

REINSURANCE PROGRAM UNDER THE AFFORDABLE CARE ACT (ACA)

August 16, 2012

The Reinsurance Program for High-Risk Enrollees-Integration with Exchange Market Workgroup (workgroup) would like to make the following recommendation to the Health System Reform Task Force (HSRTF) regarding the choice between having the Federal government (HHS) or the State government run the ACA Reinsurance Program.

Recommendation:

After several thorough discussions, the workgroup reached a consensus to recommend running a state-based reinsurance program as defined under the ACA. Utah is known for its creativity in terms of its own health care reform; administration of the reinsurance program is a logical step forward for the state in terms of meeting our own, unique needs.

An analysis is currently being conducted to examine cost and risk models for running the reinsurance program. Additional details regarding the program (plan design, governance, etc.) will continue to be developed by the workgroup.

Below are some facts and reasons why the workgroup has made this recommendation.

Purpose of the Reinsurance Program:

The purpose of the reinsurance program is to ensure a viable individual commercial insurance marketplace. If the state does not continue to demonstrate support for the individual marketplace to the degree that it has in the past (through either state run reinsurance mechanisms or other means), the commercial insurance carriers may determine that the risk associated with this market segment may prevent operating successfully in the individual market. By delaying decisions that indicate continued commitment to this market segment, the state will, in effect, promote uncertainty among the carriers. This may in turn have some negative and potentially irreversible consequences to the individual marketplace.

In summary, the reinsurance program:

- Protects issuers from risks arising from insuring newly enrolled individuals, thus helping to ensure ongoing viability of the individual market.
 - High risk pools (state - 3,600 enrollees and federal - 1,000 enrollees - .02% of Utah's population). These programs alone have a projected operating loss of \$80 million for the year ending December 31, 2013
 - Uninsured (388,300 individuals) – 14% of Utah's population*
 - Children (107,700) and adults (280,600)
 - Work status (1 full time worker in household, 269,000, part-time 52,700, and non-workers 66,600)
 - FPL (under 100% - 132,900, 100-138% - 52,800, 139-250% - 103,500, 251-399% - 56,600, and 400%+ - 42,500)
 - Small and large employers dropping coverage
 - Estimates on health insurance coverage based on 2009 data (population and %)***

- Self-funded plans – 1.1 million – 40%
 - Small Group – 208,551 – 7.4%
 - Large Group – 477,158 – 17%
 - Individual 142,878 – 5%
- Keep premiums affordable in the individual market through subsidized reinsurance payments – if state runs the program the state could develop other funding mechanisms.

Reasons for Utah to administer the Reinsurance Program:

The proposed regulations allow some flexibility for states to make decisions regarding the reinsurance program based on the market characteristics of our state. Protecting the individual market as the state enters into 2014 with the ACA requirements in place, can best be done by maintaining as much state control as possible. Federal administration of the reinsurance program will not provide flexibility in plan design, collection of assessments, the amounts to be assessed (which may be crucial in order to sustain the market), or plan duration.

If Utah administers the program, the proposed regulations will allow flexibility in many aspects of the reinsurance administration. For example:

- Utah can design the parameters to meet our needs. Federal rules do not always fit perfectly.
- The data approach used by Utah could be modified from a distributed data model defined by HHS. The HHS model may limit the state’s choices about what type of risk is being paid for and how it is being paid (for example: are claims paid on allowed or billed charges?). By developing a state-specific model, data collection could be more detailed; we could conduct data claim reviews, pull diagnosis codes, etc. (Utah’s All Payer Claims Database (APCD) may be utilized for these functions).
- The timing and processing of payments could be adjusted to meet the issuers needs - monthly vs. quarterly (HHS).
- Administrative costs would likely be lower if the state ran the program.
- Should the state determine that it is in its interest to continue having this type of reinsurance program in place, running the program will allow for its continuation beyond 2016.

Additional Facts about the Reinsurance Program:

- Temporary program (2014 through 2016). The State could determine to maintain the reinsurance program past 2016 in order to minimize risk in the individual market, if the state operates the program.
- Designed to protect health insurance plans operating in the individual market, both inside and outside the Exchange, from the risks associated with insuring high cost individuals.
- Collections are funded by all health insurance issuers in the individual and group markets – including self-funded plans - in and outside the Exchange. Payments may be made to carriers with high-risk individuals in the individual market in and outside of the exchange (except grandfathered plans).
- Administered by non-profit entity (currently existing or newly created by the State).
- National contribution rate assessed on fully insured and self-insured health plans to be determined in fall of 2012.

- States may increase the assessment to pay administrative expenses and unfunded benefits (state must run the program).
- Reinsurance payment based on services covered under the essential benefit package.
- Reinsurance formula – attachment point, reinsurance cap, coinsurance rate - can be modified if state runs the program.

Additional questions / decisions if the state agrees to run the reinsurance program:

Which entity should oversee the reinsurance program, and what are the pros and cons associated with each entity considered?

- DOI
- Exchange
- Other
 - Proposed regulations give states a lot of flexibility to define a non-profit “applicable reinsurance entity” that meet the needs of each state
 - States can utilize an existing reinsurance entity or establish a new one

What are some additional considerations?

- Policy Implications
- Legal
- Financial
- Available resources

What are Utah’s state-based parameters (attachment point, caps, coinsurance, etc.)?

- Modification of parameters will have to be published in March 2013 and annually thereafter for future years
- Prior approval from HHS is needed

*U.S Census Bureau, 2011 and Kaiser Family – statehealthfacts.org, states (2009-2010), U.S. (2010)

** 2010 Health Insurance Market Report