



April 29, 2019

Secretary Steven Mnuchin
 Department of the Treasury
 1111 Constitution Ave. NW
 Washington, DC 20224

Secretary Alexander Acosta
 Department of Labor
 200 Constitution Ave. NW
 Ste. S-2524
 Washington, DC 20210

Secretary Alex Azar
 Department of Health and Human
 Services
 200 Independence Ave. SW
 Washington, DC 20201

Re: Health Reimbursement Arrangements and Other Account-Based Group Health Plans
 REG-136724-17

Dear Secretary Mnuchin, Secretary Acosta, and Secretary Azar:

On Oct. 29, 2018, the US Department of the Treasury and the Internal Revenue Service (IRS), along with the departments of Labor and Health and Human Services (HHS) published a proposed rule regarding Health Reimbursement Arrangements (HRAs) and other account-based group health plans. Final comment on the proposed rule closed on Dec. 28, 2018; the final rule has not yet been published.

If finalized as proposed, the rule would impose a series of significant changes for states' markets and marketplaces beginning in the 2020 plan year. These changes include the creation of new HRA options that are predicted to shift millions of individuals from group to individual market coverage; and a new requirement that marketplaces build the capability to calculate the affordability of employees' possible HRA options in comparison to the lowest cost silver plan sold on the marketplace. As directors of the state-based health insurance marketplaces, we wish to alert you to significant challenges with the implementation time line. Given that the 2020 open enrollment period opens in only six months, there is insufficient time for marketplaces to implement the necessary changes for the 2020 season.

Federal officials estimated that if finalized, the proposed HRA rule will cause 1 million individuals to switch into an individual market plan and approximately 600,000 individuals to exit group health insurance in 2020. These shifts in coverage could lead to significant changes in market composition, affecting rate and plan offerings for both individual and group products sold next year. Carriers and state regulators need sufficient time to consider product offerings given market changes finalized under the rule. State rate-filing deadlines are set as early as May, leaving little time for issuers to develop products and rates responsive to the changes that may be required under this rule. Changes made after initial rate filings may hinder states' abilities to negotiate final rates and plan offerings with issuers who may need to compensate for changed market dynamics.

To prevent consumer confusion and harmful tax implications that could result from inadvertent duplication of benefits received via an HRA or premium tax credits (PTCs), state-based marketplaces would need to make a series of significant operational and technical changes to marketplace eligibility systems and outreach and education programs in order to implement the new HRA rule. Most

marketplace technical roadmaps have already been set for the year. With open enrollment only six months away, there is insufficient time to build and test additional changes for the next open enrollment season. Rushed implementation risks building inadequate systems that are not fully equipped to handle the complex affordability calculations required by the rule. It will also mean minimal time to properly educate consumers, employers, brokers, and other outreach workers about new options. Inadequate systems combined with insufficient educational and outreach will spur consumer and employer confusion over what already are complex new coverage options. Furthermore, last-minute changes are costly to implement and will cause marketplaces to unnecessarily divert considerable time and resources toward hasty implementation of new requirements, detracting from attention and service to marketplace enrollees and locally determined priorities for marketplace functionality.

We thank you for considering these critical logistical and market concerns when finalizing a timeline for any changes made by the final rule. We refer you to comments submitted by our individual marketplaces during the comment period for further specifics about the policies proposed under this rule.

Sincerely,




Nathan Clark
Chief Executive Officer
MNSure



Michele Eberle
Executive Director
Maryland Health Benefit Exchange



Chiqui Flowers
Administrator
Oregon Health Insurance Marketplace



Louis Gutierrez
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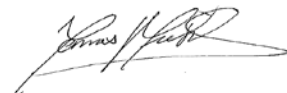
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