



The Association of Washington Healthcare Plans

April 8, 2017

Thomas E. Price, Secretary
U.S. Department of Health & Human Services
200 Independence Avenue SW
Washington, D.C. 20201

Dear Secretary Price:

The Insurance Commissioner's Office and the Association of Washington Healthcare Plans (AWHP) are partners in efforts to maintain and strengthen the individual insurance market in Washington state – both inside and outside of our state-based exchange.

We understand that on February 21, 2017, at a meeting with staff from the National Association of Insurance Commissioners (NAIC), you invited suggestions from states on how to retain issuers in the market and increase market stability over the coming years. We appreciate your interest in working with state insurance commissioners to maintain stable, affordable individual markets during a time of great uncertainty, and we are taking this opportunity to respond.

AWHP and my office strongly believe that market stability is achieved when issuers can engage in long-range planning in a stable financial and regulatory context. Uncertainty demands a more conservative pricing model for insurance, which means planning for the worst case scenario in terms of utilization and cost of care. Regulatory action should minimize unpredictability, uncertainty, and rapid change – factors that all contribute to instability in the insurance market. Currently, the most significant and immediate drivers of market uncertainty are the weakening of individual mandate enforcement, the uncertain status of cost-sharing reduction funding, and the lack of funding for broader market stabilization measures.

Weakening of the Individual Mandate

Meaningful incentives are needed to maintain continuous coverage, in particular, to encourage young and healthy people to purchase health insurance. It is critical to maintain enforcement of the personal responsibility requirement in order to avoid premium increases and to ensure access to care for all residents. In Washington state, my office performed economic modeling based on actual purchasing data from 2016. This modeling predicts that weakening enforcement of the individual mandate will result in people abandoning coverage, especially younger, healthier individuals. Over the last seven years, the number of uninsured in Washington state dropped dramatically, and as a result, we saw the cost of uncompensated care reduced by billions. Those gains are in jeopardy. This potentially significant shift in the size and composition of the market creates additional uncertainty for both issuers and consumers as well as providers of care.

Uncertainty regarding Cost-Sharing Reductions

The potential loss of cost-sharing reductions (CSRs) is a major source of uncertainty for issuers both in Washington state and nationally. The pending *House v. Price* litigation places issuer CSR reimbursement in jeopardy, contradicts previous budgetary assumptions, and causes financial loss that must be considered going forward. Eliminating CSR funding as a result of the House lawsuit does not eliminate the obligation, as required by law, to provide CSR benefits to those who qualify, and doing so would significantly increase premiums. Failure to secure ongoing funding of CSRs (rather than as an annual discretionary funding matter) results in uncertainty year after year regarding funding, compounded by the timing of appropriations decisions made long after issuers are required to file their rates for the upcoming year. Fully funding CSRs will continue to ensure affordable health coverage options for lower income enrollees and a stable marketplace for issuers.

Broader Market Stabilization Measures

As a general matter, we stress that in order to be effective, broadly implemented market stabilization measures such as reinsurance programs or high risk pools must be fully funded by the federal government. For example, the Patient and State Stabilization Fund included in the proposed American Health Care Act represents an appropriate effort by Congress to address market stability.¹ We would welcome discussions about a new or revived federal reinsurance program.

We make the following additional recommendations:

1. Ensure enforcement of the individual mandate, a critical piece of underlying structure in which guaranteed issue and adjusted community rating are used. There should be significant consideration of additional policies that incentivize continuous coverage to ensure a stable market.
2. Congress should fully fund CSRs to support more affordable coverage.
3. Congress should enact a broad market stabilization mechanism through reinsurance or an alternative mechanism.
4. As your administration embarks upon its review of current ACA regulations and sub-regulatory guidance, continue to engage in extensive consultation with state insurance commissioners, the NAIC, and issuers well in advance of the issuance of formal proposed regulations or revisions to sub-regulatory guidance. This will provide the opportunity to fully vet the impact of any changes on market stability, access to coverage, and affordability.

¹ . We note that under the allocation formula in the American Health Care Act, on a per member per month basis, based upon estimates prepared by Oliver Wyman ([Estimating State Allocations Under the AHCA's Patient and State Stability Fund](#)), Washington state would receive the 3rd lowest allocation in the nation. Our specific allocation would unlikely be sufficient to effectively counter market instability caused by the effecting legislation.

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5. Congress and your administration, in consultation with insurance commissioners, issuers, consumers, and other healthcare stakeholders, should explore additional solutions for affordability, as it relates to both premiums and out-of-pocket cost sharing, including the underlying causes of increasing medical and pharmacy costs.

We look forward to further productive discussions with the U.S. Department of Health and Human Services on these critical issues.

Sincerely,



Mike Kreidler
Insurance Commissioner



Molli Robertson
Association of Washington Healthcare Plans

cc: Seema Verma, Administrator, Centers for Medicare & Medicaid Services
Washington State Congressional Delegation

AWHP is an alliance of licensed Health Maintenance Organizations (HMO), Health Care Service Contractors (HCSC), & Disability Insurers. Its diverse membership is comprised of local, regional, & national healthcare plans of varying size, serving the needs of consumers, employers, & public purchasers. Together, they provide health care coverage to over 5 million residents of Washington State. For more information, <http://awhp-online.com/>