

June 5, 2020

The Honorable Mitch McConnell
Senate Majority Leader
United States Senate
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

The Honorable Charles Schumer
Senate Democratic Leader
United States Senate
Washington, DC 20510

The Honorable Kevin McCarthy
House Republican Leader
U.S. House of Representatives
Washington, DC 20515

Dear Speaker Pelosi and Leaders McConnell, McCarthy, and Schumer:

Thank you for your leadership in responding to the COVID-19 pandemic and your continued work to address both urgent and ongoing needs of your constituents and the economy.

State and federal leaders have taken unprecedented actions to protect the health and safety of their residents including steps to ensure access to essential health care services. Access to these services requires the availability of affordable health insurance coverage that can insulate consumers from the high costs of health care while also facilitating access to providers, including telehealth services. Prior to the COVID-19 outbreak, nearly 31 million Americans were uninsured.

Now, millions more are losing coverage as individuals and employers face continued economic uncertainty spurred by this crisis. As State-Based Marketplace (SBM) leaders representing diverse state needs, populations, and political leadership, we are all deeply invested in providing the best and most affordable insurance options for our consumers now and in the future. We write to you to request support and federal policy adaptations to ensure stability and affordability of coverage for the individuals and families we serve during and in the wake of the COVID-19 pandemic's impact on our health care landscape and economy.

How State-Based Marketplaces Are Serving Individuals, Families, and the Newly Unemployed

The health insurance marketplaces provide a critical backstop for individuals and families in need of health insurance coverage. The 19 SBMs (including SBM hybrids using the federal marketplace platform) have enrolled over 4 million individuals in coverage, expanded market competition and have average benchmark premiums approximately 18 percent lower than states that use the federal marketplace.

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As millions face financial and other life uncertainties, the SBMs are capitalizing on their years of experience successfully enrolling Americans into health insurance coverage to serve as critical touchpoints to provide access to quality, affordable health insurance coverage. In response to COVID-19, the SBMs quickly adapted systems and leveraged local partnerships to ensure that millions of Americans could maintain or acquire coverage. Actions taken by the SBMs include:

- Opening special enrollment periods (SEPs) to allow previously uninsured individuals to enroll in marketplace plans;
- Launching new outreach and marketing campaigns to advertise new and existing SEPs including SEPs triggered by loss of employer coverage, and changes in income;
- Leveraging partnerships with state unemployment offices, community groups, and small businesses to promote access to coverage;
- Adapting eligibility and enrollment systems to ease enrollment processes;
- Coordinating with insurers and state insurance departments to encourage or require grace period extensions, penalty waivers, accelerate coverage start-dates and ensure coverage of critical services including COVID-19 testing and treatment, and telehealth services.

These efforts have helped hundreds of thousands of individuals gain access to critically needed health coverage during these turbulent times.

SBM hybrids using the federal platform, and states that use the federally facilitated marketplace, Healthcare.gov, were not able to offer the opportunity to their citizens as the Centers for Medicare and Medicaid Services (CMS) declined to open a new SEP. In addition, CMS did not invest in supplemental marketing and outreach to increase awareness of existing SEPs that might be available to the millions of Americans who lost their coverage due to job loss or a reduction in hours. As our enrollment indicates, these opportunities are providing needed support for our communities during times of economic upheaval and public health need.

Policy Tools to Enhance Stability and Affordability in the Individual Market

The COVID-19 pandemic has raised national awareness about the importance of health care coverage. However, it has also generated significant uncertainty about the future and stability of the private health insurance market. We recognize that a stable individual market relies on a stable and vibrant group market, but this letter is focused on the needs of the individual market.

Federally-Funded Reinsurance

Many questions remain about how the current pandemic will affect our insurance markets. Recommendations on appropriate courses of treatment, and projections about a possible vaccine are evolving at a rapid pace. Meanwhile, consumers are shifting behaviors related to how they consume health care services, for instance delaying non urgent care, and increasing use of telehealth. Such swift and unanticipated changes make it difficult to predict with certainty what can be expected in the coming months and years, which may lead to significant premium increases for insurers who seek added security against unanticipated costs.

We appreciate attention to policies that may mitigate insurer risk, and specifically note that reinsurance programs have been a proven means to lower premiums and reinforce insurance markets. Immediate

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establishment of a federal reinsurance program that holds harmless existing state programs, would be immensely beneficial by lowering premiums for our consumers at a time when health insurance coverage is especially critical. Currently, 12 states, with federal support, have established reinsurance programs that have been effective in lowering insurance rates. In Colorado, for example, reinsurance has historically lowered insurance premiums by as much as 20 percent. Reinsurance programs were also expected to lower 2021 insurance rates by 7-8 percent in Rhode Island and Oregon, respectively (not accounting for any impact from COVID-19). However, the severe economic impact of COVID-19 on state revenues limits the capacity of states to implement and sustain these programs. A state-run program requires significant state resources at a time when states, who must balance their budgets, face profound decreases in revenues as a result of the pandemic's impact on their economies. Sustained federal funding for reinsurance will provide a consistent, proven solution to improve health insurance affordability.

Enhanced Affordability Supports for Individuals and Families

While federally funded reinsurance is a critical component to protect individuals and families who are suffering the economic impacts of the pandemic, more immediate assistance is needed as well so that people do not lose their existing coverage at this unprecedentedly difficult economic time in our country. The most significant additional step is to enhance federal subsidies available for consumers to purchase health coverage. Increasing subsidies will help ensure that individuals are able to purchase and maintain their health insurance coverage. This will enable access to needed health services such as COVID-19 testing and treatment—essential to help open our economy. Keeping people insured will also protect providers and hospitals from a spike in uncompensated care at a time these practices and institutions are economically vulnerable and will help prevent excess federal spending on care for the uninsured.

Flexibility on tax liability and streamlined eligibility policies

As previously stated, the COVID-19 pandemic is having significant economic impacts on consumers, with a disproportionate effect on low-wage earners who may experience extreme income fluctuations over the coming months and years resulting from changes in employment, wages and eligibility for unemployment insurance benefits.

The Coronavirus Aid, Relief, and Economic Security Act (CARES) included a temporary supplemental unemployment insurance benefit of \$600 per week to bolster individuals experiencing economic hardship. The law also stipulates that this supplemental benefit be disregarded when determining eligibility for Medicaid or the Children's Health Insurance Program but does not explicitly state that the supplemental benefit be waived for determining eligibility for marketplace subsidies including APTCs and cost-sharing reductions (CSRs). Discrepancies in eligibility requirements between programs pose significant operational challenges for integrated eligibility systems that use a single streamlined application and could spur confusion among consumers as they attempt to navigate programs. This confusion may result in consumers either missing out on needed benefits including Medicaid, APTCs or CSRs or may put consumers at risk of tax liability if they inadvertently underreport income and receive excess APTCs or CSRs.

As consumers grapple with significant life changes, including income fluctuations and uncertainty, it would be excessive and destructive to financially penalize individuals and families because of

eligibility and income miscalculations. We respectfully request that maximum flexibility be extended to waive or minimize penalties associated with reconciliation of federal APTCs and CSRs for individuals and families hit by economic hardship for tax years 2020 and 2021. We also encourage that future policies streamline or align eligibility requirements between Medicaid and APTCs/CSRs, including a change in policy so that the \$600 supplemental benefit is waived from eligibility calculations for both Medicaid and marketplace programs. This will mitigate consumer confusion, maximize consumer access to appropriate and needed health benefits, and relieve marketplaces and states agencies from implementing complicated changes to complex eligibility systems.

We thank you for your efforts to date to address this crisis and appreciate your consideration of these additional critical actions. We would be pleased to provide you with any data or information that may be helpful to you. We look forward to working with you to develop solutions that address the urgent health care challenges of COVID-19 and provide stability across all health coverage markets.

Sincerely,



Marlene Caride
Commissioner
New Jersey Department of Banking and
Insurance



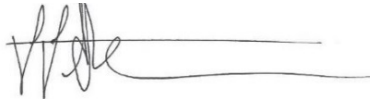
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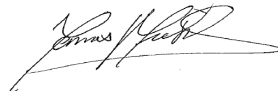
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