

**Minutes of the**  
**Merged Market Advisory Council (Council or MMAC) Meeting of October 7, 2020**  
**Approved by Council at the Meeting Held on October 23, 2020.**  
**Motion of Council Member Jon Hurst and Seconded by Council Member Mark Gaunya.**  
**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  
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 the group to review the minutes from the September 23, 2020 meeting, which had been shared in advance of the meeting, and vote on approval. Mr. Caljouw made a motion to accept the minutes as drafted and Mr. Gaunya seconded the motion. The minutes were unanimously approved, with Mr. Gutierrez abstaining.

**Discussion of Non-merged Market Products**

Chairman Anderson asked that the group consider using a proposed framework for policy evaluation. He suggested that when discussing the options that MMAC members consider both short-term and long-term impacts, that deliberations be based on data-driven and actuarial analyses where possible, and that recommendations be considered that will improve the vibrancy/stability of the market. He also suggested that MMAC members consider how options might increase/decrease costs for small business, costs for individuals, stability in the market, access to coverage and consumer protections for merged market participants and state budgets or federal

subsidies.

Commissioner then asked Mr. Beagan to lead a scheduled discussion of non-merged market products. Mr. Beagan reminded Council members that the Governor's Executive Order creating the Council required that the Council look at all facets of the merged market, including emerging coverage options which could impact how individuals and employers choose health plans.

Sharing Ministries

Mr. Gutierrez noted that the Connector understands the role sharing ministries were intended to have, however, entities are now heavily marketing plans that are not what they seem. Mr. Gutierrez noted that this has led to member confusion and demonstrated shortfalls. The Connector has taken steps in the past to help address sharing ministries. Ms. Rosenthal agreed that consumers are significantly confused about this option when they buy it. Ms. Pellegrini agreed with the Connector that there need to be appropriate consumer protections.

Mr. Archambault noted that that the Connector's regulation seems to address the needed marketing concerns and is hesitant to add more restrictions to what can be offered and seek a solution where a problem does not exist. Mr. Beagan said that the Division of Insurance has no plans to make sharing ministries look like traditional insurance products.

Mr. Hurst understood that the Governor's Order did identify that the MMAC should talk about options such as ministries but thought that this should not be the focus of the Council since rates are going up and small employers need options. Between the costs of UI and PFML, the Council should be looking at how to offer relief in health insurance costs.

*[Microsoft Teams experienced a failure at this time and the meeting disconnected. All Council members signed back into the meeting and Commissioner Anderson confirmed all were present.]*

Mr. Gaunya noted that he supports truth in advertising as well as creating flexibility in the marketplace. Ms. Lopes suggested that sharing ministries should provide more disclosure about who they are and what they are offering. Chairman Anderson noted that the Division of Insurance regulates insurance and even suggested that there be thought about the appropriate agency or agencies that should regulate these entities.

Professional Employer Organizations

Mr. Gaunya noted that PEOs provide more access to product choice and only Maryland requires PEOs be a part of small group insurance offerings. Still, he noted with PEO co-employment, the PEO serves as a co-fiduciary with the employer and collectively they (employer/PEO) are a large group. He also added, if small groups are able to offer high quality, affordable health insurance coverage for their employees, they will remain in the merged market instead of evaluating alternate solutions.

Mr. Beagan noted that PEOs are a small piece of the market and asked Council members for their thoughts on whether PEOs should be registered, or meet certain standards. Mr. Caljouw said that that it may be appropriate for PEOs to align with state rules. Mr. Gaunya said PEOs already follow ACA regulations for ALE's (Applicable Large Employers). Ms. Rosenthal was interested in

keeping the market as stable as possible and that PEOs could splinter groups away from the merged market.

Mr. Archambault said some thought should be given to where the PEO is located and that MA should avoid driving small employers who don't want additional regulations elsewhere. Mr. Hurst said guardrails are fine but agreed that MA should be taking steps to fix its small group market so that small group health coverage stays in Massachusetts rather than join a PEO with coverage issued outside Massachusetts where the PEO is located.

*Self-funded Plans with Stop Loss Coverage*

Mr. Gaunya noted that small employers have additional control, flexibility and choice with this healthcare financing arrangement, where the coverage is partially self-funded. He noted several advantages including reducing health insurance premium taxes and administrative costs by choosing to partially self-fund and buying stop loss coverage to limit their financial exposure. He noted that employers who have the appropriate level of risk tolerance and suitability to take that risk choose this financing arrangement to give them greater flexibility and choice in access, plan design and actionable insight into their financial performance.

Mr. Caljouw disagreed and said that these products could adversely impact the market and it may be appropriate to consider regulatory guardrails to protect small businesses. Ms. Pellegrini noted that MAHP is neutral on this topic. Mr. Hurst suggested that Maine established guardrails and they have not appeared to be a barrier in that market.

Mr. Beagan asked if any oversight is needed or if stop loss only be available to groups of a certain size. Mr. Gaunya noted that he generally doesn't agree with restricting access to these solutions but did agree that not all small employers are suitable for this financing option. He thought that there needed to be better access to information so that employers understand the risk of self-funding and perhaps more knowledge oversight of brokers and consultants who advise small group clients to self-fund with better trained insurance professionals who are qualified to advise small groups who are considering a shift to a self-funded financing arrangement. Mr. Archambault agreed that there be better claims and price transparency for employers so that they are able to make better choices.

*Association Health Plans/ Multiple Employer Welfare Arrangements*

Mr. Beagan noted that our merged market law does not permit association health plans. Ms. Rosenthal said other states have had issues with AHPs but MA hasn't seen those issues because of our regulations do not permit AHPs.

Mr. Hurst stated that AHPs are a great model for like-minded small employers who are trying to control their costs and found that the group purchasing cooperative model worked until impacted by the ACA. Ms. Pellegrini said MAHP supports protections that subject AHPs to group rules. Mr. Caljouw noted from a Bela Gorman presentation that AHPs would have a material impact on the remainder of the market and stressed the need to consider costs and stability. Mr. Archambault felt that anti-discrimination rules in other states tend to allow both "good" and "bad" risk to move into AHPs so that they should not have a material impact on the market.

Mr. Gaunya stated the costs depend on the makeup of the risk pool and because of their broader appeal, AHP's could splinter the risk pool in the Merged Market and impact its stability. Mr. Caljouw doesn't see why state's regulatory treatment of AHPs is different than it was for group purchasing cooperatives and that merged market rules apply fairly across the market.

Ms. Begrowicz noted that as a small business owner she likes to have options and would not support taking away options.

*Individual Health Coverage Reimbursements*

Mr. Beagan asked about this as an option for flexibility and choice.

Mr. Archambault noted that federal HRA changes could put more healthy lives into the market and have a potentially positive impact on the individual market.

**Conclusion:**

Mr. Beagan noted that in the next meeting, the Council would discuss reinsurance and risk adjustment. He also noted that he would be sharing a draft report with members this month.

Mr. Caljouw thanked Mr. Beagan for providing summary documents in advance and suggested similar documents would be helpful for the topics planned for upcoming meetings.

Ms. Vertes asked if the general topic of additional products and tools to help address cost issues would be addressed at future meetings, and noted the importance of product flexibility in addition to managing the risk pool.

Commissioner Anderson thanked the Council Members for their participation. He stated that the next meeting of the Council will be on Friday, October 23, 2020 at 12:30 P.M. and that the meeting would be held virtually using the same Teams platform. 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.

These minutes are exempt from the requirements of 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 September 23, 2020 Council meeting.**
- 2. Proposed workflow of meeting.**
- 3. Proposed workflow of future meetings**
- 4. Summary documents of products discussed**