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Honorable Heather Sanborn, Senate Chair
Honorable Denise Tepler, House Chair
Joint Standing Committee on Health Coverage, Insurance and Financial Services
100 State House Station
Augusta, Maine 04333-0100

Re: L.D. 352, "An Act To Maintain the Integrity of the Individual and Small Group Health Insurance Markets"

Dear Senator Sanborn, Representative Tepler, and Members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services:

Thank you or the opportunity to testify at the public hearing on February 25, 2021. This letter is intended to provide further information regarding our support for L.D. 352, "An Act To Maintain the Integrity of the Individual and Small Group Health Insurance Markets."

L.D. 352 proposes to repeal the statutory provisions that authorize the merger of the Individual and Small Group markets in Maine.

At the outset, I would like to express Anthem's appreciation for the inclusive process that has been taken by the Bureau of Insurance with respect to both this issue and the development of Clear Choice plan designs. Nonetheless, we continue to have concerns about moving forward with these proposals.

When L.D. 2007 was introduced last year, we expressed significant reservations about several provisions of the bill, particularly the proposal to merge the individual and small group markets. At that time, we indicated that based on our analysis, we did not believe it would have the desired impact but we felt that it was deserving of thorough analysis, in order to truly understand the impact it might have on both the individual and small group markets. Those studies have now shown that it is not the right solution.

Two studies were conducted—one by Gorman Actuarial for the Bureau of Insurance ("the Bureau") and one by Milliman for the Maine Guaranteed Access Reinsurance Association ("MGARA"). Both studies found a small, one-time reduction in small group rates[1] and an increase in individual rates.

[1] Policy Option for Maine Individual and Small Group Markets, Prepared for the Maine Bureau of Insurance, August 25, 2020. Gorman Actuarial, Inc., Figure 1, p. 5, available at https://www.maine.gov/pfr/insurance/legal/ga_indiv_and_sm_grp_policy_option_report.pdf; Comments Regarding

Under L.D. 2007 (enacted as P.L. 2019, c. 653), a merger of the markets can only move forward if the Superintendent projects 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 provision of this section.***" 24-A M.R.S. § 2792(5).

Both the Gorman and the Milliman Reports demonstrate that this test has not been met because individual rates will be higher in a merged market than they are today. There have been suggestions that the baseline for determining whether the standard articulated in 24-A M.R.S. § 2792(5) has been met is what individual rates would be without MGARA, rather than what they would be in a separate market with MGARA, as exists today, compared to rates in a merged market. This is a faulty assumption.

While that may be the appropriate baseline for determining the federal pass-through funding under a 1332 waiver amendment application, that is not the baseline for the purposes of section 2792(5). The premise underlying the provisions of 24-A M.R.S. § 2792(5) was essentially "do no harm." If the markets do not merge, MGARA will continue to reinsure the Individual market. When individuals are considering the impact of L.D. 2007 and a merger of the markets, they will not be comparing what they paid in 2018, when MGARA was not in operation, to what they pay in 2022, they will be comparing their 2021 premium to their 2022 premium.

The impact will be particularly acute for those individuals who receive little or no subsidy and further exacerbated by the required adoption of Clear Choice plan designs—our analysis indicates 89% of our individual members who do not receive a subsidy will see an increase of 4% on average—before any impact associated with a merger of the markets.

In addition, we have significant concerns about whether a merged market can be successfully implemented for 2022 at this late date. At this point in time, we should be finalizing our 2022 plan offerings and beginning to develop our proposed rates for 2022, which are typically filed with the Bureau of Insurance in mid-June. At this point, we do not know what the final version of the Clear Choice plan designs will look like, nor do we have clear guidance on some of the rules applicable to those plans. We do not know whether the markets will be merged or not. And if the markets do merge, we do not know where the MGARA attachment points will be set. All of these factors, still outstanding and still unresolved, are critical to our ability to successfully implement L.D. 2007 for 2022. Simply put, we are quickly running out of time to be able to get this done in time for 2022.

We strongly urge the Committee to repeal, or at a minimum delay, the authority for a merger of the markets and to direct the Bureau of Insurance to study other options for strengthening the small group market so that the State can make an informed decision with a full understanding of the risks and benefits associated with the various options.

Maine Bureau of Insurance L.D. 2007 (P.L. 2019, ch.653), p. 8, https://www.maine.gov/pfr/insurance/legal/notices/pdf/mgara_comments_pooled_market_option_9-3-2020.pdf; Individual market small group market merge analysis, Milliman, September 3, 2020, p. 12, https://www.maine.gov/pfr/insurance/legal/notices/pdf/milliman_individual-smallgrp_merge_analysis.pdf.

Thank you for the opportunity to share these comments. I would be happy to answer any questions you may have.

Sincerely,

Kristine M. Ossenfort, Esq.
Senior Director, Government Relations