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MARYLAND HEALTH BENEFIT EXCHANGE

September 30, 2021

The Honorable Guy Guzzone
Chairman
Senate Budget and Taxation Committee
Miller Senate Office Building, 3 West
11 Bladen Street
Annapolis, MD 21401

The Honorable Maggie McIntosh
Chairwoman
House Appropriations Committee
House Office Building, Room 121
6 Bladen Street
Annapolis, MD 21401

Re: Joint Chairmen's Report – Reinsurance Program Costs and Forecast

Dear Chairman Guzzone and Chairwoman McIntosh:

Pursuant to page 45 of the Joint Chairmen's Report for the 2021 Session, the Maryland Health Benefit Exchange (MHBE) submits this report on the payments made for the reinsurance program for plan year 2020, an updated forecast of spending and funding needs over the waiver period, and a discussion of the impact of the COVID-19 pandemic on 2020 plan year costs and implications for 2021 plan year costs.

If you have any questions regarding this report, please contact Johanna Fabian-Marks, Director of Policy and Plan Management at (443) 890-3518 or at johanna.fabian-marks@maryland.gov

Sincerely,

Michele Eberle
Executive Director

Joint Chairmen's Report:

Reinsurance Program Costs and Forecast

Maryland Health Benefit Exchange

September 30, 2021

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I. Introduction

The 2021 Joint Chairmen's Report on the Fiscal 2022 State Operating Budget (HB 588) and the State Capital Budget (HB 590) and Related Recommendations[1] requests that the Maryland Health Benefit Exchange (MHBE) provide a report on the State Reinsurance Program (SRP) costs and future spending. Specifically, MHBE is requested to provide:

> "a report that provides the final 2020 plan year reinsurance payments, an updated forecast of spending and funding needs by fund source over the waiver period, and a discussion of the impact of the COVID-19 pandemic on 2020 plan year costs and implications for 2021 plan year costs."

The purpose of the SRP is to mitigate the premium impact of high-cost enrollees in the individual market. The SRP has been highly successful, reducing rates by more than 30% in the first three years of the program's existence and providing relief for Marylanders who had experienced significant premium increases in the years before the SRP took effect.

II. Background

During the 2018 legislative session, the Maryland General Assembly passed House Bill 1795 – Establishment of a State Reinsurance Program (HB 1795), which was then signed into law by Gov. Larry Hogan on April 5, 2018. HB 1795 was an emergency measure that directed the Maryland Health Benefit Exchange to submit a Section 1332 State Innovation Waiver to the U.S. Secretaries of Health and Human Services (HHS) and the Treasury to establish a State Reinsurance Program.

Senate Bill 387, Health Insurance – Individual Market Stabilization (Maryland Health Care Access Act of 2018) (SB 387), also passed during the 2018 session. It established a health plan assessment to be collected in 2019 to help fund the SRP. Section 9010 of the Affordable Care Act (ACA) created a federal health insurance provider fee ("9010 fee") for covered entities engaged in the business of providing health insurance. The 9010 fee was based on the entity's net premiums for the year and was estimated at about 2.75% to 3%.[2] The federal spending bill enacted in January 2018 suspended the collection of this federal fee for 2019. SB 387 applied a 2.75 percent assessment on certain health insurance plans and Medicaid managed care organizations that are regulated by the state and allows the state to collect certain funds that the federal government would have collected under Section 9010.

On May 18, 2018, the MHBE submitted an application to HHS to waive Section 1312(c)(1) of the ACA for a period of five years to implement the SRP. The waiver proposed to cover plan years 2019 through 2023 and allow Maryland to include

[1] Available at http://mgaleg.maryland.gov/Pubs/BudgetFiscal/2021rs-budget-docs-jcr.pdf

[2] Levitis, Jason. Considerations for a State Health Insurer Fee Following Repeal of the Federal 9010 Fee. State Health and Value Strategies. Jan 30, 2020. https://www.shvs.org/considerations-for-a-state-health-insurer-fee-following-repeal-of-the-federal-9010-fee/

expected state reinsurance payments when establishing the market wide index rate, decreasing premiums and federal payments of advance premium tax credits (APTCs).

MHBE proposed that the SRP would operate as a traditional, claims-based reinsurance program that reimburses qualifying health insurers for a percentage of an enrollee's claims between an attachment point and cap. For plan year 2019, Maryland implemented a cap of $250,000, a coinsurance rate of 80 percent, and an attachment point of $20,000.

On August 22, 2018, the Centers for Medicare and Medicaid Services (CMS), on behalf of HHS and the Department of the Treasury, approved Maryland's State Innovation waiver for a period of January 1, 2019 through December 31, 2023.[3]

During the 2019 Session, House Bill 258/Senate Bill 239 was passed to establish a state-based health insurance provider assessment of 1% to fund the SRP through 2023. In 2020, the U.S. Congress enacted the Further Consolidated Appropriations Act, which repealed the federal 9010 fee for calendar years beginning after December 31, 2020. Consequently, the General Assembly passed a technical correction to the applicability of the assessment (Senate Bill 124 of 2020, Maryland Health Benefit Exchange – Assessment Applicability and State–Based Individual Market Health Insurance Subsidies) to remove the language from House Bill 258/Senate Bill 239 that attached Maryland's assessment to the now repealed 9010 fee and to ensure that the state-based health insurance provider assessment continued to apply as intended.

III. Impact of the State Reinsurance Program

The SRP has stabilized the individual market: premiums are down, enrollment is up, and a new carrier entered the individual market for 2021. After four years of average premium increases in the double digits, monthly premiums fell in 2019 by an average of 13%. Rates have continued to fall as the SRP has matured, declining an additional 10% on average in 2020 and 12% on average for 2021. Rates for 2022 will increase slightly, by 2%, which is not unexpected. In total, premium rates in that market have decreased by an average of nearly 32% since the reinsurance program's launch. The reinsurance program was initially projected to decrease the then spiraling rates for individual insurance by 30% over three years, with future changes tied to claim trends.

Prior to implementation of the SRP, on-exchange enrollment declined in 2017 and 2018 by 3.1% and 2.6%, respectively. In contrast, enrollment has increased significantly since the inception of the program. As of July 2021, on-exchange enrollment is up 21.4% compared to July 2019.[4] Looking more broadly at both on and off exchange individual market enrollment, we also see substantial gains, with total market enrollment up about

[3] https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/1332-STC-MD-Signed.pdf

[4] Maryland Health Connection Data Reports, July 31, 2019, July 31, 2020, and July 31, 2021. Available at http://www.marylandhbe.com/wp-content/uploads/2021/08/Executive-Report_07312021.pdf, and https://www.marylandhbe.com/wp-content/uploads/2019/09/Executive-Report_07_31_2019.pdf.

9% year-over year as of March 2021.[5] Although recent on-exchange enrollment increases are due in large part to two new special enrollment periods, Easy Enrollment and COVID-19, lower premiums have made purchasing health insurance more attainable. It's also notable that the commencement of the SRP coincided with increases in unsubsidized enrollment, indicating that the premium decreases were sufficient to encourage people paying full price to start returning to the market. See Table 1. Without the reinsurance program, individual market enrollment would have been an estimated 8.7 percent lower in 2019, 10 percent lower in 2020, and 18 percent lower in 2021, and premiums would have been an estimated 30 percent or more higher.[6,7,8]

In addition, in May 2020 United Healthcare announced that it was rejoining the individual market, making 2021 the first year with an increase in the number of individual market carriers since 2015. This indicates that carrier confidence in the Maryland individual market has grown as a result of the SRP.

Table 1. MHBE On-Exchange Summary Data, 2014-2021

Benefit Year	Participating carriers (#)	Enrollment[9]	Subsidized/ Unsubsidized (%)	Average Premium Change (%)
2014	4	81,553	80/20	-
2015	5	131,974	70/30	10%
2016	5	162,652	70/30	18%
2017	3	157,637	78/22	21%
2018	2	153,571	79/21	50%
2019	2	156,963	77/23	-13%
2020	2	158,934	76/24	-10%
2021	3	166,038	73/27	-12%

IV. Program Costs for Plan Year 2020

A. 2020 Program Spending and Funding

In July 2020, Lewis & Ellis projected total program costs for 2020 of approximately $378 million.[10] Actual program costs for 2020, finalized in July 2021, consisted of approximately $400 million in payments to carriers (approximately 6% higher than

[5] Data provided by the Office of Chief Actuary, Maryland Insurance Administration.
[6] Lewis & Ellis, Inc. 2020 Analysis for the State Health Reinsurance Program. Report to the Maryland Health Benefit Exchange. September 12, 2019.
[7] Lewis & Ellis, Inc. 2021 Analysis for the State Health Reinsurance Program. Report to the Maryland Health Benefit Exchange. July 17, 2020.
[8] Estimates by Office of the Chief Actuary, Maryland Insurance Administration, September 2020.
[9] Enrollment reported as of the end of open enrollment preceding the applicable plan year.
[10] In August 2019, the MHBE contracted with Lewis & Ellis, Inc. to provide ongoing actuarial analysis to inform administration of the SRP. Lewis & Ellis has provided three updated spending and funding forecasts to date, one in September 2019, the second in July 2020, and the third in July 2021, each using successively updated data and assumptions.

projected in 2020) and $102,612 in program administration.[11] The 6% difference between the 2020 cost projection and the actual 2020 costs as determined in 2021 is primarily attributed to the COVID-19 pandemic. The pandemic drove higher-than-projected 2020 enrollment as well as higher-than-projected claims. Actual 2020 total individual market enrollment was 2,547,683 member-months, or an average of about 212,000 enrollees, which was about 2.4% higher than Lewis & Ellis projected in July 2020. In addition, Lewis & Ellis found COVID-19 had a greater impact on reinsured claims than expected. For example, of CareFirst's high-cost claimants with over $20,000 in incurred claims, approximately 56% had a COVID-19 claim.

On April 3, 2020, HHS notified the MHBE that the Department of the Treasury's final administrative determination for pass through funding would be about $447 million for calendar year 2020.[12] The 2020 health insurance provider assessment of 1% collected $118,622,884 in state funding. Spending and funding numbers for 2020 are presented below in Table 2 and additional detail on spending is provided in Table 3.

Table 2. Projected and Actual SRP Cost, Federal Funding, Individual Market Enrollment, and Average Premium, 2020

Source	Total Payments to Carriers	Total Federal Funding	Total Individual Market Enrollment[13]	Average Individual Market Premium PMPM[14]
Lewis & Ellis Projection (July 2020)	$377,828,828	$447,277,359	207,160	$494
2020 Actuals	$400,106,654	$447,277,359	212,307	$479

Table 3. SRP Cost Breakdown, 2020

Spending	Value	Comments
Amount of Federal pass-through funding spent on individual claims payment to issuers from the reinsurance program	$400,106,654	
CareFirst BlueChoice, Inc.	$249,548,893.78	
CareFirst of Maryland, Inc.	$39,012,885	
GHMSI	$28,542,832	

[11] Federal pass-through funding may be used to cover program administration costs.
[12] Maryland 2020 Pass-Through Funding Letter. April 3, 2020. https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/1332-MD-2020.pdf
[13] 2020 actual total individual market enrollment calculated by MHBE as the 2020 individual market member-months reported in the 2020 Reinsurance Summary Report provided by CMS to MHBE, divided by 12.
[14] 2020 actual average individual market premium PMPM was calculated by MHBE using the 2020 total individual market premium and 2020 individual market member-months reported in the 2020 Reinsurance Summary Report provided by CMS to MHBE.

Kaiser Foundation Health Plan, Mid-Atlantic, Inc.	$83,002,043	
Amount of Federal pass-through funding spent on operation of the reinsurance program	$102,612	$8,000.00 on EDGE Server fees and $94,612.25 on actuarial support services
Amount of any unspent balance of Federal pass-through funding for the reporting year	$67,317,912	
Amount of State funding contribution to fully fund the program for the reporting year	$0	No state funding was necessary for plan year 2020, as federal funding was sufficient to cover the cost of the program

V. 2020-2023 Actual and Projected Program Spending and Federal and State Funding

A. 2020-2023 Projected Program Spending and Projected Federal Funding

Table 4 below presents the most recent July 2021 SRP spending and funding projections through the end of 2023, the end of the current waiver period, as modeled by Lewis & Ellis. Two scenarios are presented for 2023, one reflecting current law in which the enhanced federal premium subsidies under the American Rescue Plan Act (ARPA) stop at the end of 2022, and one in which the enhanced subsides are continued as is currently being discussed in Congress. Continuation of the enhanced subsidies would lead to increased federal funding in 2023.

The reinsurance program is in a different financial situation than was projected last year, when it was projected that federal funding would be sufficient to cover the cost of the program through 2023. This stems from a number of factors. At a high level, program cost projections have increased slightly, and federal funding projections have decreased, while state funding available to support the program has also decreased. MHBE still projects that the program will be fully funded through 2023 but anticipates that state funding will be required to support the program, with a remaining state fund balance at the end of 2023 of approximately $203M-$261M depending on whether ARPA is extended past 2022.

i. Program Expenditures

As previously mentioned, program costs have grown slightly faster than expected due to higher-than-expected enrollment in the individual market, as well as the impact of the pandemic on claims in 2020. Additionally, in the 2021 legislative session a significant amount of funding was withdrawn from the state reinsurance fund or earmarked for future withdrawals to support other state initiatives. Note that these initiatives may only be funded through the state funding generated by the state-based health insurance provider assessment; federal pass-through funding may not be used for programs other

than the SRP. The state reinsurance program funding dedicated to other state initiatives includes $100M per year in FY 21 and FY 22 to support the Medicaid program, $20M per year in FY 22 and FY 23 to support a state young adult subsidy, and $15M per year in FY 23-25 to support health equity resource zone grants, for a total reduction in state funding of $255M through FY 23.

ii. Program Funding

An unexpected jump in federal funding for 2020 led to upward revisions in projected federal funding last year. However, the initial estimate of federal funding for 2021 received from the federal government this spring indicated an approximately 25% drop in funding compared to 2020. Further conversations with the federal government regarding the federal methodology for calculating pass-through funding, and corresponding revisions to Lewis & Ellis's methodology, led to reductions in projected federal funding for 2021-2023, compared to last years' projections.

The projected reduction in federal funding is primarily the result of the impact of a third carrier entering the individual market statewide, which lowers premium tax credit spending by the federal government and affects the blend of carrier assumptions regarding the impact of the SRP on rates.[15] Counteracting these effects, the enhanced federal premium subsidies under ARPA lead to increased federal pass-throughs. MHBE learned in early September that the final determination of federal funding for 2021, updated to include the effect of ARPA, will increase 2021 federal pass-through funding by approximately 6% compared to 2020. MHBE intends to work with MIA and Lewis & Ellis to reevaluate the projected impact of ARPA on federal funding for 2022 (and for future years if ARPA is extended).

Assumptions regarding state funding generated by the state-based health insurance provider assessment have not changed significantly since last year. The assessment is still estimated to collect approximately $112 million to $125 million per year. The federal terms and conditions of the State Innovation Waiver, in the section titled "Legislation Authorizing and Appropriating Funds to the reinsurance program", state that "the MHBE must ensure sufficient funds, on an annual or other appropriate basis, for the reinsurance program to operate as described in the MHBE's waiver application". The 2019 and 2020-2023 health insurance provider assessment ensures that Maryland has consistent funding to support the SRP and allows Maryland to access the federal pass-through funding that undergirds the SRP. Any unspent federal or state funding can be rolled forward to support the SRP in future years.

[15] The federal government blends the carriers' assumptions of the impact of turning off reinsurance, dependent on which carrier has the Second Lowest Cost Silver Plan ("SLCSP") in each area. CareFirst is expected to no longer have the SLCSP in any of the rating areas in 2022, so the weight given to their PPO plan assumption, which is much larger than Kaiser or UHC, will be 0%.

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Table 4. SRP Financial Overview, 2019-2023

	2019	2020	2021	2022	2023 (ARPA ends)	2023 (ARPA continues)
SRP Cost	$352,798,597	$400,106,654	$432,632,395	$491,646,596	$505,995,722	$514,515,711
MA Budget Transfer		$100,000,000	$100,000,000			
Young Adult Subsidy				$20,000,000	$20,000,000	$20,000,000
Health Equity					$15,000,000	$15,000,000
Federal Funding	$373,395,635	$447,277,359	$474,542,755	$289,191,236	$243,752,593	$309,725,071
State Funding	$326,606,485	$118,622,884	$124,158,202	$118,896,671	$125,554,885	$125,554,885
End of Year Balance – Fed.	$20,249,819	$67,317,912	$109,228,272	$0	$0	$0
End of Year Balance - State	$326,606,485	$345,229,369	$369,387,571	$375,057,154	$203,368,910	$260,821,399

B. Impact of COVID-19

MHBE reopened individual exchange enrollment due to COVID-19, launching a special enrollment period open to any uninsured individual in the state that ran from March 16, 2020 until August 15, 2021. This helped to lead to an increase in on-exchange enrollment of about 8%, while total individual market enrollment (on and off-exchange) grew about 9% over the same period.

As previously mentioned, Lewis & Ellis found in reviewing 2020 full year claims that COVID-19 had a greater impact on reinsured claims than expected. For example, of CareFirst's high-cost claimants with over $20,000 in incurred claims, approximately 56% had a COVID-19 claim.

VI. Carrier Accountability Reporting

MHBE regulations require all carriers participating in the SRP to submit an annual report that describes carrier activities to manage the costs and utilization of the enrollees whose claims were reimbursed by the SRP, as well as efforts to contain costs so enrollees do not exceed the reinsurance threshold.[16] The first data under this requirement was collected in 2020, for plan year 2019. A report summarizing key findings, as well as the carriers' data submissions, are available on the MHBE website.[17] Background and highlights from plan year 2019 are summarized below. The second set of reports were collected in the summer of 2021, for plan year 2020, and are currently under review.

[16] COMAR 14.35.17.03(C)
[17] https://www.marylandhbe.com/policy/reinsurance-program/

The PY 2019 report serves as baseline. By allowing data to be tracked year-over-year, the PY 2020 report will provide more meaningful information on the effectiveness and savings of the interventions that the carriers reporting in PY 2019. Going forward, MHBE will use the 2019 and 2020 reports as a basis for conversations with carriers about their care management programs and initiatives to improve outcomes and manage SRP costs. MHBE is interested in exploring how we can encourage carriers to align care management activities for individual market enrollees with state population health initiatives, as well as focus on those conditions that are driving reinsurance payments and involve potentially preventable costs.

A. Reporting Overview

MHBE collected data from carriers on the following items:

- The initiatives and programs the carrier administers to manage costs and utilization of enrollees whose claims are reimbursable under the SRP;
- The total population of enrollees whose claims are reimbursable under the SRP, the allocation of these enrollees across each of the initiatives and programs described above, and the allocation of enrollees who do not participate in these initiatives and programs;
- The effectiveness of the initiatives and programs, as measured by the estimated reduction of claims and utilization, and actions the carrier will take to improve on the effectiveness;
- Estimated savings to the SRP and estimated rate impact due to these programs and initiatives, and the methodology used to make these estimates; and
- Population health initiatives and outcomes for individual market enrollment.[18]

MHBE asked carriers to report on targeted initiatives addressing diabetes, behavioral health, asthma, and pregnancy/childbirth, as well as health outcomes addressing these conditions. These conditions were chosen to align with state population health goals and because they can have preventable costs. In order to protect patient privacy, carriers were asked to report on initiatives that served 300 or more total individual market enrollees.

B. Key Findings

The table below lists the most prevalent and costly Hierarchical Condition Categories (HCCs) among the claims reimbursed by the SRP, according to data reported by the carriers. HCCs are groupings of related diagnoses that are used by the federal risk adjustment program and are a way to classify diagnosis codes into meaningful categories. Table 6 presents, in ascending order, the most frequently occurring and the highest cost HCCs among SRP claims across both carriers. MHBE notes that the top HCCs reimbursed by the SRP include the conditions of state population health interest—diabetes, asthma, behavioral health, and pregnancy. These are highlighted in

[18] Reporting instructions are available here and a corresponding reporting template is available here.

light blue in the table. Various cancers accounted for both the most frequently occurring and highest cost HCCs.

Table 5. Top Hierarchical Condition Categories by Count and Cost, PY 2019 SRP

	Most Frequent	Highest Cost
1	Cancers, including breast, prostate, lung brain, colorectal, and metastatic	Cancers, including breast, prostate, lung brain, colorectal, and metastatic
2	Diabetes	Congestive Heart Failure
3	Inflammatory Response Syndrome/Shock	Diabetes
4	Congestive Heart Failure	Septicemia, Sepsis, Systemic Inflammatory Response Syndrome/Shock
5	Respiratory Arrest, Failure, and Shock	Respiratory Arrest, Failure, and Shock
6	Asthma and COPD	Asthma and COPD
7	Specified Heart Arrythmias	Specified Heart Arrythmias
8	Endocrine and Metabolic Disorders, excluding Congenital Disorders	End Stage Renal Disease
9	Pregnancy	Non-Traumatic Coma, Brain Compression/Anoxic Damage
10	HIV/AIDS	Protein-Calorie Malnutrition
11	Autistic Disorder	Coagulation Defects and Other Specified Hematological Disorders
12	Major Depressive & Bipolar Disorders	Hemophilia
13	Drug Dependence	Inflammatory Bowel Disease
14	End Stage Renal Disease	Autistic Disorder
15		Multiple Sclerosis

Table 6 summarizes the care management initiatives reported by each carrier that address each targeted condition in PY 2019. Table 6 also presents the number of enrollees with claims reimbursed by the SRP in PY 2019, as well as the corresponding total SRP payment. Overall, CareFirst had 9,095 enrollees with claims reimbursed by the SRP, with SRP payments totaling $288 million. CareFirst reported one initiative targeting diabetes that serves 29% of their SRP population with diabetes, and one targeting behavioral health, serving 20% of their SRP population with a behavioral health diagnosis. Overall, Kaiser Permanente had 2,389 enrollees with claims reimbursed by the SRP, with SRP payments totaling $65 million. Kaiser Permanente reported two initiatives targeting diabetes that serve 37 percent of their SRP population with diabetes.

Table 6. Summary of Care Management Initiatives Targeting Specified State Public Health Goals, PY 2019

	# of Enrollees with Claims Reimbursed by the SRP	Total SRP Payment	Diabetes	Asthma	Behavioral Health	Pregnancy
CareFirst	9,095	$287,919,887	Diabetes Care Management Program Serves 318 (29%) of SRP members with diabetes	N/A	Behavioral Health Care Management Program Serves 347 (20%) of SRP members with a BH condition	N/A
Kaiser Permanente	2,389	$64,878,710	Diabetes Care Management Program and Diabetes Educational Video Serves 146 (37%) of SRP members with diabetes	N/A	N/A	N/A

I. 1332 Waiver Renewal

The federal Section 1332 waiver approved by the federal government enables Maryland to receive federal funds to support the SRP. The federal government authorizes 1332 waivers for a 5-year period. The current waiver is authorized for calendar years 2019-2023 and expires December 31, 2023. According to federal guidance, MHBE would need to submit a letter of intent to amend and renew the waiver by October 1, 2022, and to submit an application by March 31, 2023.

If the General Assembly is interested in continuing the SRP for a second waiver period (2024-2029), it will be necessary to identify a source of state funding. A waiver extension, and the accompanying federal funding, is contingent on a state commitment to providing state funding for the program. The current funding source, the 1% health insurance provider assessment, sunsets at the end of 2023.[19] In order for MHBE to put together a waiver renewal letter of intent and application according to federal timeframes, it would be important for the General Assembly to establish a funding source for 2024-2029 during the 2022 legislative session.

[19] Maryland Insurance Article § 6-102.1(c)(2)