

Minutes of the
Merged Market Advisory Council (Council or MMAC) Meeting of January 26, 2021
Approved by Council at the Meeting Held on March 16, 2021.
Motion of Council Member Mark Gaunya and Seconded by Council Member Lora
Pellegrini
The Motion Passed by a (Unanimous) Vote of the Council Members Present.
Held via video conference

Members participating by video conference or by phone:

Gary D. Anderson, Chairman, Commissioner Division of Insurance
Louis Gutierrez, Exec Director, Massachusetts Health Connector
Lauren Peters, designee of Marylou Sudders, Secretary of Health and Human Services
Michael Caljouw, Blue Cross & Blue Shield, Health Insurance Carrier representative
Lora Pellegrini, Massachusetts Association of Health Plans, Health Insurance Carrier representative
Mark Gaunya, Health Insurance Broker representative
Rosemarie Lopes, Insurance Broker representative
Rina Vertes, Health Insurance Industry Actuary
Amy Rosenthal, Small Group/Individual Health Insurance Purchaser representative
Patricia Begrowicz, Small Group/Individual Employer representative
Jon Hurst, Health Insurance Business Community representative
Joshua Archambault, Health Insurance Business Community representative
Wendy Hudson, Small Group/Individual Employer representative

Attending to the Council:

Kevin P. Beagan, Deputy Commissioner, Health Care Access Bureau, Division of Insurance
Audrey Gasteier, Chief of Policy and Strategy for the Health Connector
Michael D. Powers, Counsel to the Commissioner Division of Insurance
Jackie Horigan, Director Consumer Services Section Division of Insurance

Call to Order

Chairman Gary D. Anderson called the meeting to order at 2:01 PM.
Ms. Horigan called a roll of the Council Members and reported a quorum was present.

Minutes

Chairman Anderson asked for approval of the November 17, 2020 meeting minutes. A motion was made, seconded and the minutes were approved without discussion. Chairman Anderson announced that the December 2, 2020 minutes would be redistributed to the group so that members can review and propose edits and that the Council would plan to vote on those minutes at the next Council meeting.

December 2020 Membership

Mr. Beagan noted that comparing December 2020 to November 2020, there were 6,509 fewer individual members and a decline of 9,977 in ASO business that was offset by an increase of 1,680 in small group, 4,649 in large group and 6,030 in government membership. In total, the carriers reported 4,127 fewer covered under all their accounts at the end of December 2020.

In comparing commercial to governmental programs, commercial coverage – including ASO – decreased by 112,881 between April and November, but governmental programs have increased by 86,756 to fill in much of the gap.

Ms. Rosenthal asked to go on the record again in support of the importance of the Commonwealth's MassHealth program.

2nd Quarter Merged Market Rates

Mr. Beagan noted that the Division of Insurance is currently reviewing rate filings for 2Q (rates for health plans renewing April 1-June 30). Mr. Beagan informed the members that one carrier has filed for a double digit rate increase and that the DOI will be holding a rate hearing on February 4, beginning at 11:00 in order for the company to respond to the reasons for the Division's disapproval.

Presentation on Key Findings and Consensus Themes

Chairman Anderson explained that the goal of today's meeting is to take what the Council has studied over the last year and to go over the base set of findings in relation to the Governor's Executive Order (EO). The Commissioner noted the ultimate report should note that certain members have raised issues that may outside of the scope of the EO but that they are likewise worth considering by policymakers. He also noted that Council members have begun submitting comments regarding what should be in the final report and those will be circulated amongst the group for discussion at the next meeting. He then asked Mr. Beagan and Ms. Gasteier to go over the presentation.

Mr. Beagan indicated that the presentation was to remind members of the key take-aways of the analysis performed by Gorman Actuarial. The market has changed a great deal since the 2007 merger of the individual and small business markets. The number of individuals in the merged market has grown especially with the federal ACA implementation as the subsidized CommonwealthCare program was brought into the merged market where it became the ConnectorCare program.

Ms. Gasteier described Gorman Actuarial analysis that the merged market is actuarially composed of 3 submarket segments: small employers; the individuals enrolled through ConnectorCare; and non-ConnectorCare individuals. Gorman indicated that small employer members and ConnectorCare have similar health risk scores and non-ConnectorCare individuals have much higher risk scores. Since rates are based on the pooled experience of all merged market members, this means that small employers and ConnectorCare individuals cross-subsidize the cost of non-ConnectorCare individuals' health premiums.

Mr. Beagan next discussed that lower-cost limited/tiered network products – that can be 50% less expensive than broad network products - are available to all merged market members. While the vast majority of ConnectorCare members are enrolled in the lower cost products, most non-Connector individuals and small employers remain in higher-premium, broad network products. If small employers and non-ConnectorCare individuals were more aware of these options, there is much room for cost savings.

Ms. Gasteier discussed Gorman's analysis of de-merging the individual and small groups into separate risk pools. Gorman estimated that this would result in a one-time 4-6% increase in

average individual premiums and a one-time 2-4% decrease in average small employer premiums, separate and apart from annual medical/prescription cost trend increases. Mr. Gaunya pointed out that while a demerger is being presented as a one-time savings opportunity, he suggested that it would have a compounding effect on future premiums for small employers.

Ms. Gasteier also noted that a Section 1332 waiver would not be a viable solution for Massachusetts because 1332 reinsurance waiver funding is derived from reductions in federal premium tax credits. Due to low-cost products in ConnectorCare, Massachusetts draws down low levels of federal premium tax credits (in 2020, MA was 3rd lowest state in terms of bench mark plan which is how APTC gets calculated). Gorman had pointed out that due to the nature of the Massachusetts merged market membership, there would be less federal money available from Section 1332 waivers if the market demerged than if it stayed merged.

Mr. Gaunya asked whether Massachusetts APTC funding created a situation where Massachusetts could not take advantage fully of federal funds. Ms. Gasteier said yes, there is not much lower we can go. Ms. Rosenthal noted that the Biden Administration could revisit this issue more broadly and it is important to keep an eye on that. Ms. Gasteier did note that there continue to be changes at the federal level and the Connector will keep monitoring the evolving nature of federal Section 1332 waivers.

Mr. Hurst asked why the presentation did not discuss seeking the continuation of Massachusetts' specific rating factors which were part of the original merger to mitigate the impact on small businesses. Mr. Gutierrez indicated that rating factors are not "1332-able" and that the Connector was told by CMS not to request another continuation of transitional rating factors.

Mr. Beagan discussed how risk adjustment impacts Massachusetts carriers and how it was intended under the ACA to be a level setter across the carriers, but has in fact caused rate volatility as carriers try to develop premium rates that consider future risk adjustment payments. In Massachusetts, ConnectorCare plans have attracted those with lower health risk scores and pay monies to those carriers who cover small employers and non-ConnectorCare individuals with higher risk scores.

Mr. Beagan discussed alternative programs, including PEOs, stop loss products and sharing ministries, which are being marketed to individuals and small groups. At this time, these alternative programs do not seem to have had an impact on coverage due to the robust offering of merged market products. However, additional new rules may be needed for marketing and disclosures so consumers know how these products differ from fully insured products. Mr. Caljouw noted that these programs should be subject to reporting requirements and the state should take some role in producing information for consumers to fully understand the features of the products.

Next, Gorman had presented information about how a state-funded reinsurance program could impact the market. She indicated that such a reinsurance program would require significant funding from state tax revenue or assessing non-merged market plans. She estimated that for every 1% reduction in annual premiums a state based reinsurance program would need \$47M in annual funding.

Ms. Gasteier next talked about underlying healthcare cost drivers and wanted to note the Council's ongoing interest for continued pursuit (outside of the MMAC) of statewide cost containment strategies to address the underlying medical trend and provider prices, which remain the primary driver of premium growth across market segments. Mr. Caljouw stated that cost containment strategies by all interested parties is a very important recommendation coming out the Commission and it would be a missed opportunity if the Commission does not include that in its final report. Ms. Vertes stated that she would like this to be the first slide of the presentation and that all of the other recommendations are fixes for the market in the immediate term.

Ms. Rosenthal appreciated hearing this conversation and that getting at underlying costs is a long standing issue.

Mr. Beagan said we need to develop strategies moving forward to address the observations made thus far. He noted that Mr. Archambault and Mr. Gaunya have shared ideas and the Division is looking for consensus on all proposed strategies. Mr. Archambault discussed some of the proposals he and Mr. Gaunya developed, with input from other council members, and the ideas are lumped into 4 buckets: level playing field; reduce costs; achieve cost reductions building on Ch. 224; and plan design changes. Mr. Caljouw noted the need for granularity about specific tools to make changes. Undersecretary Peters stressed the importance of anchoring observations in facts and agreed with Mr. Caljouw that granularity and level of detail is needed.

Mr. Hurst noted that Governor Baker, prior to being the Governor, was a strong opponent of merging the market, and the impact of the ACA on the marketplace has been dramatic on small businesses and the Council needs to look at options — if some Council members think demerging is an option, it should be said and voted on, and have fallbacks if those ideas don't have consensus. We need to do something that is right for small businesses and viable public policy. Ms. Rosenthal raised concerns about demerging the market and noted that the EO asked for recommendations that ensure the long term stability of coverage for individuals and small employers in the merged market. She said we should continue to explore a reinsurance program for the entire merged market and collect income data for non-Connector individual market. Ms. Pellegrini said for the record the MAHP plans are strongly opposed to a reinsurance program for the merged market if it includes an assessment on other lines of insurance business. The MAHP plans do not think now is the time to put assessments on any line of business. MAHP plans remain concerned about risk adjustment and adding to what is already a flawed mechanism.

Conclusion

Mr. Beagan said all ideas will be shared with the group and asked that members share ideas by the following Friday. Commissioner Anderson noted that no one expects the Council will agree on all ideas but that the Council can make solid, fact based recommendations to the Governor.

Mr. Beagan noted that the next meeting of the Council will be virtually held on the same Teams platform the week of February 22 based on Council member's availability. Chairman Anderson called for a motion to adjourn. Mr. Gaunya made the motion, and it was seconded by Mr. Hurst. The motion passed by a unanimous vote of the Council Members, with Chairman Anderson abstaining.

Whereupon, the Council's business was concluded at 3:22 P.M. These minutes are exempt from M.G.L. c. 30A, § 22(a) based on the definition of a "public body" as defined under c. 30A, § 18.

List of Documents provided at the Council meeting:

- 1. Draft minutes of the November 17, 2020 and December 2, 2020 Council meetings.**
- 2. Division of Insurance/Massachusetts Health Connector Presentation on Key Findings and Consensus Themes**
- 3. December 2020 Membership**