

Testimony in Opposition to:
LD 352, *An Act To Maintain the Integrity of the Individual and*
Small Group Health Insurance Markets

Thursday, February 25, 2021

The following testimony is submitted jointly on behalf of AARP Maine, Alliance for Addiction and Mental Health Services, American Cancer Society Cancer Action Network, American Heart Association, Consumers for Affordable Health Care, The Leukemia & Lymphoma Society, Maine Equal Justice, and Maine People's Alliance.

We would like to thank you for the opportunity to provide these comments regarding LD 352, An Act To Maintain the Integrity of the Individual and Small Group Health Insurance Markets. If passed, we are concerned this bill would result in a missed opportunity for Maine to increase market stability for individual and small group health plans and to improve affordability of coverage for Maine's small businesses and employees.

Insurance functions as a means of spreading risk and costs across a pool of individuals, to minimize the risk and costs assumed by any one person. This makes it more affordable for someone to access health care, if and when they need to. Markets are most stable, and insurance is most successful in ensuring access to affordable coverage, when risk pools are as large and inclusive as possible.

Gorman Actuarial, Inc conducted an analysis for the Maine Bureau of Insurance on the impact of pooling individual and small group markets with a retrospective reinsurance program. In a report summarizing their findings, Gorman Actuarial states, "Generally, as markets get smaller, the enrollees who remain in the market are less healthy and require more health care resources, which drives up premiums."¹ Smaller markets are also more susceptible to experiencing volatility from disruptions or changes to market conditions, compared to larger markets that can more easily balance fluctuations and absorb impacts from unexpected changes. Given the relatively small size of Maine's existing individual and small group markets, combining the two markets into a single merged market may prove particularly beneficial. Additionally, people frequently move between private individual health coverage, employer-sponsored insurance, and public coverage options, like Medicaid and Medicare. These transitions in coverage have recently been exacerbated, due to the economic downturn related to COVID-19. Merging the individual and small group markets would help to minimize the impact of enrollment churn and simplify transitions in coverage for individuals transitioning between individual and small group plans.

Findings from the 2019 Employer Health Benefits Survey released by the Kaiser Family Foundation show the average premiums nationally for employer sponsored health care have continued on an upward trend, with an average price tag of more than \$20,000 for family coverage in 2019. Nationally, this represents a 25% increase in premiums since 2014. Findings from the survey also indicate that, as the cost of employer sponsored coverage rises, the amounts paid by employees also increases. The national average employee contribution for family coverage in 2019 was over \$6,000, 8% higher than the previous year. Premiums for employer sponsored coverage are rising faster than the costs of workers' compensation or inflation, making the cost of employer-based coverage increasingly less affordable for employees, in addition to small business employers.² Premium rates for Maine's small businesses have

¹ Policy Option for Maine Individual and Small Group Markets, Gorman Actuarial, Inc. (2020). Available at: https://www1.maine.gov/pfr/insurance/legal/ga_indiv_and_sm_grp_policy_option_report.pdf

² 2019 Employer Health Benefits Survey, Kaiser Family Foundation. Available at: <https://www.kff.org/reportsection/ehbs-2019-summary-of-findings/>

increased on average by 57% since 2014.³ It is clear that the rapidly rising costs of small group health coverage is unsustainable, both for Maine’s small businesses and their employees.

The Gorman Actuarial report, as well as the Milliman analysis prepared on behalf of MGARA estimate that merging the individual and small group market and extending the MGARA reinsurance program to small group health plans will help lower small group insurance premiums, though the degree of impact on rates varies slightly between the two analyses. The two actuarial analyses estimate a 3.8% and 3% reduction in small group premiums, respectively. The Gorman report estimates the reinsurance program with the proposed changes in a merged market will also still lower premiums for individual plans by 7.1%. The Milliman report estimates a smaller impact on individual premiums, estimating a 3% reduction. However, a third analysis conducted by Wakely Consulting Group comparing the Gorman and Milliman analyses, produced findings that more closely aligned with the Gorman report. The Wakely report states that the differences between the Gorman and Milliman findings are primarily attributed to an assumption of excessive conservatism in the methodology used by Milliman. However, while possible, Wakely explains that the minimized impact to individual plans estimated by Milliman would be a consequence of carriers actively deciding to incorporate excessive conservatism into rates, which can be avoided, rather than a result of a merged market:

Issuers often times include some probability that expected reinsurance payments will not be fully realized. The inclusion of a factor for non-payments results in a higher premium to cover that risk, leading to a smaller premium impact from reinsurance than there would otherwise be. However, since reinsurance funding in Maine is partially a function of how much reinsurance payments decrease premiums, incorporating conservatism into issuer rates or the reinsurance parameters can lead to a self-fulfilling prophecy in which conservatism yields smaller funding which yields more conservatism, etc. Wakely would define this equilibrium of smaller funding due to issuer uncertainty as excessively conservative. While ultimately it is a possible outcome, **Wakely would view this result as a policy choice rather than an explicit outcome.**⁴ (*Emphasis added*)

It is also worth noting that any potential premium fluctuations for individual health plans is largely mitigated by premium subsidies on the Marketplace. The majority of Mainers with individual health plans purchase their plans through the Marketplace. Income-eligible Marketplace enrollees qualify for financial support in the form of an Advanced Premium Tax Credit (“APTC”) to lower their monthly premium expense. The method used to calculate APTC amounts is based on the enrollee’s income level and the cost of the second lowest silver plan premium, which means that if premiums decrease for individual plans, APTC subsidies amounts will correspondingly decrease, and if that premium rates increase, APTC subsidy amounts will increase to offset the difference. Last year, 86% of people with Marketplace coverage in Maine qualified for APTC subsidies.⁵

Since reducing market fragmentation will help stabilize markets and benefit Maine people, we are supportive of establishing a single merged market for all individual and small group plans. We also encourage this Committee to consider additional initiatives to improve affordability and promote increased participation in coverage within a merged market.

³ 2021 Rate presentation, Maine Bureau of Insurance. Available at: <https://www.maine.gov/pfr/insurance/2021%20Rate%20Presentation.pdf>.

⁴ Comparative Analysis of the Estimated Impacts of a Merged Market and MGARA, Wakely Consulting Group, LLC (2020). Available at: https://www1.maine.gov/pfr/insurance/legal/notices/pdf/pooled_market_option_maine-wakely_review_actuarial_pass%20through_estimates.pdf

⁵ <https://www.kff.org/other/state-indicator/effectuated-marketplace-enrollment-and-financial-assistance/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>

The amount of funding received by reinsurance programs affects the degree to which the program positively impacts premium rates. An analysis conducted by Milliman on behalf of MGARA on the impacts of merging the individual and small group markets in conjunction with the implementation of a retroactive reinsurance program, explains that, “The ability to stabilize market premiums decreases as the attachment points increase.” It also references a decrease in the federal pass-through funds that are available for the reinsurance program due to decreased enrollment of highly subsidized enrollees who have transitioned to Medicaid coverage.⁶

According to estimates from the Kaiser Family Foundation, only 63% of people in Maine who were eligible for subsidies through the Marketplace were enrolled in a subsidized Marketplace plan in 2019.⁷ Maine should consider policies aimed at enrolling the remaining 37% of Maine’s potentially subsidy eligible individuals in Marketplace coverage, by addressing enrollment and financial barriers to obtaining coverage. Efforts to enroll uninsured APTC-subsidy populations, particularly low-income individuals, will directly expand access to coverage to targeted populations, including members of marginalized and vulnerable communities, as well as increase the amount of federal pass-through funding that would be available under a 1332 waiver. Increasing participation in coverage among APTC-eligible populations will further expand the risk pool and, by increasing funding available for reinsurance under a 1332 waiver, it will also help to lower premiums for small businesses and individuals who don’t qualify for APTCs.

Investments in marketing and outreach activities and in direct enrollment support, such as through health insurance navigators and certified enrollment assisters, have been demonstrated to be effective strategies for increasing enrollment in health coverage programs.⁸ In addition to reducing barriers to applying for coverage, affordability barriers to enrolling in and maintaining coverage must also be addressed. Other states have also succeeded in both increasing enrollment and improving their risk pools through providing state financial assistance in addition to the federal APTCs, to further lower coverage costs for populations likely to face financial barriers to enrolling in coverage.⁹ Massachusetts, for example, which had the highest state rate of enrollment among potentially eligible populations in 2019, provides financial assistance to lower the costs of coverage for people with incomes up to 300% FPL. A Families USA report estimates that if Maine were able to achieve Massachusetts’ level of Marketplace enrollment among its potential APTC-eligible populations with income below 300% FPL, enrollment would increase by 21,000 people, who would collectively bring in an additional \$152 million in APTC subsidies to Maine.¹⁰

⁶ Individual market small group market merge analysis, Milliman (2020). Available at:

https://www1.maine.gov/pfr/insurance/legal/notices/pdf/milliman_individual-smallgrp_merge_analysis.pdf

⁷ Marketplace Enrollees Receiving Financial Assistance as a Share of the Subsidy-Eligible Population, Kaiser Family Foundation (2019). Available at: <https://www.kff.org/health-reform/state-indicator/marketplace-enrollees-eligible-for-financial-assistance-as-a-share-of-subsidy-eligible-population/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Percent%20of%20the%20Potential%20Subsidy-Eligible%20Population%20Enrolled%22,%22sort%22:%22desc%22%7D>

⁸ Sommers, B. D., Maylone, B., Nguyen, K. H., Blendon, R. J., & Epstein, A. M. (2015). The impact of state policies on ACA applications and enrollment among low-income adults In Arkansas, Kentucky, and Texas. *Health Affairs*, 34(6), 1010–1018. doi:10.1377/hlthaff.2015.0215. Available at: <https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2015.0215>.

⁹ Stan Dorn, Innovative Options to Cut Health Insurance Costs by Expanding the Circle of Coverage, National Center for Coverage Innovation at Families USA. Available at: https://familiesusa.org/wpcontent/uploads/2019/09/NCCI_State-Coverage-Policy-Options-Report_Report.pdf.

¹⁰ Stan Dorn, How States Can Use New Revenue to Lower Consumer Costs for Individual Health Insurance, National Center for Coverage Innovation at Families USA. Available at: https://familiesusa.org/wpcontent/uploads/2020/03/COV_How-States-Individual-Market_Report_03-13-20a.pdf.

It is also not clear if the changes proposed in Section 2 of this bill to 24-A MRSA §2793(1), intends to repeal the requirement that individual and small group health plans comply with clear choice designs, since compliance with this requirement is not dependent upon the merging of the individual and small group markets and the bill does not amend the conditions in which carriers are permitted to offer alternative plan designs, outlined in §2793(4). However, if this is the intention of the bill, we are also opposed to the elimination of this requirement, which is independent from the merging of the individual and small group markets.

Thank you very much for this opportunity to provide these comments. If you have any questions, please contact Kate Ende at kende@mainecahc.org or 207-480-2136.

Sincerely,

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