Section 1332 of the Patient Protection and Affordable Care Act (PPACA)
State Innovation Waivers - Reinsurance Waiver Annual Report

Reporting Instructions: Please capture data for annual 1332 waiver grant reporting in this template, which has been developed based on paragraph 10 of your specific terms and conditions (STC), and in accordance with 45 CFR 155.1324(b)-(c). For any items that are marked "if applicable," please refer to the requirements in your STCs to determine whether you need to fill in those data fields. Draft annual reports are due within 90 days of the end of each calendar year that your waiver is in effect.

STATE: Maine

A. GRANTEE INFORMATION		
1. Reporting Period End Date Dec 31, 2020	**2. Report Due Date** Mar 31, 2020	**3. Report Submitted On (Date)**
4. Federal Agency and Organization Element to Which Report is Submitted Consumer Information & Insurance Oversight		
5. Federal Grant Number Assigned by Federal Agency 1 SIWIW190009-01-00	**6a. DUNS Number** 004493515	**6b. EIN** 45-4331075
7. Recipient Organization Name Maine Guaranteed Access Reinsurance Association		
Address Line 1 c/o Christopher E. Howard, Pierce Atwood, 254 Commercial St.		
Address Line 2		
Address Line 3		
City Portland	**State** ME	**Zip Code** 04101
Zip Extension	**8. Grant Period Start Date** Jan 1, 2019	**9. Grant Period End Date** Dec 31, 2023
10. Other Attachments (attach other documents as needed or as instructed by the awarding Federal agency)		
MGARA Response 6/16/20 to Annual Consolidated SME Comment Template - Section 1332 State Innovation Waivers is attached hereto for ease of reference.		

Reinsurance Waiver Annual Report

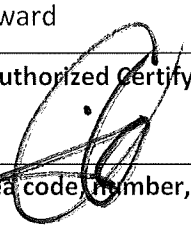
B. REPORT CERTIFICATION

11. Certification: I certify to the best of my knowledge and belief that this report is correct and complete for performance of activities for the purposes set forth in the award documents.

11a. Typed or printed name and title of Authorized Certifying Official

Christopher E. Howard

11b. Signature of Authorized Certifying Official



11c. Telephone (area code, number, and extension)

(207) 791-1335

11d. E-mail address

choward@pierceatwood.com

11e. Date report submitted (month/day/year)

C. PROGRESS OF SECTION 1332 WAIVER - General

12. Provide an update on progress made in implementing and/or operating the state's approved 1332 waiver program.

GRANT-RELATED INFORMATION

- Grant issued on 04/30/2019.

- Relinquishment and Grant Transfer to the Maine Guaranteed Access Reinsurance Association (MGARA) completed 6/26/19.

- Draw downs for 12 months ended 12/31/19 = $62,298,300. AS of 12/31/19 $6,453,627 remained in un-drawn Grant proceeds, but that amount was drawn in January 2020.

MGARA-RELATED INFORMATION

MGARA re-initiated operations as of January 1, 2019 and concluded its first full year of operation under the Section 1332 Grant as of December 31, 2019. For the 12 months ended 12/31/19, total income was $131,643,917, including $24,871,679 in regular assessment revenue, premiums received of $43,803,628 and $62,298,300 in 1332 grant revenue. Gain on investments and interest income totaled $270,310. Claims incurred for the period totaled $90,532,123, with IBNR of $14,900,000 which together with operational expenses of $986,740 resulted in total expense of $106,418,864. MGARA monthly operations report December, 2019 is attached for reference.

Reinsurance Waiver Annual Report

With respect to assessment revenue exceeding projections, we do not have a definitive analysis but our sense is that this was driven by largely by better than anticipated response from the TPA (self-insured) community:

(i) MGARA put greater emphasis on collections from TPAs and received substantial support from the Superintendent of Insurance.
(ii) The MGARA re-start and the fact that assessment were applicable to TPAs providing services to self-insured businesses received significant publicity within the employer community and may have increased employer awareness that their TPAs owed assessments, resulting in higher payment rates.

The decrease in ceded lives is likely attributable in part to the uptake in the Medicaid expansion. However, we do not have a complete explanation for the decrease vs. our model.

The increase in claim costs is attributable to higher than projected claim costs. 2019 year end analysis of claim costs showed significant increases over projected levels in our 1332 Waiver application - Mandatory cedes average reinsurance claim was $19,394 vs. $14,000 projected and Discretionary cedes average claim was $36,943 vs. $24,583 projected (these values are from an analysis conducted in Dec 2019).

13. Describe any implementation and/or operational challenges to meet the 1332 statutory guardrails, and plans for and results of associated corrective actions. After the first year, only report on changes and/or updates, as appropriate.

See response attached hereto and incorporated herein by reference.

Reinsurance Waiver Annual Report

D. PROGRESS OF SECTION 1332 WAIVER - State-Specific		
14. Metrics to assist evaluation of the waiver's compliance with statutory requirements in Section 1332(b)(1)		
	Value	**Comments (if applicable)**
a. Actual individual market enrollment **on** the Exchange in the state	64,253	
Actual individual market enrollment **off** the Exchange in the state	7,351	
b. Actual average individual market premium rate **on** the Exchange (i.e., total individual market premiums divided by total member months of all enrollees)	Individual On Exchange Premium - PMPM: $674.35 Individual On Exchange Member - Months: 710,912	
Actual average individual market premium rate **off** the Exchange (i.e., total individual market premiums divided by total member months of all enrollees)	Individual Off Exchange Premium - PMPM: $602.56 Individual Off Exchange Member - Months: 84,040	
c. Actual Second Lowest Cost Silver Plan (SLCSP) premium for Exchange plans under the waiver for a representative consumer (e.g., a 21-year old non-smoker) in each rating area		
Estimate of the SLCSP premium for Exchange plans as it would have been without the waiver for a representative consumer (e.g., a 21-year old non-smoker) in each rating area		
d. ***For states with State-based Exchanges,*** actual amount of Advanced Premium Tax Credit (APTC) paid to issuers, by rating area for the plan year		

Reinsurance Waiver Annual Report

	Value	Comments (if applicable)
e. ***For states with State-based Exchanges,*** actual number of APTC recipients for the plan year. This should be reported as number summed over all 12 months and divided by 12 to provide an annualized measure.		

15. Please confirm whether there was any impact of the waiver on the scope of benefits or Essential Health Benefit (EHB) benchmark.

None.

16. Describe any changes to the state-operated reinsurance program, including changes to the funding level the program will be operating at for the next plan year, any changes to the approved payment parameters for reinsurance program reimbursement or changes to eligibility criteria for enrollees' claims to be reimbursed under the program.

MGARA has revised the program's attachment points from 90% of claims at $47,000 and 100% of claims at $77,000 to 90% of claims at $65,000 and 100% of claims at $95,000. The revised attachment points went in to effect 1/1/20 for the 2020 program year.

There were a myriad of factors for adjusting the attachment points. The attachment points are determined by the Board (and approved by the Maine Superintendent of Insurance) based on the overall actuarial and financial model for MGARA for the program year, which takes into consideration a series of factors influencing the projected results of the programs operation for each program year, including revenue from all sources (assessment, premium and grant), and projected expenses (including most significantly claim costs).

At the $65,000/$95,000 Attachments Points, we are projecting 2020 premiums at $37.9 million with slight downward pressure on Voluntary Ceding due to the increased attachment points and overall 6.5% premium trend. That will result in total projected revenues (including assessment, premium and grant) of projected $86.6 million. We are projecting 2020 incurred claims at $80.9 million resulting in a $5.1 million addition to surplus at year end 2020.

17. Describe any changes in state law that might impact the waiver and the date(s) these change occurred or are expected to occur.

See response attached hereto and incorporated herein by reference.

18. Report on spending:

Reinsurance Waiver Annual Report

	Value	Comments (if applicable)
a. Amount of Federal pass-through funding spent on individual claim payments to issuers from the reinsurance program	$61,843,523	The reporting is for the plan year 2019.
b. Amount of Federal pass-through funding spent on operation of the reinsurance program	$454,777	
c. Amount of any unspent balance of Federal pass-through funding for the reporting year	$0	
d. Amount of state funding contribution to fully fund the program for the reporting year	$69,345,617	The reporting is for the plan year 2019.

19.*If applicable*, provide a claims breakout at an aggregate level for the top 5 conditions or cost drivers of the 5 conditions, including settings of care in the individual market.

See response attached hereto and incorporated herein by reference.

20. *If applicable*, report on any incentives for providers, enrollees, and plan issuers to continue managing health care cost and utilization for individuals eligible for reinsurance.

The MGARA Plan of Operation requires claim management of reinsured and non-reinsured claims on an undifferentiated basis. Claims management is subject to audit and penalties for failure to comply. requirement.

21. *If applicable*, report of any reconciliation of reinsurance payments that the state wishes to make for any duplicative reimbursement through the state reinsurance program for the same high cost claims reimbursed through the Department of Health and Human Services (HHS)-operated high cost risk adjustment program.

	Value	Comments (if applicable)
a. Reinsurance payment (before reconciliation) for high-cost claims to issuers who also receive payment through the HHS risk adjustment program under the high-cost risk pool		No reconciliations to report. MGARA reinsurance is net of any reimbursement through this program.
b. Risk adjustment amount paid by HHS for those claims		

Reinsurance Waiver Annual Report

c. Reinsurance reconciliation (or true-up) amount applied		

E. POST-AWARD FORUM

22. Was the date, time, and location of the Post-Award Forum advertised 30 days in advance?

(●) Yes

( ) No

23. State website address where Post-Award Forum was advertised

https://www.maine.gov/pfr/insurance/

24. Date Post-Award Forum took place

May 24, 2019

25. Summary of Post-Award Forum, held in accordance with §155.1320(c), including all public comments received and actions taken in response to concerns or comments.

See Summary of Post Award Public Forum attached hereto.

26. Other Attachments (attach other documents as needed pertaining to Post-Award Form)

F. STATE INTERNAL IMPLEMENTATION REVIEW - ATTESTATION

27. Attestation: The state attests that periodic implementation reviews related to the implementation of the waiver have been conducted in accordance with 31 CFR 33.120(b) and 45 CFR 155.1320(b).

(●) Yes

( ) No

28. Describe the state's implementation review process.

The MGARA Board meets with the program administrators and managers quarterly (in a face-to-face setting) for a 2 hour meeting and monthly (by conference call) for a 1 hour meeting to receive reports on, and review, all aspects of program implementation. Follow up reports and meetings are held as required.

MGARA Supplementary Materials to Annual Report for 2019

Response to Question # 10

See attached MGARA Response 6/16/20 to Annual Consolidated SME Comment Template - Section 1332 State Innovation Waivers Included in Final Report for Ease of Reference

Updated 5/18/2020
MGARA Response 6/16/20

ANNUAL CONSOLIDATED SME COMMENT TEMPLATE
SECTION 1332 STATE INNOVATION WAIVERS

State: Maine	Project Officer: Robert Yates	Grant Number: SIWIW190005

	Reviewer Organization	Q #	Text/Data in Question	Comment or Concern	MGARA Response to Comments and Questions
PROGRESS OF SECTION 1332 WAIVER - General				N/A	
PROGRESS OF SECTION 1332 WAIVER – State Specific	CCIIO FO	14	Some data not available until April	What is the status of data available for actual individual market premiums (on & off Exchange) actual SLCSP with waiver, and estimated SLCSP without waiver?	Individual On Exchange Premium PMPM: $674.35 Individual On Exchange Member Months: 710,912 Individual Off Exchange Premium PMPM: $602.56 Individual Off Exchange Member Months: 84,040
	CCIIO FO	14c	Actual SLCSP with MGARA and estimated SLCSP without MGARA (pg. 48)	Why does the "without MGARA" scenario only have Anthem as an issuer for all rating areas (no Harvard or CHO)?	The 2nd lowest cost Silver without MGARA is correct as shown. Anthem had all the plans in each service area that were the 2nd lowest cost Silver in the "without MGARA" scenario.
	CCIIO FO	16	MGARA revised attachment points	When did the revised attachment points go into effect for 2020 or 2021? If not for 2021, what are the payment parameters? We understand you adjusted the parameters as a result of the decreased pass-through. Was that the only factor for adjusting the parameters?	The revised attachment points went in to effect 1/1/20 for the 2020 program year. The new attachment points (referred to in the question as payment parameters) are 90% of eligible claims at $65,000 and 100% of eligible claims at $95,000. There were a myriad of factors for adjusting the attachment points. The attachment points are determined by the Board (and approved by the Maine Superintendent of Insurance) based on the overall actuarial and financial model for MGARA for the program year, which takes into consideration a series of factors influencing the projected results of the programs operation for each program year, including revenue from all sources

<table>
<tr><td></td><td></td><td></td><td></td><td></td><td>(assessment, premium and grant), and projected expenses (including most significantly claim costs).</td></tr>
<tr><td></td><td>CCIIO FO</td><td>16</td><td>MGARA has revised the program's attachment points from 90% of claims at $47,000 and 100% of claims at $77,000 to 90% of claims at $65,000 and 100% of claims at $95,000.</td><td>What is estimated impact of the reinsurance parameter changes on the 2020 annual reinsurance reimbursements? What is the new estimate of total reinsurance reimbursements for 2020?</td><td>At the $65,000/$95,000 Attachments Points, we are projecting 2020 premiums at $37.9 million with slight downward pressure on Voluntary Ceding due to the increased attachment points and overall 6.5% premium trend. That will result in total projected revenues (including assessment, premium and grant) of projected $86.6 million. We are projecting 2020 incurred claims at $80.9 million resulting in a $5.1 million addition to surplus at year end 2020.</td></tr>
<tr><td></td><td>CCIIO FO</td><td>18a & d</td><td>a) Amount of federal pass-through spent on individual claim payments (~$61.8M); d) Amount of state funding contribution (~$69.3M)</td><td>Are the numbers reported federal pass-through spending and state contribution to date or for the plan year?</td><td>The reporting is for the plan year 2019.</td></tr>
<tr><td></td><td>CCIIO FO</td><td>19</td><td>Top 5 conditions shown by ICD 10 code and MGARA condition</td><td>Does ME have top 5 conditions by HCC?</td><td>The top 5 conditions by HCC are:
<table>
<tr><td>1</td><td>HCC 8</td><td>Mastic Cancers</td><td>$22,406,722.06</td></tr>
<tr><td>2</td><td>HCC 160</td><td>Chronic Obstructive Pulmonary Disease, Including Bronchiectasis</td><td>$ 7,734,959.00</td></tr>
<tr><td>3</td><td>HCC 130</td><td>Congestive Heart Failure</td><td>$ 7,407,838.69</td></tr>
<tr><td>4</td><td>HCC 56</td><td>Rheumatoid Arthritis and</td><td>$ 4,500,797.16</td></tr>
</table></td></tr>
</table>

					<table><tr><td></td><td></td><td>Specified Autoimmune Disorders</td><td></td></tr><tr><td>5</td><td>HCC 48</td><td>Inflammatory Bowel Disease</td><td>$ 3,505,833.33</td></tr></table> Combines Mandatory and Discretionary lives. There is $25 million that did not map to any HCC, because the crosswalk does not map out most of the Renal Failure ICD-10's (it only mapped N184-N186, where we cede at N170-N189 among a few others). We have verified that is correct due to the risk adjustment not applying to the early stages of Renal Failure which accounts for $13,027,198.13 of that $25 million. Without that $13 million our Renal Failure (4+) only accounts for less than $1 million in claims.
	Treasury/OTA	12	"...total income was $131,643,917, including $24,871,679 in regular assessment revenue, premiums received of $43,803,628...."	Does Maine have any sense of what drove the greater-than-anticipated assessment/premium revenue? Is this largely attributable to the fact that Medicaid was not fully expanded in 2019?	We do not have a definitive analysis but our sense is that this was driven by largely by better than anticipated response from the TPA (self-insured) community: (i) MGARA put greater emphasis on collections from TPAs and received substantial support from the Superintendent of Insurance. (ii) The MGARA re-start and the fact that assessment were applicable to TPAs providing services to self-insured businesses received significant publicity within the employer community and may have increased employer awareness that their TPAs owed assessments, resulting in higher payment rates.
	Treasury/OTA	12	Supplemental data on ceded lives (p. 10)	What is Maine's understanding of why the reinsurance claims were higher than projected but the number of ceded lives lower?	The decrease in ceded lives is likely attributable in part to the uptake in the Medicaid expansion. However, we do not have a complete explanation for the decrease vs. our model. The increase in claim costs is attributable to higher than projected claim costs. 2019 year end analysis of claim costs showed significant increases over projected levels in our 1332 Waiver application - Mandatory cedes average reinsurance claim

					was $19,394 vs. $14,000 projected and Discretionary cedes average claim was $36,943 vs. $24,583 projected (these values are from an analysis conducted in Dec 2019).
	OACT	16	MGARA has revised the program's attachment points from 90% of claims at $47,000 and 100% of claims at $77,000 to 90% of claims at $65,000 and 100% of claims at $95,000.	What is estimated impact of the reinsurance parameter changes on the 2020 annual reinsurance reimbursements? What is the new estimate of total reinsurance reimbursements for 2020?	At the $65,000/$95,000 Attachments Points, we are projecting 2020 premiums at $37.9 million with slight downward pressure on Voluntary Ceding due to the increased attachment points and overall 6.5% premium trend. That will result in total projected revenues (including assessment, premium and grant) of projected $86.6 million. We are projecting 2020 incurred claims at $80.9 million resulting in a $5.1 million addition to surplus at year end 2020.
POST AWARD FORUM				N/A	
ADDITONAL ANNUAL REPORT QUESTIONS				N/A	
STATE INTERNAL IMPLEMENTATION REVIEW ATTESTATION				N/A	

	Reviewer Organization	Comment or Concern
Do you have any comments or concerns on the report overall?	N/A	N/A
Do you have specific questions you would like asked of the waiver grantee?	N/A	N/A

Do you have any concerns about the grantee meeting any of the statutory guardrails? (select all that apply)			
☐ Comprehensiveness	☐ Affordability	☐ Coverage	☐ Deficit Neutrality

Reviewer Organization:	**Comments on guardrail compliance:**
N/A	N/A
N/A	N/A
Federal Periodic Review requested? ***(Note: All grantees submitting their first annual report must participate in an FPR)***	○ Yes ◉ No

MGARA Supplementary Materials to Annual Report for 2019

Additional Information in Response to Question # 12

MGARA
Balance Sheet
as of 12/31/2019

	2019	2018
Assets		
Cash/Investments (Note 1)	$50,888,682	$4,669,878
Assessment Receivable	7,014,514	0
Accrued Investment Interest Receivable	181,416	18,060
Allowance for Bad Debts	0	0
Premium Receivable	4,539,020	0
Grant Receivable	6,453,627	0
Claims Receivable	0	0
IBNR Premiums	400,000	0
Prepaid Expenses	0	0
Total Assets	$69,477,258	$4,687,938
Liabilities		
Accounts Payable (Note 2)	$310,776	$22,293
Claims Payable	24,375,784	0
IBNR Liability	14,900,000	0
Deferred Assessment Liability	0	0
Line of Credit	0	0
Total Liabilities	$39,586,560	$22,293
Fund Balance	$29,890,698	$4,665,645

Statement of Revenues and Expenditures
For the 12 Months Ending December 31, 2019

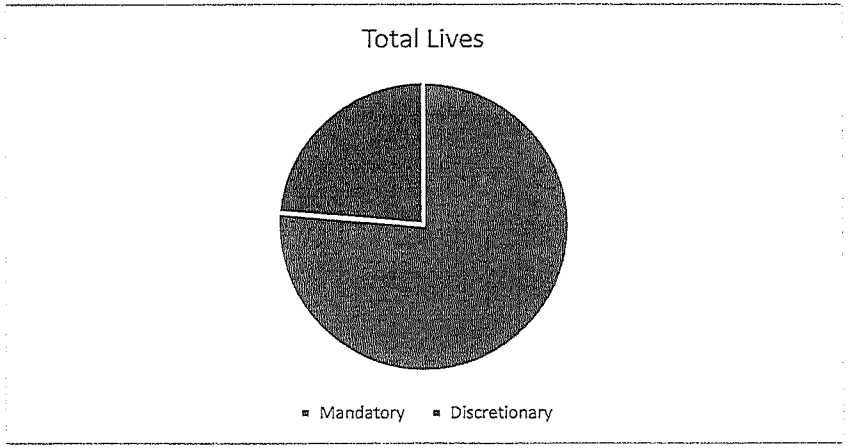
	Current Month	YTD 2019	YTD 2018	Full Year 2019 Projected*	2019 YTD % of Projected
Revenues					
Regular Assessment	$7,930,838	$24,871,679	-	$22,600,000	110%
Additional Assessment	-	-	-		
Premiums	4,621,117	43,803,628	-	37,000,000	118%
Grant Revenue (Note 4)	16,994,897	62,298,300	-	33,400,000	187%
Change in Premium IBNR	400,000	400,000			
Gain on Investments	23,333	(51,574)	(10,909)		
Penalty Income	-	-	-		
Interest Income	45,840	321,884	98,640		
Misc Income	-	-	-		
Total Income	$30,016,025	$131,643,917	$87,731	$93,000,000	142%
Total Income excluding Assessments and Grants		$44,473,938	$87,731	$33,400,000	133%
Expenditures					
Claims Incurred	$11,654,779	$90,532,123	$0	$89,700,000	101%
Change in IBNR	14,900,000	14,900,000	-		
Administration Fees	87,947	659,315	66,000		
Interest Expense	-	-	-		
Professional Fees (Note 3)	29,748	298,811	385,824	700,000	141%
Insurance Expense	-	18,923	11,270		
Bank Charges	973	8,163	1,202		
Other Expenses	-	1,528	-		
Total Expenses	$26,673,448	$108,418,864	$464,295	$90,400,000	118%
Revenues excluding Assessments and Grants in Excess of Expenditures	$-21,583,157	$-61,944,926	$-376,565	$-57,000,000	109%
Revenues in Excess of Expenditures/ (Expenditures in Excess of Revenues)	$3,342,579	$25,225,053	$-376,565	$2,600,000	970%
Fund Balance - Beginning		$4,665,645	$5,042,210	$4,665,645	
Fund Balance - Ending		$29,890,698	$4,665,645	$7,265,645	

MGARA
Supplemental Information
Information provided through January 20, 2020

	Prior Report Total Lives	Additions Cur Month	Terminations Cur Month	Total Lives	Total Projected Lives	% Of Projected
Mandatory	3,106	368	782	2,692	4,300	63%
Discretionary	947	11	123	835	1,200	70%
Total Ceded Risks MGARA	4,053	379	905	3,527	5,500	64%

Total Unique Lives enrolled since January 1, 2019	**5,767**
Total Claims Paid since January 1, 2019	**$90,532,123**

TOTAL



MGARA Supplementary Materials to Annual Report for 2019

Response to Question # 13

REVENUES AND CEDING: The MGARA program finished 2019 with revenues of $69.3 million exclusive of 1332 Grant proceeds, compared with $59.6 million projected in its application. Assessment revenues were slightly ahead of projection at $24.9 million vs. $22.6 million projected. Premiums totaled $43.8 million compared to projected $37 million, representing 118% of projected. Mandatory Cedes accounted for $34.1M compared with $28.9 million projected (118% of projected), and Discretionary Cedes accounted for $9.7M compared to $8.1 million projected (119% of projected). The shortfall in Mandatory Ceding highlighted in our last quarterly report was effectively addressed through the guidance provided to the carriers in November 2019. Discretionary Ceding continued on pace through Q4. Despite the increased level of premium, the relative proportion of Mandatory Cedes and Discretionary Cedes finished consistent with the proportion projected in the MGARA application at approximately 22% Discretionary Cedes and 78% Mandatory Cedes. Total lives ceded to MGARA were 3,527 compared to 5,500 projected, with 2,692 Mandatory Cedes and 835 Discretionary Cedes compared to 4,300 and 1,200 projected.

CLAIMS: The MGARA program finished 2019 with total incurred claims of $90.5 million and IBNR of $14.9 million. Mandatory Cedes accounted for $53.5 million in incurred claims and Discretionary Cedes accounted for $37 million of incurred claims. Discretionary Cedes continued to demonstrate a higher than projected level of efficiency representing 41% of incurred claims vs. the projected 33%. MGARA commissioned a study by its actuarial form (Milliman) regarding the effect of reducing the discretionary ceding window. The differentials between completion of risk scores at 120 days and 0 days were minimal – 88% at 120 days vs. 77% at 60 days. This was generally viewed as a minimal impact in light of the cost to carriers of shrinking the window, and no change has been made in the Discretionary Ceding window for 2020. The increased efficiency will be reflected in MGARA modelling for 2020.

OVERAL FINANCIAL POSITION AND PERFORMANCE: MGARA concluded 2019 with an ending Fund Balance of $29.9 million, resulting in large part from the increase in 1332 grant proceeds from the projected $33.4 million to $62.3 million. To account for the anticipated reduction in 1332 grant proceeds for 2020 to $26.3 million, MGARA has revised the program's attachment points from 90% of claims at $47,000 and 100% of claims at $77,000 to 90% of claims at $65,000 and 100% of claims at $95,000. The reinsurance premium will remain at 90% of underlying premium and the Mandatory Ceding Conditions will also remain the same as 2019. The Fund Balance for 2019 exceeded MGARA's targeted surplus of 10% of revenues.

OPERATIONS: MGARA operations executed according to plan without any operational issues. The only operational inconsistency to plan was the lack of consistency among carriers with respect to Mandatory Ceding, which was corrected through the issuance of additional guidance in November, which largely

resolved these inconsistencies. Operational costs were $969,700 vs, $700,000 projected, however the bulk of this difference is attributable to variable cost of administration, and represent 0.73% of revenue, consistent with projection.

MGARA Supplementary Materials to Annual Report for 2019
Response to Question 14(c)

14c. SLCSP with MGARA

Area 1- Cumberland, Sagadahoc, York	Anthem	Anthem Silver X HMO 5800	$354.19
Area 2- Knox, Lincoln, Oxford, Kennebec	Harvard	Maine's ChioceSM HMO Silver 6200	$372.89
Area 3- Androscoggin, Franklin, Waldo			$391.53
Area 3- Penobscot, Piscataquis, Somerset	CHO	Community Foundation HMO	$451.56
Area 4- Aroostook, Hancock, Washington	Anthem	Anthem Silver X POS 4800	$542.79

14c. Without MGARA

Area 1- Cumberland, Sagadahoc, York	Anthem*	Anthem Silver X HMO 5800	$383.75
Area 2- Knox, Lincoln, Oxford, Kennebec			$402.95
Area 3- Androscoggin, Franklin, Waldo			$424.03
Area 3- Penobscot, Piscataquis, Somerset		Anthem Silver X POS 5800	$473.41
Area 4- Aroostook, Hancock, Washington		Anthem Silver X POS 4800	$588.08

* Anthem had all the plans in each service area that were the 2nd lowest cost Silver in the "without MGARA" scenario.

MGARA Supplementary Materials to Annual Report for 2019

Response to Question # 17

The State enacted LD 2007 "An Act To Enact the Made for Maine Health Coverage Act and Improve Health Choices in Maine ("LD 2007"), a copy of which is appended hereto for reference. Among the changes in Maine law made by LD 2007 are two changes with major implications for MGARA to be effective in the year 2022 provided certain preconditions are satisfied. LD 2007 establishes a pooled market for individual health plans and small group health plans and changes MGARA reinsurance program from its current prospective model to a retrospective model that is applied to the pooled market, thus bringing both individual health plans and small group health plans within its scope. The legislation authorizes the State and MGARA to file an amendment to MGARA's existing 1332 Waiver and implementation of the pooled market and the change to a retrospective program are conditioned on the granting of the Waiver amendment. These changes have no effect on MGARA's operations for the years 2020 and 2021, other than the additional activities associated with preparing and filing the amendment application.

129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document	No. 2007
H.P. 1425	House of Representatives, January 8, 2020

An Act To Enact the Made for Maine Health Coverage Act and Improve Health Choices in Maine

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Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

Robert B. Hunt

ROBERT B. HUNT
Clerk

Presented by Speaker GIDEON of Freeport. (GOVERNOR'S BILL)
Cosponsored by President JACKSON of Aroostook.

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 22 MRSA c. 1479 is enacted to read:

CHAPTER 1479

MADE FOR MAINE HEALTH COVERAGE ACT

§5401. Short title

This Act may be known and cited as "the Made for Maine Health Coverage Act."

§5402. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Educated health care consumer. "Educated health care consumer" means an individual who is knowledgeable about the health care system, has no financial interest in the delivery of health care services or sale of health insurance and has a background or experience in making informed decisions regarding health, medical or scientific matters.

2. Federal Affordable Care Act. "Federal Affordable Care Act" means the federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and any amendments to or regulations or guidance issued under those acts.

3. Marketplace. "Marketplace" means the Maine Health Insurance Marketplace established by this chapter.

4. Marketplace trust fund. "Marketplace trust fund" means the Maine Health Insurance Marketplace Trust Fund established by this chapter.

5. Superintendent. "Superintendent" means the Superintendent of Insurance.

§5403. Maine Health Insurance Marketplace established

The Maine Health Insurance Marketplace is established to conduct the functions defined in 42 United States Code, Section 18031(d)(4). The purpose of the marketplace is to benefit the State's health insurance market and persons enrolling in health insurance policies, facilitate the purchase of qualified health plans, reduce the number of uninsured individuals, improve transparency and conduct consumer education and outreach.

§5404. Powers and duties of the commissioner

1. Powers. In addition to any other powers specified in this chapter and subject to any limitations contained in this chapter or in any other law, the commissioner:

A. Has and may exercise powers necessary to carry out the purposes for which the marketplace is organized or to further the functions in which the marketplace may lawfully be engaged, including the creation and operation of the marketplace;

B. May charge user fees to health insurance carriers that offer qualified health plans in the marketplace or otherwise secure funding necessary to support the functions of the marketplace subject to the limitations imposed by section 5406;

C. May apply for and receive funds, grants or contracts from public and private sources to be used for marketplace functions;

D. May enter into interagency agreements with state or federal entities as considered necessary to efficiently and effectively perform marketplace functions; and

E. May enter into contracts with qualified 3rd parties both private and public for any service necessary to carry out marketplace functions.

2. Duties. The commissioner shall:

A. Direct the operations of the marketplace as provided in this chapter;

B. Consult with stakeholders regarding the execution of the functions of the marketplace required under this chapter. Stakeholders include, but are not limited to:

(1) Educated health care consumers who are enrollees in qualified health plans;

(2) Individuals and entities with experience in facilitating enrollment in qualified health plans;

(3) Representatives of small businesses and self-employed individuals;

(4) Representatives and members of the MaineCare program;

(5) Advocates for enrolling hard-to-reach populations;

(6) Representatives of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians and the Aroostook Band of Micmacs, appointed by the tribes' respective chiefs in consultation with their tribal councils;

(7) Representatives of health care providers;

(8) Representatives of insurance carriers;

(9) Representatives of insurance producers; and

(10) Any other groups or representatives required by the federal Affordable Care Act and recommended by the commissioner;

C. Accept recommendations from the superintendent on certification of qualified health plans and shall exercise the discretion to delegate to the superintendent authority and duties as appropriate for effective administration of the marketplace, including but not limited to the responsibility for plan management. Authority delegated pursuant to this paragraph is in addition to any other powers or duties of the superintendent established by statute with respect to the marketplace; and

D. Initially and subsequently as needed assess and report to the Legislature on the feasibility and cost of the State's using the federal platform as described in 45 Code of

Federal Regulations, Section 155.200(f) compared to the State's performing all the functions of a state-based marketplace as described in 45 Code of Federal Regulations, Section 155.200. These reports must consider the availability of federal grants, whether existing user fees are sufficient to create and operate state-run functions and whether use of a state-run platform would improve the accessibility and affordability of health insurance in the State.

§5405. Maine Health Insurance Marketplace Trust Fund

1. Establishment. The Maine Health Insurance Marketplace Trust Fund is established as a special fund within the State Treasury for the deposit of any funds generated by user fees, any funds secured by the commissioner for marketplace functions, federal funds and any funds received from any public or private source. The marketplace trust fund must be administered by the commissioner for the purposes set forth in this chapter, including the deposit of money that may be received pursuant to and disbursements permitted by this chapter.

2. Deposit and use of money. Money deposited into the marketplace trust fund must be held solely for the purposes set forth in this chapter as determined by the commissioner, including but not limited to costs of initial start-up and creation of the marketplace, marketplace operations, outreach, enrollment and other functions supporting the marketplace, including any efforts that may increase market stabilization and that may result in a net benefit to the participants in the marketplace. All interest earned from the investment or deposit of money in the marketplace trust fund must be deposited into the marketplace trust fund. All accrued and future earnings from money held by the marketplace trust fund, including but not limited to money obtained from the Federal Government and fees, must be available to the marketplace. Any unexpended balance in the marketplace trust fund at the end of a year may not lapse and must be carried forward to be available for expenditure by the commissioner in the subsequent year for marketplace functions.

§5406. User fees

The commissioner shall charge a user fee to all carriers that offer qualified health plans in the marketplace. The user fee must be paid monthly by the carrier and deposited into the marketplace trust fund and may be used only for marketplace functions. The user fee must be applied at a rate that is a percentage of the total monthly premium charged by a carrier for each qualified health plan sold in the marketplace and may not exceed the total user fee rate charged by the Federal Government for use of the federally facilitated exchange during plan year 2020. The rate is 0.5% during any period that the State is using the federal platform as described in 45 Code of Federal Regulations, Section 155.200(f) and 3% during any period that the State is performing all the functions of a state-based marketplace as described in 45 Code of Federal Regulations, Section 155.200.

§5407. Rulemaking

The commissioner may adopt rules as necessary for the proper administration and enforcement of this chapter. Rules adopted pursuant to this section are routine technical

rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted pursuant to this section must be consistent with the federal Affordable Care Act and state law.

§5408. Technical assistance from other state agencies

State agencies, including but not limited to the Department of Professional and Financial Regulation, Bureau of Insurance, the Department of Administrative and Financial Services, Bureau of Revenue Services and the Maine Health Data Organization, shall provide technical assistance and expertise to the marketplace upon request.

§5409. Records

Except as provided in this section or by other provision of law, information obtained by the marketplace under this chapter is a public record within the meaning of Title 1, chapter 13, subchapter 1.

1. Financial information. Any personally identifiable financial information, supporting data or tax return of any person obtained by the marketplace under this chapter is confidential and not open to public inspection pursuant to 26 United States Code, Section 6103 and Title 36, section 191.

2. Health information. Health information obtained by the marketplace under this chapter that is covered by the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, or information covered by Title 22, section 1711-C is confidential and not open to public inspection.

§5410. Relation to other laws

Nothing in this chapter and no action taken by the marketplace pursuant to this chapter may be construed to preempt or supersede the authority of the superintendent to regulate the business of insurance within this State.

§5411. Reporting

Beginning in 2021 and annually thereafter, the marketplace shall submit a report to the Governor and the Legislature summarizing enrollment, the affordability of health insurance for consumers using the marketplace, marketing activity and operations. This report must be submitted no later than 45 days after the end of the open enrollment period.

PART B

Sec. B-1. 24-A MRSA c. 34-A is enacted to read:

CHAPTER 34-A

STATE-FEDERAL HEALTH COVERAGE PARTNERSHIPS

§2781. State-federal health coverage partnerships

1. Partnerships authorized. The State may enter into state-federal health coverage partnerships that support the availability of affordable health coverage in the State in accordance with this section. As used in this chapter, "state-federal health coverage partnership" means a program established or authorized under federal law that provides or reallocates federal funding or that provides for the waiver or modification of otherwise applicable provisions of federal laws governing health insurance. "State-federal health coverage partnership" includes, but is not limited to, innovation waivers under Section 1332 of the federal Affordable Care Act.

2. Application. Unless the applicable federal laws, regulations or administrative guidelines require a different state official to be the applicant, the superintendent may apply to the appropriate federal agency or agencies to establish or participate in a state-federal health coverage partnership or to modify the terms and conditions of an existing partnership if the superintendent determines that the application, if approved, is likely to improve the affordability, availability or quality of health coverage in this State and the Governor approves the submission of the application.

3. Notice and consultation. The superintendent shall ensure that all federally required notices and opportunities for consultation with respect to a state-federal health coverage partnership or proposed partnership are provided. The superintendent shall take any additional measures that may be necessary to identify persons and constituencies likely to be materially affected by a state-federal health coverage partnership or proposed partnership and to provide such persons and constituencies with reasonable notice and opportunity for input.

4. MaineCare program and Maine Health Insurance Marketplace. A state-federal health coverage partnership may coordinate with the MaineCare program or the Maine Health Insurance Marketplace established in Title 22, chapter 1479 and incorporate provisions affecting these programs, including but not limited to a joint Medicaid Section 1115 demonstration waiver and state innovation waiver, with the approval or joint application of the Commissioner of Health and Human Services.

Sec. B-2. 24-A MRSA c. 34-B is enacted to read:

CHAPTER 34-B

POOLED MARKET AND CLEAR CHOICE DESIGN

§2791. Affordable health coverage for individuals, families and small businesses

1. Pooled market established. Subject to the requirements of subsection 5, all individual and small group health plans offered in this State with effective dates of coverage on or after January 1, 2022 must be offered through a pooled market. Health insurance carriers offering individual health plans subject to this section shall make the same health plans available to eligible small employers, and health insurance carriers offering small group health plans subject to this section shall make the same health plans available to all residents of this State. This subsection does not require the Maine Health

Insurance Marketplace established in Title 22, chapter 1479 to offer identical choices of health plans to individuals and to small employers under Title 22, chapter 1479.

2. Premium rates. Premium rates for a health plan offered in the pooled market described in subsection 1 may not vary based on whether the plan is issued to an individual or to a small employer. Rate filings and review for the pooled market are subject to the provisions of sections 2736 to 2736-C. For health plans that are issued on other than a calendar year basis, rates applicable on and after January 1st of any plan year must be the approved rates for the most similar plan offered during the new calendar year, adjusted by a factor, approved by the superintendent as part of the rating plan, that appropriately accounts for any differences in plan design.

3. Harmonization of mandated benefit laws. A health plan subject to this section must comply with either the applicable mandated benefit provisions in chapter 33 or the corresponding provisions of chapter 35. A health maintenance organization or a nonprofit hospital and medical service organization may offer any health plan approved by the superintendent for sale in the pooled market established pursuant to this section, notwithstanding any provision of chapter 56 or Title 24 to the contrary.

4. Conforming references. All references in this Title to the individual health insurance market, the small group health insurance market or any equivalent terminology refer to the pooled market established pursuant to this section.

5. Preconditions for pooled market. This section may not be implemented unless routine technical rules as defined in Title 5, chapter 375, subchapter 2-A are adopted to implement this section and the Federal Government approves a state innovation waiver amendment that both extends reinsurance under section 3953 to the pooled market established pursuant to this section and projects that average premium rates would be the same or lower than they would have been absent the provisions of this section.

§2792. Clear choice designs

The superintendent shall develop clear choice designs for the individual and small group health insurance markets in order to reduce consumer confusion and provide meaningful choices for consumers by promoting a level playing field on which carriers compete on the basis of price and quality.

1. Clear choice design. For the purposes of this section, "clear choice design" means a set of annual copayments, coinsurance and deductibles for all or a designated subset of the essential health benefits. An individual or small group health plan subject to section 2791 must conform to one of the clear choice designs developed pursuant to this section unless an opt-out request is granted under subsection 4.

2. Development of clear choice designs. The superintendent shall develop clear choice designs in consultation with working groups consisting of consumers, carriers, health policy experts and other interested persons. The superintendent shall adopt rules for clear choice designs, taking into consideration the ability of plans to conform to actuarial value ranges, consumer needs and promotion of benefits with high value and return on investment. There must be at least one clear choice design available at each tier

of health insurance plan designated as bronze, silver, gold and platinum in accordance with the federal Affordable Care Act. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Clear choice designs apply to all individual and small group health plans offered in this State with effective dates of coverage on or after January 1, 2022.

3. Annual review. The superintendent shall consider annually whether to revise, discontinue or add any clear choice designs for use by carriers in the following calendar year, including but not limited to considering whether deductible and copayment levels should be changed to reflect medical inflation and conform with actuarial value and annual maximum out-of-pocket limits.

4. Opt-out request. A carrier may offer a health plan that modifies one or more specific cost-sharing parameters in a clear choice design developed pursuant to this section if the carrier requests to opt out of the requirement in subsection 1 and demonstrates to the satisfaction of the superintendent that the alternative plan design offers significant consumer benefits and does not result in adverse selection. If the opt-out request is granted, the carrier may also choose to offer another plan conforming to the original unmodified clear choice design.

Sec. B-3. 24-A MRSA §2808-B, sub-§2, ¶E, as amended by PL 2019, c. 96, §1, is repealed and the following enacted in its place:

E. The superintendent may authorize a carrier to establish a separate community rate for an association group organized pursuant to section 2805-A or a trustee group organized pursuant to section 2806 consistent with the provisions of this paragraph and applicable federal law.

(1) Association group membership or eligibility for participation in the trustee group may not be conditioned on health status, claims experience or other risk selection criteria.

(2) All health plans offered by the carrier through that association or trustee group must be made available on a guaranteed issue basis to all eligible employers that are members of the association or are eligible to participate in the trustee group except that a professional association may require that a minimum percentage of the eligible professionals employed by a subgroup be members of the association in order for the subgroup to be eligible for issuance or renewal of coverage through the association. The minimum percentage must not exceed 90%. For purposes of this subparagraph, "professional association" means an association that:

(a) Serves a single profession that requires a significant amount of education, training or experience or a license or certificate from a state authority to practice that profession;

(b) Has been actively in existence for 5 years;

(c) Has a constitution and bylaws or other analogous governing documents;

(d) Has been formed and maintained in good faith for purposes other than obtaining insurance;

(e) Is not owned or controlled by a carrier or affiliated with a carrier;

(f) Has at least 1,000 members if it is a national association; 200 members if it is a state or local association;

(g) All members and dependents of members are eligible for coverage regardless of health status or claims experience; and

(h) Is governed by a board of directors and sponsors annual meetings of its members.

(3) The aggregate rate charged by the carrier to the association or trustee group is considered a large group rate, and the terms of coverage are considered a large group health plan. Rates for participating employers within the group may vary only as permitted by paragraphs B to D-2.

(4) Producers may only market association memberships, accept applications for membership or sign up members in a professional association in which the individuals are actively engaged in or directly related to the profession represented by the professional association.

(5) Carriers may not be reinsured under section 3958 for coverage issued under this paragraph.

(6) Except for employers with plans that have grandfathered status under the federal Affordable Care Act, this paragraph does not apply to policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2014 until December 31, 2019. To the extent permitted under the federal Affordable Care Act, this paragraph applies to policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2020.

Sec. B-4. 24-A MRSA §2808-B, sub-§2-A, as amended by PL 2009, c. 244, Pt. C, §7 and c. 439, Pt. D, §1, is further amended to read:

2-A. Rate filings. A carrier offering small group health plans shall file with the superintendent the community rates for each plan and every rate, rating formula and classification of risks and every modification of any formula or classification that it proposes to use.

A. Every filing must state the effective date of the filing. Every filing must be made not less than 60 days in advance of the stated effective date, unless the 60-day requirement is waived by the superintendent. The effective date may be suspended by the superintendent for a period of time not to exceed 30 days.

B. A filing and all supporting information, except for protected health information required to be kept confidential by state or federal statute and except for descriptions of the amount and terms or conditions or reimbursement in a contract between an insurer and a 3rd party, are public records notwithstanding Title 1, section 402, subsection 3, paragraph B and become part of the official record of any hearing held pursuant to subsection 2-B, paragraph B or ~~F~~ section 2791, subsection 2.

C. Rates for small group health plans must be filed in accordance with this section and subsections 2-B and 2-C or section 2791, as applicable, for premium rates effective on or after July 1, 2004, except that the ~~filing of~~ rates for small group health plans are not required to account for any payment or any recovery of that payment pursuant to subsection 2-B, paragraph D and former section 6913 for rates effective before July 1, 2005.

Sec. B-5. 24-A MRSA §2808-B, sub-§2-B, as amended by PL 2011, c. 364, §15, is further amended to read:

2-B. Rate review and hearings. Except as provided in subsection 2-C and section 2791, rate filings are subject to this subsection.

A. Rates subject to this subsection must be filed for approval by the superintendent. The superintendent shall disapprove any premium rates filed by any carrier, whether initial or revised, for a small group health plan unless it is anticipated that the aggregate benefits estimated to be paid under all the small group health plans maintained in force by the carrier for the period for which coverage is to be provided will return to policyholders at least 75% of the aggregate premiums collected for those policies, as determined in accordance with accepted actuarial principles and practices and on the basis of incurred claims experience and earned premiums. For the purposes of this calculation, any payments paid pursuant to former section 6913 must be treated as incurred claims.

B. If at any time the superintendent has reason to believe that a filing does not meet the requirements that rates not be excessive, inadequate or unfairly discriminatory or that the filing violates any of the provisions of chapter 23, the superintendent shall cause a hearing to be held. Hearings held under this subsection must conform to the procedural requirements set forth in Title 5, chapter 375, subchapter 4. The superintendent shall issue an order or decision within 30 days after the close of the hearing or of any rehearing or reargument or within such other period as the superintendent for good cause may require, but not to exceed an additional 30 days. In the order or decision, the superintendent shall either approve or disapprove the rate filing. If the superintendent disapproves the rate filing, the superintendent shall establish the date on which the filing is no longer effective, specify the filing the superintendent would approve and authorize the insurer to submit a new filing in accordance with the terms of the order or decision.

C. When a filing is not accompanied by the information upon which the carrier supports the filing or the superintendent does not have sufficient information to determine whether the filing meets the requirements that rates not be excessive, inadequate or unfairly discriminatory, the superintendent shall require the carrier to furnish the information upon which it supports the filing.

D. A carrier that adjusts its rate shall account for the savings offset payment or any recovery of that savings offset payment in its experience consistent with this section and former section 6913.

Sec. B-6. 24-A MRSA §2808-B, sub-§2-C, as amended by PL 2011, c. 364, §16, is further amended to read:

2-C. Guaranteed loss ratio. Notwithstanding subsection 2-B, rate filings for a credible block of small group health plans may be filed in accordance with this subsection instead of subsection 2-B, except as otherwise provided in section 2791. Rates filed in accordance with this subsection are filed for informational purposes.

A. A block of small group health plans is considered credible if the anticipated average number of members during the period for which the rates will be in effect meets standards for full or partial credibility pursuant to the federal Affordable Care Act. The rate filing must state the anticipated average number of members during the period for which the rates will be in effect and the basis for the estimate. If the superintendent determines that the number of members is likely to be less than needed to meet the credibility standard, the filing is subject to subsection 2-B.

Sec. B-7. 24-A MRSA §3952, sub-§4-A is enacted to read:

4-A. Eligible claim. "Eligible claim" means either:

A. For a high-priced item or service, a claim amount that is no greater than 200% of the allowed charge determined for the item or service under the original Medicare fee-for-service program under Part A and Part B of Title XVIII of the Social Security Act for the applicable year; or

B. For all other items or services, a claim paid by the member insurer in accordance with the terms of the policy.

Sec. B-8. 24-A MRSA §3952, sub-§5-A is enacted to read:

5-A. High-priced item or service. "High-priced item or service" means an item or service covered under the original Medicare fee-for-service program under Part A and Part B of Title XVIII of the Social Security Act that the board, in consultation with and based on analysis by the Department of Health and Human Services and Maine Health Data Organization, has identified in advance of a plan year that contributes to association costs and offers an opportunity for savings.

Sec. B-9. 24-A MRSA §3952, sub-§6, as enacted by PL 2011, c. 90, Pt. B, §8, is amended to read:

6. Insurer. "Insurer" means an entity that is authorized to write medical insurance or that provides medical insurance in this State. For the purposes of this chapter, "insurer" includes an insurance company, a nonprofit hospital and medical service organization, a fraternal benefit society, a health maintenance organization, a self-insured employer subject to state regulation as described in section 2848-A, a 3rd-party administrator, a multiple-employer welfare arrangement, a reinsurer that reinsures health insurance in this State, or a captive insurance company established pursuant to chapter 83 that insures the health coverage risks of its members~~, the Dirigo Health Program established in chapter 87 or any other state-sponsored health benefit program whether fully insured or self-funded~~.

Sec. B-10. 24-A MRSA §3952, sub-§9, as enacted by PL 2011, c. 90, Pt. B, §8, is amended to read:

9. Member insurer. "Member insurer" means an insurer that offers individual health plans and is actively marketing individual health plans in this State. In any calendar year in which the association reinsures small group health plans, "member insurer" also includes an insurer that offers small group health plans and is actively marketing small group health plans in this State.

Sec. B-11. 24-A MRSA §3953, sub-§1, as amended by PL 2017, c. 124, §1, is further amended to read:

1. Guaranteed access reinsurance mechanism established. The Maine Guaranteed Access Reinsurance Association is established as a nonprofit legal entity. As a condition of doing business in the State, an insurer that has issued or administered medical insurance within the previous 12 months or is actively marketing a medical insurance policy or medical insurance administrative services in this State must participate in the association. ~~The Dirigo Health Program established in chapter 87 and any other state-sponsored health benefit program shall also participate in the association. Unless an earlier resumption of operations is ordered by the superintendent in accordance with paragraph A, operations of the association are suspended until December 31, 2023 except to the extent provided in section 3962 and the association may not collect assessments as provided in section 3957, provide reinsurance for member insurers under section 3958 or provide reimbursement for member insurers under section 3961 as of the date on which a transitional reinsurance program established under the authority of Section 1341 of the federal Affordable Care Act commences operations in this State.~~

~~A. If the board proposes a revised plan of operation that calls for the resumption of operations earlier than December 31, 2023 and the superintendent determines that the revised plan is likely to provide significant benefit to the State's health insurance market, the superintendent may order the association to resume operations in accordance with the revised plan. This paragraph applies only if:~~

~~(1) An innovation waiver under Section 1332 of the federal Affordable Care Act as contemplated by paragraphs B and C is granted; or~~

~~(2) The federal Affordable Care Act is repealed or amended in a manner that makes the granting of an innovation waiver unnecessary or inapplicable.~~

~~B. After consulting with the board and receiving public comment, the superintendent may develop a proposal for an innovation waiver under Section 1332 of the federal Affordable Care Act that facilitates the resumption of operations of the association in a manner that prevents or minimizes the loss of federal funding to support the affordability of health insurance in the State.~~

~~C. With the approval of the Governor, the superintendent may submit an application on behalf of the State in accordance with the proposal developed under paragraph B for the purposes of resuming operations of the association to the United States Department of Health and Human Services and to the United States Secretary of the Treasury to waive certain provisions of the federal Affordable Care Act as provided in Section 1332. The superintendent may implement any federally approved waiver.~~

Sec. B-12. 24-A MRSA §3955, sub-§1, ¶D, as enacted by PL 2011, c. 90, Pt. B, §8, is amended to read:

D. Establish procedures for the handling and accounting of association assets; and

Sec. B-13. 24-A MRSA §3955, sub-§1, ¶E, as amended by PL 2011, c. 621, §2, is repealed.

Sec. B-14. 24-A MRSA §3955, sub-§2, ¶H, as enacted by PL 2011, c. 90, Pt. B, §8, is amended to read:

H. ~~Apply for~~ Accept and administer funds or grants from public or private sources, including federal grants, and apply for such funding.

Sec. B-15. 24-A MRSA §3956, sub-§3, ¶C, as enacted by PL 2011, c. 90, Pt. B, §8, is amended to read:

C. Following the close of each calendar year in which premiums are collected for reinsurance, determine reinsurance premiums less any administrative expense allowance, the expense of administration pertaining to the reinsurance operations of the association and the incurred losses of the year, and report this information to the superintendent; and

Sec. B-16. 24-A MRSA §3957, sub-§9, as enacted by PL 2011, c. 90, Pt. B, §8, is repealed.

Sec. B-17. 24-A MRSA §3958, as amended by PL 2011, c. 621, §§4 and 5, is further amended to read:

§3958. Reinsurance; premium rates

1. Reinsurance amount. A member insurer offering an individual health plan under section 2736-C must be reinsured by the association to the level of coverage provided in this subsection and is liable to the association for ~~the~~ any applicable reinsurance premium at the rate established in accordance with subsection 2. For calendar year 2022 and subsequent calendar years, the association shall also reinsure member insurers for small group health plans issued under section 2808-B, unless otherwise provided in rules adopted by the superintendent pursuant to section 2791, subsection 5.

A. Beginning July 1, 2012, except as otherwise provided in paragraph A-1, the association shall reimburse a member insurer for claims incurred with respect to a person designated for reinsurance by the member insurer pursuant to section 3959 ~~or 3961~~ after the insurer has incurred an initial level of claims for that person of $7,500 for covered benefits in a calendar year. In addition, the insurer is responsible for 10% of the next $25,000 of claims paid during a calendar year. The amount of reimbursement is 90% of the amount incurred between $7,500 and $32,500 and 100% of the amount incurred in excess of $32,500 for claims incurred in that calendar year with respect to that person. For calendar year 2012, only claims incurred on or after July 1st are considered in determining the member insurer's reimbursement. ~~The~~ With the approval of the superintendent, the association may annually adjust the initial level of claims and the maximum limit to be retained by the insurer to reflect ~~increases~~ changes in costs ~~and~~, utilization ~~within the standard market for individual health plans within the State. The adjustments may not be less~~

~~than the annual change in the Consumer Price Index for medical care services unless the superintendent approves a lower adjustment factor as requested by,~~ available funding and any other factors affecting the sustainable operation of the association.

A-1. Subject to approval by the superintendent, the association shall operate a retrospective reinsurance program providing coverage to member insurers for all individual and small group health plans issued in this State with effective dates on and after January 1, 2022.

(1) The association shall reimburse member insurers based on the total eligible claims paid during a calendar year for a single individual in excess of the attachment point specified by the board. The board may establish multiple layers of coverage with different attachment points and different percentages of claims payments to be reimbursed by the association.

(2) Eligible claims by all individuals enrolled in individual or small group health plans in this State may not be disqualified for reimbursement on the basis of health conditions, predesignation by the member insurer or any other differentiating factor.

(3) The board shall annually review the attachment points and coinsurance percentages and make any adjustments that are necessary to ensure that the retrospective reinsurance program operates on an actuarially sound basis.

(4) The board shall ensure that any surplus in the retrospective reinsurance program at the conclusion of a plan year is used to lower attachment points, increase coinsurance rates or both for that plan year, consistent with its responsibility to ensure that the program operates on an actuarially sound basis.

B. ~~An~~ A member insurer shall apply all managed care, utilization review, case management, preferred provider arrangements, claims processing and other methods of operation without regard to whether claims paid for coverage are reinsured under this subsection. A member insurer shall report for each plan year the name of each high-priced item or service for which its payment exceeded the amount allowed for eligible claims and the name of the provider that received this payment. The association shall annually compile and publish a list of all reported names.

2. Premium rates. The association, as part of the plan of operation under section 3953, subsection 3, shall establish a methodology for determining premium rates to be charged member insurers to reinsure persons eligible for coverage under this chapter. The methodology must include a system for classification of persons eligible for coverage that reflects the types of case characteristics used by insurers for individual health plans pursuant to section 2736-C, together with any additional rating factors the association determines to be appropriate. The methodology must provide for the development of base reinsurance premium rates, subject to approval of the superintendent, set at levels that, together with other funds available to the association, will be sufficient to meet the anticipated costs of the association. The association shall periodically review the methodology established under this subsection and may make changes to the methodology as needed with the approval of the superintendent. The association may consider adjustments to the premium rates charged for reinsurance to reflect the use of effective cost containment and managed care arrangements by an insurer. This

subsection does not apply to reinsurance with respect to any calendar year for which the association operates a retrospective reinsurance program under subsection 1, paragraph A-1.

Sec. B-18. 24-A MRSA §3959, sub-§1, ¶A, as enacted by PL 2011, c. 621, §6, is amended to read:

A. By using ~~the health statement developed by the board pursuant to section 3955, subsection 1, paragraph E or by using~~ the person's claims history or risk scores or any other reasonable means;

Sec. B-19. 24-A MRSA §3959, sub-§5 is enacted to read:

5. Inapplicability. This section does not apply to reinsurance with respect to any calendar year for which the association operates a retrospective reinsurance program under section 3958, subsection 1, paragraph A-1.

Sec. B-20. 24-A MRSA §3961, as amended by PL 2011, c. 621, §§7 and 8, is repealed.

Sec. B-21. 24-A MRSA §3962, as amended by PL 2015, c. 404, §§2 and 3, is repealed.

Sec. B-22. 24-A MRSA §3963 is enacted to read:

§3963. State-federal health coverage partnerships involving the association

1. Consultation with board. The superintendent shall consult with the board before developing any proposal to apply for a state-federal health coverage partnership as defined in section 2781, subsection 1 or to modify the terms of an existing state-federal health coverage partnership involving federal funding for the association or otherwise significantly affecting the operations of the association. The superintendent shall give prompt notice to the board if the superintendent becomes aware of a new federal program or material changes to an existing program with the potential for a significant effect on the operations of the association.

PART C

Sec. C-1. 24-A MRSA §4320-A, as amended by PL 2017, c. 343, §1, is further amended to read:

§4320-A. Coverage of preventive and primary health services

Notwithstanding any other requirements of this Title, a carrier offering a health plan in this State shall, at a minimum, provide coverage for and may not impose cost-sharing requirements for preventive and primary health services as required by this section.

1. Preventive services. A health plan must, at a minimum, provide coverage for:

A. The evidence-based items or services that have a rating of A or B in the recommendations of the United States Preventive Services Task Force or equivalent rating from a successor organization;

B. With respect to the individual insured, immunizations that have a recommendation from the federal Department of Health and Human Services, Centers for Disease Control and Prevention, Advisory Committee on Immunization Practices and that are consistent with the recommendations of the American Academy of Pediatrics, the American Academy of Family Physicians or the American College of Obstetricians and Gynecologists or a successor organization;

C. With respect to infants, children and adolescents, evidence-informed preventive care and screenings provided for in the most recent version of the comprehensive guidelines supported by the federal Department of Health and Human Services, Health Resources and Services Administration that are consistent with the recommendations of the American Academy of Pediatrics or a successor organization; and

D. With respect to women, such additional preventive care and screenings not described in paragraph A, provided for in the comprehensive guidelines supported by the federal Department of Health and Human Services, Health Resources and Services Administration women's preventive services guidelines that are consistent with the recommendations of the American College of Obstetricians and Gynecologists women's preventive services initiative.

2. Change in recommendations. If a recommendation described in subsection 1 is changed during a health plan year, a carrier is not required to make changes to that health plan during the plan year.

3. Primary health services. A health plan with an effective date on or after January 1, 2021 must provide coverage without cost sharing for the first primary care and behavioral health visits in each plan year and may not apply a deductible or coinsurance to the 2nd or 3rd primary care and behavioral health visits in a plan year. This subsection does not apply to a plan offered for use with a health savings account unless the federal Internal Revenue Service determines that the benefits required by this section are permissible benefits in a high deductible health plan as defined in the federal Internal Revenue Code, Section 223(c)(2).

Sec. C-2. Notification regarding fulfillment of contingency. Upon adoption of routine technical rules and notification from the Federal Government of its approval of a state innovation waiver amendment in accordance with the Maine Revised Statutes, Title 24-A, section 2791, subsection 5, the Superintendent of Insurance shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes that the contingencies set forth in section 2791, subsection 5 have been met.

Sec. C-3. Revisor's review; cross-references. The Revisor of Statutes shall review the Maine Revised Statutes and include in the errors and inconsistencies bill submitted to the First Regular Session of the 130th Legislature pursuant to Title 1, section

94 any sections necessary to correct and update any cross-references in the statutes to provisions of law repealed in this Act.

SUMMARY

This bill:

1. Establishes the Made for Maine Health Coverage Act;

2. Establishes the Maine Health Insurance Marketplace Trust Fund;

3. Authorizes the State to enter into state-federal health coverage partnerships that support the availability of affordable health coverage;

4. Establishes a pooled market for individual health plans and small group health plans and changes reinsurance to be retrospective and applied to the pooled market; and

5. Creates clear choice design for cost sharing and requires coverage of certain primary care and behavioral health visits without the application of any deductible.

L.D. 2007

Date: (Filing No. H-)

HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE

HOUSE OF REPRESENTATIVES

129TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 1425, L.D. 2007, Bill, "An Act To Enact the Made for Maine Health Coverage Act and Improve Health Choices in Maine"

Amend the bill in Part A in section 1 in §5404 in subsection 2 in paragraph D in the first line (page 2, line 37 in L.D.) by striking out the following: "Legislature" and inserting the following: 'joint standing committee of the Legislature having jurisdiction over health insurance coverage matters'

Amend the bill in Part A in section 1 in §5411 in the first paragraph in the 2nd line (page 4, line 26 in L.D.) by striking out the following: "Legislature" and inserting the following: 'joint standing committee of the Legislature having jurisdiction over health insurance coverage matters'

Amend the bill in Part B in section 2 by inserting after the chapter headnote and before §2791 the following:

'**§2791. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Individual health plan. "Individual health plan" has the same meaning as in section 2736-C, subsection 1, paragraph C.

2. Small group health plan. "Small group health plan" has the same meaning as in section 2808-B, subsection 1, paragraph G.'

Amend the bill in Part B in section 2 in §2791 by striking out all of subsection 1 (page 5, lines 34 to 40 and page 6, lines 1 and 2 in L.D.) and inserting the following:

'**1. Pooled market established.** Subject to the requirements of subsection 5, all individual and small group health plans offered in this State with effective dates of coverage on or after January 1, 2022 must be offered through a pooled market. A health insurance carrier offering an individual health plan subject to this section shall make the plan available to all eligible small employers within the plan's approved service area, and a health insurance carrier offering a small group health plan subject to this section shall

make the plan available to all eligible individuals residing within the plan's approved service area. This subsection does not require the Maine Health Insurance Marketplace established in Title 22, chapter 1479 to offer identical choices of health plans to individuals and to small employers under Title 22, chapter 1479.'

Amend the bill in Part B in section 2 in §2791 by striking out all of subsection 3 (page 6, lines 11 to 16 in L.D.) and inserting the following:

'3. **Harmonization of mandated benefit laws.** In addition to the requirements of chapter 56-A, a health plan subject to this section must comply with the applicable mandated benefit provisions in chapter 33 or the corresponding provisions of chapter 35. A health maintenance organization or a nonprofit hospital and medical service organization may offer any health plan approved by the superintendent for sale in the pooled market established pursuant to this section, notwithstanding any provision of chapter 56 or Title 24 to the contrary.'

Amend the bill in Part B in section 2 in §2791 by striking out all of subsection 5 (page 6, lines 20 to 25 in L.D.) and inserting the following:

'5. **Preconditions for pooled market.** This section may not be implemented unless routine technical rules as defined in Title 5, chapter 375, subchapter 2-A are adopted to implement this section and the Federal Government approves a state innovation waiver amendment that extends reinsurance under section 3953 to the pooled market established pursuant to this section based on projections by the superintendent that both average individual premium rates and average small group premium rates would be the same or lower than they would have been absent the provisions of this section. If this section is not implemented, the superintendent shall conduct an analysis of alternative proposals to improve the stability and affordability of the small group market.'

Amend the bill in Part B in section 2 in §2792 in subsection 1 in the 4th line (page 6, line 34 in L.D.) by striking out the following: "2791" and inserting the following: '2792'

Amend the bill in Part B in section 2 in §2792 in subsection 2 by striking out all of the 3rd sentence (page 6, line 41 and page 7, lines 1 and 2 in L.D.) and inserting the following: 'The superintendent shall develop at least one clear choice design for each tier of health insurance plan designated as bronze, silver, gold and platinum in accordance with the federal Affordable Care Act.'

Amend the bill in Part B in section 2 in §2792 by striking out all of subsection 4 (page 7, lines 11 to 17 in L.D.) and inserting the following:

'4. **Alternative plan designs.** In addition to one or more health plans that include cost-sharing parameters consistent with a clear choice design developed pursuant to this section, a carrier may offer up to 3 health plans that modify one or more specific cost-sharing parameters in a clear choice design if the carrier submits an actuarial certification to the satisfaction of the superintendent that the alternative plan design offers significant consumer benefits and does not result in adverse selection. An alternative plan design may be offered only in a service area where the carrier offers at least one clear choice design plan at the same tier.'

Amend the bill in Part B in section 2 in chapter 34-B by renumbering the sections to read consecutively.

Amend the bill in Part B by striking out all of sections 4 to 6 and inserting the following:

'**Sec. B-4. 24-A MRSA §2808-B, sub-§2-A, ¶B,** as amended by PL 2009, c. 439, Pt. D, §1, is further amended to read:

B. A filing and all supporting information, except for protected health information required to be kept confidential by state or federal statute and except for descriptions of the amount and terms or conditions or reimbursement in a contract between an insurer and a 3rd party, are public records notwithstanding Title 1, section 402, subsection 3, paragraph B and become part of the official record of any hearing held pursuant to subsection 2-B, paragraph B or ~~F~~ section 2792, subsection 2.

Sec. B-5. 24-A MRSA §2808-B, sub-§2-A, ¶C, as amended by PL 2007, c. 629, Pt. M, §6, is further amended to read:

C. Rates for small group health plans must be filed in accordance with this section and subsections 2-B and 2-C or section 2792, as applicable, for premium rates effective on or after July 1, 2004, except that the ~~filing of~~ rates for small group health plans are not required to account for any payment or any recovery of that payment pursuant to subsection 2-B, paragraph D and former section 6913 for rates effective before July 1, 2005.

Sec. B-6. 24-A MRSA §2808-B, sub-§2-B, as amended by PL 2011, c. 364, §15, is further amended to read:

2-B. Rate review and hearings. Except as provided in subsection 2-C and section 2792, rate filings are subject to this subsection.

A. Rates subject to this subsection must be filed for approval by the superintendent. The superintendent shall disapprove any premium rates filed by any carrier, whether initial or revised, for a small group health plan unless it is anticipated that the aggregate benefits estimated to be paid under all the small group health plans maintained in force by the carrier for the period for which coverage is to be provided will return to policyholders at least 75% of the aggregate premiums collected for those policies, as determined in accordance with accepted actuarial principles and practices and on the basis of incurred claims experience and earned premiums. For the purposes of this calculation, any payments paid pursuant to former section 6913 must be treated as incurred claims.

B. If at any time the superintendent has reason to believe that a filing does not meet the requirements that rates not be excessive, inadequate or unfairly discriminatory or that the filing violates any of the provisions of chapter 23, the superintendent shall cause a hearing to be held. Hearings held under this subsection must conform to the procedural requirements set forth in Title 5, chapter 375, subchapter 4. The superintendent shall issue an order or decision within 30 days after the close of the hearing or of any rehearing or reargument or within such other period as the superintendent for good cause may require, but not to exceed an additional 30 days. In the order or decision, the superintendent shall either approve or disapprove the rate filing. If the superintendent disapproves the rate filing, the superintendent shall establish the date on which the filing is no longer effective, specify the filing the

superintendent would approve and authorize the insurer to submit a new filing in accordance with the terms of the order or decision.

C. When a filing is not accompanied by the information upon which the carrier supports the filing or the superintendent does not have sufficient information to determine whether the filing meets the requirements that rates not be excessive, inadequate or unfairly discriminatory, the superintendent shall require the carrier to furnish the information upon which it supports the filing.

D. A carrier that adjusts its rate shall account for the savings offset payment or any recovery of that savings offset payment in its experience consistent with this section and former section 6913.

Sec. B-7. 24-A MRSA §2808-B, sub-§2-C, as amended by PL 2011, c. 364, §16, is further amended to read:

2-C. Guaranteed loss ratio. Notwithstanding subsection 2-B, rate filings for a credible block of small group health plans may be filed in accordance with this subsection instead of subsection 2-B, except as otherwise provided in section 2792. Rates filed in accordance with this subsection are filed for informational purposes.

A. A block of small group health plans is considered credible if the anticipated average number of members during the period for which the rates will be in effect meets standards for full or partial credibility pursuant to the federal Affordable Care Act. The rate filing must state the anticipated average number of members during the period for which the rates will be in effect and the basis for the estimate. If the superintendent determines that the number of members is likely to be less than needed to meet the credibility standard, the filing is subject to subsection 2-B.'

Amend the bill in Part B by striking out all of section 11 and inserting the following:

'**Sec. B-11. 24-A MRSA §3953, sub-§1,** as amended by PL 2017, c. 124, §1, is further amended to read:

1. Guaranteed access reinsurance mechanism established. The Maine Guaranteed Access Reinsurance Association is established as a nonprofit legal entity. As a condition of doing business in the State, an insurer that has issued or administered medical insurance within the previous 12 months or is actively marketing a medical insurance policy or medical insurance administrative services in this State must participate in the association. ~~The Dirigo Health Program established in chapter 87 and any other state-sponsored health benefit program shall also participate in the association. Unless an earlier resumption of operations is ordered by the superintendent in accordance with paragraph A, operations of the association are suspended until December 31, 2023 except to the extent provided in section 3962 and the association may not collect assessments as provided in section 3957, provide reinsurance for member insurers under section 3958 or provide reimbursement for member insurers under section 3961 as of the date on which a transitional reinsurance program established under the authority of Section 1341 of the federal Affordable Care Act commences operations in this State.~~ The association may operate a reinsurance program contingent on the approval of, or continued approval of, a state innovation waiver under Section 1332 of the federal Affordable Care Act submitted by the superintendent as provided for in section 2781.

~~A. If the board proposes a revised plan of operation that calls for the resumption of operations earlier than December 31, 2023 and the superintendent determines that the revised plan is likely to provide significant benefit to the State's health insurance market, the superintendent may order the association to resume operations in accordance with the revised plan. This paragraph applies only if:~~

~~(1) An innovation waiver under Section 1332 of the federal Affordable Care Act as contemplated by paragraphs B and C is granted; or~~

~~(2) The federal Affordable Care Act is repealed or amended in a manner that makes the granting of an innovation waiver unnecessary or inapplicable.~~

~~B. After consulting with the board and receiving public comment, the superintendent may develop a proposal for an innovation waiver under Section 1332 of the federal Affordable Care Act that facilitates the resumption of operations of the association in a manner that prevents or minimizes the loss of federal funding to support the affordability of health insurance in the State.~~

~~C. With the approval of the Governor, the superintendent may submit an application on behalf of the State in accordance with the proposal developed under paragraph B for the purposes of resuming operations of the association to the United States Department of Health and Human Services and to the United States Secretary of the Treasury to waive certain provisions of the federal Affordable Care Act as provided in Section 1332. The superintendent may implement any federally approved waiver.~~'

Amend the bill in Part B by striking out all of section 17 and inserting the following:

'**Sec. B-17. 24-A MRSA §3958,** as amended by PL 2011, c. 621, §§4 and 5, is further amended to read:

§3958. Reinsurance; premium rates

1. Reinsurance amount. A member insurer offering an individual health plan under section 2736-C must be reinsured by the association to the level of coverage provided in this subsection and is liable to the association for ~~the~~ any applicable reinsurance premium at the rate established in accordance with subsection 2. For calendar year 2022 and subsequent calendar years, the association shall also reinsure member insurers for small group health plans issued under section 2808-B, unless otherwise provided in rules adopted by the superintendent pursuant to section 2792, subsection 5.

A. Beginning July 1, 2012, except as otherwise provided in paragraph A-1, the association shall reimburse a member insurer for claims incurred with respect to a person designated for reinsurance by the member insurer pursuant to section 3959 ~~or 3961~~ after the insurer has incurred an initial level of claims for that person of $7,500 for covered benefits in a calendar year. In addition, the insurer is responsible for 10% of the next $25,000 of claims paid during a calendar year. The amount of reimbursement is 90% of the amount incurred between $7,500 and $32,500 and 100% of the amount incurred in excess of $32,500 for claims incurred in that calendar year with respect to that person. For calendar year 2012, only claims incurred on or after July 1st are considered in determining the member insurer's reimbursement. ~~The~~ With the approval of the superintendent, the association may annually adjust the initial level of claims and the maximum limit to be retained by the

insurer to reflect ~~increases~~ changes in costs ~~and~~, utilization ~~within the standard market for individual health plans within the State. The adjustments may not be less than the annual change in the Consumer Price Index for medical care services unless the superintendent approves a lower adjustment factor as requested by,~~ available funding and any other factors affecting the sustainable operation of the association.

A-1. In any plan year in which a pooled market is operating in accordance with section 2792, the association shall operate a retrospective reinsurance program providing coverage to member insurers for all individual and small group health plans issued in this State in that plan year. For plan years beginning in 2022, if the pooled market has not been implemented pursuant to section 2792, subsection 5, the association may operate a retrospective reinsurance program for individual health plans, subject to the approval of the superintendent.

(1) The association shall reimburse member insurers based on the total eligible claims paid during a calendar year for a single individual in excess of the attachment point specified by the board. The board may establish multiple layers of coverage with different attachment points and different percentages of claims payments to be reimbursed by the association.

(2) Eligible claims by all individuals enrolled in individual or small group health plans in this State may not be disqualified for reimbursement on the basis of health conditions, predesignation by the member insurer or any other differentiating factor.

(3) The board shall annually review the attachment points and coinsurance percentages and make any adjustments that are necessary to ensure that the retrospective reinsurance program operates on an actuarially sound basis.

(4) The board shall ensure that any surplus in the retrospective reinsurance program at the conclusion of a plan year is used to lower attachment points, increase coinsurance rates or both for that plan year, consistent with its responsibility to ensure that the program operates on an actuarially sound basis.

B. ~~An~~ A member insurer shall apply all managed care, utilization review, case management, preferred provider arrangements, claims processing and other methods of operation without regard to whether claims paid for coverage are reinsured under this subsection. A member insurer shall report for each plan year the name of each high-priced item or service for which its payment exceeded the amount allowed for eligible claims and the name of the provider that received this payment. The association shall annually compile and publish a list of all reported names.

2. Premium rates. The association, as part of the plan of operation under section 3953, subsection 3, shall establish a methodology for determining premium rates to be charged member insurers to reinsure persons eligible for coverage under this chapter. The methodology must include a system for classification of persons eligible for coverage that reflects the types of case characteristics used by insurers for individual health plans pursuant to section 2736-C, together with any additional rating factors the association determines to be appropriate. The methodology must provide for the development of base reinsurance premium rates, subject to approval of the superintendent, set at levels that, together with other funds available to the association, will be sufficient to meet the

anticipated costs of the association. The association shall periodically review the methodology established under this subsection and may make changes to the methodology as needed with the approval of the superintendent. The association may consider adjustments to the premium rates charged for reinsurance to reflect the use of effective cost containment and managed care arrangements by an insurer. This subsection does not apply to reinsurance with respect to any calendar year for which the association operates a retrospective reinsurance program under subsection 1, paragraph A-1. With the approval of the superintendent, the association's plan of operation for a retrospective reinsurance program may include a provision for charging premium on an equitable basis to all member insurers.'

Amend the bill in Part C in section 1 in §4320-A by striking out all of subsection 3 (page 15, lines 25 to 32 in L.D.) and inserting the following:

'3. **Primary health services.** An individual or small group health plan with an effective date on or after January 1, 2021 must provide coverage without cost sharing for the first primary care office visit and first behavioral health office visit in each plan year and may not apply a deductible or coinsurance to the 2nd or 3rd primary care and 2nd or 3rd behavioral health office visits in a plan year. Any copays for the 2nd or 3rd primary care and 2nd or 3rd behavioral health office visits in a plan year count toward the deductible. This subsection does not apply to a plan offered for use with a health savings account unless the federal Internal Revenue Service determines that the benefits required by this section are permissible benefits in a high deductible health plan as defined in the federal Internal Revenue Code, Section 223(c)(2). The superintendent shall conduct a study analyzing the effects of this subsection on premiums based on experience in plan years 2020 and 2021. The superintendent may adopt rules as necessary to address the coordination of the requirements of this subsection for coverage without cost sharing for the first primary care visit and the requirements of this section with respect to coverage of an annual well visit. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

Amend the bill in Part C in section 2 in the 4th line (page 15, line 36 in L.D.) by striking out the following: "2791" and inserting the following: '2792'

Amend the bill in Part C in section 2 in the next to the last line (page 15, line 38 in L.D.) by striking out the following: "2791" and inserting the following: '2792'

Amend the bill by inserting after Part C the following:

'PART D

Sec. D-1. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

Maine Health Insurance Marketplace Trust Fund N343

Initiative: Provides allocation for one Executive Director position, beginning July 1, 2020.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	$0	$186,547
All Other	$0	$10,804
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$197,351

Maine Health Insurance Marketplace Trust Fund N343

Initiative: Provides allocation for one Public Service Executive II position to serve as chief technology officer, beginning January 1, 2021.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	$0	$69,306
All Other	$0	$5,402
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$74,708

Maine Health Insurance Marketplace Trust Fund N343

Initiative: Provides allocation for one Public Service Manager III position to handle communications and outreach duties, beginning January 1, 2021.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	$0	$64,455
All Other	$0	$5,402
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$69,857

Maine Health Insurance Marketplace Trust Fund N343

Initiative: Provides allocation for one Public Service Coordinator II position to handle finance and compliance duties, beginning January 1, 2021.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	$0	$56,316
All Other	$0	$5,402
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$61,718

Maine Health Insurance Marketplace Trust Fund N343

Initiative: Provides allocation for one Comprehensive Health Planner II position to serve as a project manager and policy analyst, beginning June 1, 2021.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	$0	$7,556
All Other	$0	$901
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$8,457

Maine Health Insurance Marketplace Trust Fund N343

Initiative: Provides allocation for one Secretary Specialist position to serve as administrative assistant, beginning January 1, 2021.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	$0	$40,878
All Other	$0	$5,402
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$46,280

Maine Health Insurance Marketplace Trust Fund N343

Initiative: Provides a one-time allocation for a website development contract.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
All Other	$0	$15,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$15,000

Maine Health Insurance Marketplace Trust Fund N343

Initiative: Provides allocation for an annual contract for navigator grants.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
All Other	$0	$150,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$150,000

Maine Health Insurance Marketplace Trust Fund N343

Initiative: Provides allocation for a contract for an annual audit.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
All Other	$0	$65,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$65,000

Maine Health Insurance Marketplace Trust Fund N343

Initiative: Provides a one-time allocation for an independent verification and validation vendor contract.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
All Other	$0	$200,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$200,000

Maine Health Insurance Marketplace Trust Fund N343

Initiative: Provides allocation for the STA-CAP plan.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
All Other	$0	$19,751
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$19,751

HEALTH AND HUMAN SERVICES, DEPARTMENT OF DEPARTMENT TOTALS	2019-20	2020-21
OTHER SPECIAL REVENUE FUNDS	$0	$908,122
DEPARTMENT TOTAL - ALL FUNDS	$0	$908,122

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Administrative Services - Professional and Financial Regulation 0094

Initiative: Provides allocation to establish one part-time Insurance Actuarial Assistant position and All Other costs.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
All Other	$0	$2,340
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$2,340

Insurance - Bureau of 0092

Initiative: Provides allocation to establish one part-time Insurance Actuarial Assistant position and All Other costs.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
POSITIONS - LEGISLATIVE COUNT	0.000	0.500
Personal Services	$0	$39,605
All Other	$0	$7,691
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$47,296

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF DEPARTMENT TOTALS	2019-20	2020-21
OTHER SPECIAL REVENUE FUNDS	$0	$49,636
DEPARTMENT TOTAL - ALL FUNDS	$0	$49,636

SECTION TOTALS	2019-20	2020-21
OTHER SPECIAL REVENUE FUNDS	$0	$957,758
SECTION TOTAL - ALL FUNDS	$0	$957,758

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment makes the following changes to the bill.

1. It specifies that the reporting to the Legislature on the operations of the Maine Health Insurance Marketplace is to the joint standing committee of the Legislature having jurisdiction over health coverage, insurance and financial services matters.

2. It adds cross-references to the definitions of "individual health plan" and "small group health plan" to clarify that the requirements for the pooled market do not extend to certain limited benefit insurance plans.

3. It clarifies the intent that a health plan in the pooled market must comply with the requirements of the Maine Revised Statutes, Title 24-A, chapter 56-A.

4. It clarifies that the pooled market does not change current law allowing carriers to limit their operations to a designated service area or to offer different plans within different service areas.

5. It clarifies that the "average premium" trigger is not intended to allow the pooled market to go forward merely on a finding that average premiums for the pooled group will be lower, if savings for nongroup policyholders come at the expense of increased costs for small business. It also adds language requiring the Superintendent of Insurance

to conduct an analysis of alternative proposals to stabilize the small group market, should the pooled market not be implemented.

6. It clarifies that the Superintendent of Insurance is required to develop at least one clear choice design plan for each tier and allows carriers to offer up to 3 alternative plans subject to submission of a satisfactory actuarial certification to the Superintendent of Insurance.

7. It allows the Maine Guaranteed Access Reinsurance Association the option to continue to charge a ceding premium even after converting to a retrospective program.

8. It clarifies that the Maine Guaranteed Access Reinsurance Association is not required to transition to a retrospective reinsurance model in 2022 if the pooled market is not in effect. It does provide the option that the association may elect to move to a retrospective model regardless of the pooled market, subject to approval by the Superintendent of Insurance.

9. It affirms that the reinsurance program is contingent on federal approval, which is an important technical distinction, in order for the program to generate pass-through funding.

10. It limits the scope of the primary care and behavioral health benefit to the individual, small group and future pooled markets and corrects an error that inadvertently made it applicable to large group plans. It clarifies the intent of the bill to apply the primary health services requirement to a total of 6 visits, 3 primary care visits and 3 behavioral health visits, and further requires that copays for the 2nd and 3rd primary care and behavioral health visits must count toward the enrollee's deductible. It adds the word "office" after "behavioral health" for clarity. It requires the Superintendent of Insurance to analyze the effects of the primary health services requirement on premiums following implementation and authorizes the superintendent to adopt rules to address the coordination of the requirements for coverage without cost sharing for the first primary care visit and the requirements with respect to coverage of an annual well visit.

11. It adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)

MGARA Supplementary Materials to Annual Report for 2019

Response to Question # 19

Shown by ICD 10 Code

ICD 10	Condition	Aggregate Claim Amount
N179	Acute Kidney Failure	$6,525,781
C7951	Secondary malignant neoplasm of bone	$4,787,397
J449	Chronic obstructive pulmonary disease, unspecified	$4,070,994
C787	Secondary malignant neoplasm of liver and intrahepatic bile duct	$3,122,690
C773	Secondary and unspecified malignant neoplasm of axilla and upper limb lymph nodes	$2,523,479

Shown by MGARA Condition

Condition	Number of lives ceded	Number of lives with claims	Total YTD Claims paid by Program
Cancer-Metastiic	482	170	$20,911,587
Renal Failure	920	123	$12,852,658
Chronic Obstructive Pulmary Disease(COPD)	1,333	105	$6,824,895
Congestive Heart Failure	516	94	$6,226,767
Rheumatoid Arthritis	710	94	$3,497,643

Shown by HCC

1	HCC 8	Mastic Cancers	$22,406,722.06
2	HCC 160	Chronic Obstructive Pulmonary Disease, Including Bronchiectasis	$ 7,734,959.00
3	HCC 130	Congestive Heart Failure	$ 7,407,838.69
4	HCC 56	Rheumatoid Arthritis and Specified Autoimmune Disorders	$ 4,500,797.16
5	HCC 48	Inflammatory Bowel Disease	$ 3,505,833.33

Combines Mandatory and Discretionary lives. There is $25 million that did not map to any HCC, because the crosswalk does not map out most of the Renal Failure ICD-10's (it only mapped N184-N186, where we cede at N170-N189 among a few others). We have verified that is correct due to the risk adjustment not applying to the early stages of Renal Failure which accounts for $13,027,198.13 of that $25 million. Without that $13 million our Renal Failure (4+) only accounts for less than $1 million in claims.

MGARA Supplementary Materials to Annual Report for 2019

Response to Question # 25

See attached Summary

State of Maine

Maine Guaranteed Access Reinsurance Association

SUMMARY OF POST AWARD PUBLIC FORUM

Pursuant to 31 CFR §33.124 and 45 CFR §155.1324

As Specified in Innovation Waiver Specific Terms and Conditions Section 11

Introduction: Pursuant to 31 CFR §33.120(c) and 45 CFR §155.1320(c), the Maine Bureau of Insurance ("MBOI") and the Maine Guaranteed Access Reinsurance Association ("MGARA") jointly held a public forum on May 24, 2019 at 1 PM at the Maine Bureau of Insurance offices located at 76 Northern Avenue, Gardiner, Maine, in which the public was afforded an opportunity to provide comment on the progress of the State of Maine Section 1332 Innovation Waiver (the "Waiver").

Process: The MBOI and MGARA both published the date, time and location of the public forum in a prominent location on the MBOI's public web site and MGARA's public web site at least 30 days prior to the date of the public forum. The forum was jointly hosted by Maine Superintendent of Insurance Eric Cioppa and Christopher Howard, MGARA's Authorized Organizational Representative. The forum was also attended by members of the MBOI staff, including Robert Wake, MBOI General Counsel, and Stuart Turney, MBOI Director Alternative Risk Markets. Following introductory statements by Superintendent Cioppa and Mr. Howard, the forum was opened to public comment.

Public Comment: The following public comment was received:

Ann Woloson, Consumers for Affordable Health Care – Ms. Woloson made two comments. First, she indicated that her organization would not be able to evaluate MGARA's impact on rates until after rate setting is finalized, and she suggested there should be another opportunity for public comment following finalization of rates. Her second comment was an inquiry regarding whether there was a "consumer" representative on the MGARA Board. Messrs Cioppa and Howard identified the consumer representative for her future reference.

Hilary Schneider, Government Relations Director, American Cancer Society Cancer Action Network - Ms. Schneider reiterated her organization's comments made in their April 30, 2018 letter to Superintendent Cioppa responsive to the initial public comment period and information sessions held by the MBOI in connection with the Waiver application. Ms. Schneider expressed support for a strong reinsurance program in order to positively impact the cost of health insurance. She made several suggestions for improving the MGARA web site so as to afford better, easier access to information regarding MGARA.

Kris Ossenfort, Anthem Blue Cross and Blue Shield – Ms. Ossenfort inquired regarding the determination of the amount of the 2019 Section 1332 Grant amount and how the amount would be utilized. She expressed concern regarding whether any of the award would need to be refunded to CMS

in the event it was not utilized. Messrs Cloppa and Howard provided Ms. Ossenfort with an explanation regarding how the Grant process worked and the functioning of the federal payment management system.