health insurance market by providing reinsurance for a significant portion of the coverage provided through individual health insurance policies. Originally, MGARA's reinsurance program provided reinsurance coverage for 90% of reinsured claims between $7,500 and $32,500 and 100% of reinsured claims over $32,500 (without a cap). These levels have now been adjusted in connection with the re-start of MGARA as of January 1, 2019.

MGARA's reinsurance program costs were originally spread across the individual, group and self-insurance markets by means of a two-part funding mechanism:

1. Assessments payable by all health insurers and third-party administrators operating in the State of Maine and

2. Reinsurance ceding premiums charged to the carriers ceding policies to MGARA.

Throughout its period of operation, MGARA set the assessment at $4 per person per month ("PMPM") and premiums at a rate of 90% of the premium charged under the underlying policy.

Historical Results. Over MGARA's period of active operation (2012 6 mo. and 2013), MGARA paid approximately $66 million in claims and generated a positive fund balance of approximately $5 million. Based on rate filings submitted by insurance carriers operating in Maine's individual market, the MGARA program generated an approximate 20% reduction in requested rates. By way of example, Anthem Health Plans of Maine, Inc.'s ("Anthem") 2013 rate filing sought a rate increase of 1.7%. Anthem projected that without the MGARA reinsurance program, its 2013 rate increase would have been 21.6%.

Suspension. Despite this success, the MGARA reinsurance program was rendered largely redundant during the pendency of the federal transitional reinsurance program established under the ACA and Department of Health and Human Services ("Federal Transitional Reinsurance Program"), because both programs offered reinsurance for the individual health insurance market in Maine. Although the reinsurance offered under each program was very different, each program served essentially the same function. The ACA established a three-year federal transitional reinsurance program, which, like MGARA, was funded through assessments on each state's insurance market, including Maine's. In order to avoid imposing redundant costs on the Maine market through parallel federal and state individual market reinsurance programs, consistent with recommendations from MGARA and the Superintendent, the Legislature amended MGARA's enabling legislation to suspend MGARA's reinsurance program during the pendency of the Federal Reinsurance Program. That legislation called for reactivation of MGARA as of January 1, 2017. The Federal Transitional Reinsurance Program ended as scheduled on December 31, 2016; however, subsequent legislation extended MGARA's suspension through December 31, 2023, unless an earlier re-start is authorized by the Superintendent of Insurance.

The extension of MGARA's suspension resulted from the realization that the current structure of the ACA's subsidies for Exchange participants in the form of advance premium tax credits ("PTC") creates an economic disincentive for Maine to implement any MGARA-like reinsurance program. To the extent a reactivated program has the effect of reducing premiums for many persons obtaining individual health insurance coverage on the federally-facilitated exchange in Maine (the "Exchange"), these lower premiums would in turn decrease the PTC amount to which Maine's Exchange participants are entitled, and which the federal government must pay, under the ACA. This result would represent a measurable cost-savings to the federal government, effectively funded by assessments on Maine's insurance market.

Solution - 1332 State Innovation Waiver. A solution to the PTC conflict described above was identified under Section 1332 of the ACA, which permits a state to apply for approval to waive specific provisions of the ACA to permit the state to operate a health insurance program that deviates from certain ACA requirements, provided that the state can demonstrate that its program will:

1. Provide coverage to a comparable number of residents of the state as would be provided coverage absent the waiver,

2. Provide coverage that is at least as comprehensive and affordable as would be provided absent the waiver, and

3. Would not increase the Federal deficit."

Under Section 1332, a state that applies for and receives a waiver (a "1332 Waiver") is eligible to receive "the aggregate amount of such [premium tax] credits or [cost-sharing] reductions that would have been paid on behalf of participants in the Exchanges … had the State not received such waiver, … for the purposes of implementing the State plan under the waiver." Accordingly, once a 1332 Waiver was approved, Maine would be eligible to receive pass-through funding equal to the federal government's cost-savings resulting from MGARA's positive effect on premium rates and corresponding reduction in the amount of PTC claimed by Maine's Exchange participants. The 1332 Waiver would be effective for an initial period of five years, with an option to renew for an additional five years.

III. Current Status

Key Dates and Events. On June 2, 2017 LD 659 was enacted (the "Legislation"), authorizing the State Superintendent of Insurance ("Superintendent") to develop a proposal for a 1332 Waiver to facilitate resumption of the State Program, and to apply for and implement such waiver upon approval by the Governor. The Legislation conditioned resumption of MGARA operations on the granting of a 1332 Waiver.

On July 30, 2018, the State of Maine received approval from the United States Department of Health & Human Services, Centers for Medicare & Medicaid Services ("CMS") of its Application for State Innovation Waiver under Section 1332 of the Patient

Protection and Affordable Care Act attached hereto as Exhibit A ("Section 1332 Waiver Application"). On August 21, 2018 the State of Maine accepted the Section 1332 Waiver by executing and delivering to CMS the Specific Terms and Conditions of the Section 1332 Waiver, a copy of which is attached hereto as Exhibit B ("STCs"). The Section 1332 Waiver Application and the STCs are collectively referred to as the "Section 1332 Waiver."

On August 18, 2018, the MGARA Board approved the re-initiation of MGARA operations as of January 1, 2019, and the submission of an amended and restated Plan of Operation for approval by the Maine Superintendent of Insurance based on the conceptual changes to the Original Plan summarized below, which have been incorporated into this Amended and Restated Plan of Operation (January 1, 2019 Re-Start).

In late December MGARA received approval of its Amended and Restated Plan of Operation for a January 1, 2019 Re-Start of operations. The following tables summarize both the major changes(Table No. 1) and the constants (Table No. 2) under MGARAs Amended and Restated Plan of Operation

Table No.1
Summary of Changes

Change	Description
Implementation	Re-Start operations 1/1/19
1332 Pass Through Payment Revenue	Provide for receipt of 1332 Innovation Waiver Pass-Through Payments. Pass-through payments for the year are calculated based on the agreed upon financial model and approved rates for that year. A true-up calculation and payment will be performed by CMS after year end.
Attachment Points	Attachment Pt 1 - @ $47,000 MGARA reimburses 90% of claims to $77,000. Attachment Pt 2 - @ $77,000 MGARA reimburses 100% of claims not reimbursed through the federal high-cost risk pool ("Federal High-Cost Risk Pool").
Federal High-Cost Risk Pool	Under the Federal High-Cost Risk Pool for 2019 carriers are eligible for reimbursement of 60% of claims above $1 million.

Table No. 2
Summary of Unchanged "Constants"

Element	Description

Assessment	Maintain $4 PMPM assessment level (with $2 PMPM emergency solvency assessment held in reserve).
Premium	Maintain ceding premium levels at 90% of underlying policy premium.
Mandatory Ceding Conditions	Maintain same 8 mandatory ceding conditions as the Original Plan.
Future Attachment Points	MGARA has flexibility to adjust assessment levels, premium and attachment points. Current expectations are to maintain assessment and premium levels, with potential adjustments to be made to attachment points to reflect program performance and a targeted minimum 10% surplus.

Projected 2019 Financial Model. Total funding for MGARA for 2019 is estimated to be approximately $93 million. MGARA estimates that its reinsurance program will result in a net premium decrease of approximately 9% in 2019, and reduce the uninsured population between 300 and 1,100 individuals. Set forth in Table No.3 below is MGARA's financial model for anticipated MGARA operations.

Table No. 3
MGARA 2019 Financial Model

Revenue:		Percent of Revenue
Assessment	$22,600,000	24.3%
Reinsurance Premium	$37,000,000	39.8%
1332 Pass-Through Payments	$33,400,000	35.9%
Total Revenue	$93,000,000	100%
Expenses:		
Reinsurance Claims	$89,700,000	96.4%
Operating Expenses	$ 700,000	0.8%
Total Expenses	$90,400,000	97.2%
Solvency Margin	$2,600,000	2.8%

IV. 2019 Operations

Projected Program Impact. MGARA re-initiated its reinsurance program effective January 1, 2019 in accordance with its Amended and Restated Plan of Operation dated January 1, 2019 approved by the MBOI in late December 2018. MGARA projects a positive impact on premiums ranging from approximately 9% to 10% over the period 2019-2023. It goes without saying that the health care environment is extremely dynamic and that these are only estimates based on MGARA's actuarial and financial model. Actual results will, no doubt, vary from current modeling, and those variances could be substantial. Nevertheless, the projected impact of the program is significant.

Implementation. Prior to initiating operations MGARA conducted a series of implementation workshops with participating insurance carriers throughout the fall of 2018 focused on the operational work necessary to prepare for restart under the MGARA Plan. The result of these workshops is a fully operational reinsurance program with an integrated process established with each participating carrier, available to cover high-risk individuals on a mandatory ceding or discretionary ceding basis, as described in the MGARA Plan. In general, MGARA operates like a traditional reinsurance program: the ceding carrier pays MGARA a premium, and in return, MGARA pays a portion of the carrier's claims if they exceed the specified attachment point. Beginning January 1, 2019, MGARA is collecting a reinsurance premium for each ceded policy that is equal to 90% of the underlying insurance premium, and reimburse the ceding carrier for eligible claims incurred during each calendar year under the policy, at (i) 90% of claims paid between $47,000 and $77,000; and (ii) 100% of claims paid in excess of $77,000, net of amounts recoverable from the Federal High Cost Risk Pool ("Attachment Points").

MGARA has initiated its Base Market Assessment assessed to health insurers based on the number of insured lives covered by each insurer or third party administrator ("TPA") at a rate of $4 per member per month ("PMPM") for all insureds in the Individual, Small Group, Large Group and Self-Insured Markets serviced through a TPA, as more specifically described in the MGARA Plan. The first 2019 Quarterly Assessment is due on May 15, 2019.

MGARA has not yet experienced any appreciable level of ceding activity, and a very limited volume of ceding activity is expected until the second quarter of 2019. The reasons for this forecast are the timing requirements for Discretionary Ceding and Mandatory Ceding, and the anticipated pace of achieving the Attachment Points. With respect to Discretionary Ceding, carriers are not required to provide notice to MGARA until 120 days from the Designation Eligibility Date for such person. "Designation Eligibility Date" means the later of (i) the effectuation date of the policy or (ii) the insurer's receipt of the binding payment on the policy. With respect to Mandatory Ceding, carriers are required to provide notice of ceding to MGARA as promptly as possible following identification of the mandatory ceding condition; however that notice may occur at any time during the policy year that the mandatory ceding condition is identified, with ceding effective retroactive to the beginning of the policy year for both claims and premium. Because these notices are primarily anticipated to be claim driven, the pace of ceding will trend toward post first quarter activity.

Reinsurance Claims Processing. MGARA has established an ACH based claims payment function integrated with each participating carrier. Eligible Claims are reported after the initial Attachment Point for a reinsured member is satisfied. Within ninety (90) days thereafter, the insurer is required to report to MGARA all claims for that individual since the reinsurance effective date. Reimbursement for eligible claims will be paid via ACH transfer to he insurer's account for eligible claims incurred during the period of reinsurance coverage which are submitted (i) within ninety (90) days (x) from the date the initial Attachment Point for a member is satisfied and (y) thereafter, from the date the claim was paid, and (ii) no more than twelve (12) months from the date the expenses were incurred, in each case unless the insurer demonstrates that the claimant was not legally capable of submitting the claims within such timeframe. In the event of prolonged subrogation proceedings or other extraordinary circumstances which make compliance with the 12-month deadline infeasible, insurers shall have the right to apply to MGARA for an extension of the 12-month deadline, and MGARA shall have the right, but not the obligation, to extend the deadline for such period and under such terms and conditions as MGARA may deem appropriate. The claims payment submission deadline will be extended to accommodate claims reporting under retroactively ceded policies ceded on a timely basis, in which case all existing claims under the policy shall be reported together with the Ceding Notice, and thereafter are subject to the reporting deadlines specified above.

V. FINANCIAL POSITION

Attached hereto is the Association's Audited Financial Statements for the 12 months ended December 31, 2019. All information set forth therein is incorporated herein by reference.