750 EAST PRATT STREET, 6TH FLOOR
BALTIMORE, MD 21202
marylandhbe.com

MARYLAND HEALTH BENEFIT EXCHANGE

September 30, 2020

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 the Provider Assessment

Dear Chairman Guzzone and Chairwoman McIntosh:

Pursuant to page 49 of the Joint Chairmen's Report for the 2020 Session, the Maryland Health Benefit Exchange (MHBE) submits this report on the payments made for the reinsurance program for plan year 2019 (including the amount by each funding source) and an updated forecast of spending and funding needs over the waiver period. In addition, this report also includes information on the planned use of reinsurance funds in fiscal year 2021.

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

Michele Eberle
Executive Director

Joint Chairmen's Report:

Reinsurance Program Costs and the Provider Assessment

Maryland Health Benefit Exchange

September 30, 2020

Table of Contents

List of Tables

I. Introduction

The 2020 Joint Chairmen's Report on the Fiscal 2021 State Operating Budget (SB 190) and the State Capital Budget (SB 191) 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:

> "Payments made for the reinsurance program for plan year 2019 (including the amount by each fund source) and an updated forecast of spending and funding needs over the waiver period. In addition, to the extent that not all of the provider assessment funds included in the fiscal 2021 budget are needed for that purpose, MHBE should report on the planned use of those funds in fiscal year 2021, including for an additional or new subsidy program".

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 23% in the first two 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 reinsurance program. 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

[1] Available at http://mgaleg.maryland.gov/Pubs/BudgetFiscal/2020rs-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/

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 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 reinsurance program 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 – Health Insurance – Individual Market Stabilization – Provider Fee was passed to assess a state-based health insurance provider fee of 1% to fund the State Reinsurance Program through 2023. In 2020, the U.S. Congress enacted the Further Consolidated Appropriations Act, which repealed the 9010 fee for calendar years beginning after December 31, 2020. Consequently, the General Assembly passed a technical correction to the applicability of the fee (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 fee 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 is entering 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 11.9% on average for 2021.

Prior to implementation of the SRP, on-exchange enrollment declined in 2017 and 2018 by 3.1% and 2.6%, respectively. In 2019, the first year of the SRP, on-exchange enrollment increased by 2.2%, followed by a 1.3% increase in 2020.[4] 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 and 10 percent lower in 2020, and premiums would have been an estimated 30

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

[4] Enrollment measured as of the end of the open enrollment period preceding the plan year

percent higher.[5,6]

During the current plan year 2020, enrollment has remained notably high. As of July 2020, on-exchange enrollment is up 14.8% year-over-year.[7] Although due in large part to two new special enrollment periods, Easy Enrollment and Covid-19, lower premiums have made purchasing health insurance more attainable.

In addition, in May 2020 United Healthcare announced that it is 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 Summary Data, 2014-2020

Benefit Year	Participating carriers (#)	Enrollment	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%

IV. Program Costs for Plan Year 2019

A. Background on Actuarial Service Providers

To date, two actuarial firms have been engaged to estimate reinsurance spending and funding needs. First, through a Memorandum of Understanding with the State of Maryland Department of Legislative Services, the MHBE engaged with Wakely Consulting Group, LLC (Wakely) to address the actuarial requirements for the waiver application, including developing a forecast of spending and funding needs over the waiver period. Wakely collected 2016, 2017, and emerging 2018 data directly from Maryland insurers to develop their analyses, which they finalized in May 2019. Second, 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 two updated spending and funding forecasts to date, one in September 2019 and the second in July 2020, each using successively updated data and assumptions.

[5] Lewis & Ellis, Inc. 2020 Analysis for the State Health Reinsurance Program. Report to the Maryland Health Benefit Exchange. September 12, 2019.
[6] Lewis & Ellis, Inc. 2021 Analysis for the State Health Reinsurance Program. Report to the Maryland Health Benefit Exchange. July 17, 2020.
[7] Maryland Health Connection Data Reports, July 31, 2019, and July 31, 2020. Available at https://www.marylandhbe.com/wp-content/uploads/2019/09/Executive-Report_07_31_2019.pdf and https://www.marylandhbe.com/wp-content/uploads/2020/07/EnrollmentReport_July2020.pdf.

B. 2019 Program Spending and Funding

In May 2019, Wakely projected total program costs for 2019 of approximately $462 million. In September 2019, Lewis & Ellis projected total program costs for 2019 of approximately $370 million. Actual program costs for 2019, finalized in July 2020, consisted of approximately $352 million in payments to carriers and $347,219 in program administration.[8] The difference between the Wakely and Lewis & Ellis cost projections can be attributed to several factors. Most significantly, Wakely had to make their projections based on older data. By the time Lewis & Ellis made their 2019 projections, they had the benefit of final 2018 data and initial 2019 data on which to base their estimates. In addition, Lewis & Ellis made some refinements to the Wakely methodology. These varying projections, coupled with higher-than-anticipated federal pass-through funding, led to approximately $20 million in unspent federal and no need to use state funding for the 2019 plan year. This funding will be rolled forward to support future years of the SRP.

Wakely projected federal funding pursuant to the State Innovation Waiver for 2019 of $304 million. On April 26, 2019, HHS notified the MHBE that the Department of the Treasury's final administrative determination for pass through funding would be about $373 million for calendar year 2019.[9] The 2019 health insurance provider fee of 2.75% collected $326,889,258 in state funding. Spending and funding numbers 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, 2019

Source	Total Payments to Carriers	Total Federal Funding	Total Individual Market Enrollment	Average Individual Market Premium PMPM[10]
Wakely Projection (May 2019)	$462,000,000	$303,561,633	181,522	$508
Lewis & Ellis Projection (Sept. 2019)	$370,257,175	$373,000,000	194,128	$460
2019 Actuals	$352,798,597	$373,395,635	191,820	$535

[8] Federal pass-through funding may be used to cover program administration costs.
[9] 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
[10] 2019 actual average individual market premium PMPM was calculated by MHBE using the 2019 total individual market premium and 2019 individual market member-months reported in the 2019 Reinsurance Summary Report provided by CMS to MHBE.

Table 3. SRP Cost Breakdown, 2019

Spending	Value	Comments
Amount of Federal pass-through funding spent on individual claims payment to issuers from the reinsurance program	$352,798,597.39	
CareFirst BlueChoice, Inc.	$206,560,535.36	
CareFirst of Maryland, Inc.	$34,650,600.84	
GHMSI	$26,023,597.56	
Kaiser Foundation Health Plan, Mid-Atlantic, Inc.	$85,563,863.63	
Amount of Federal pass-through funding spent on operation of the reinsurance program	$347,218.75	$266,500 on EDGE Server and $80,718.75 on actuarial support services
Amount of any unspent balance of Federal pass-through funding for the reporting year	$20,249,818.86	
Amount of State funding contribution to fully fund the program for the reporting year	$0	No state funding was necessary for plan year 2019, as federal funding was sufficient to cover the cost of the program

V. 2020-2023 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 2020 SRP spending and funding projections from Lewis & Ellis. Because of a lower-than-expected SRP program cost in 2019 and anticipated reductions in SRP program cost in 2020 and 2021 due to overall reduced medical utilization as a result of the COVID-19 pandemic, SRP costs have been revised slightly downward compared to the September Lewis & Ellis projections, and are also below the original Wakely projections.

Lewis and Ellis expect the Federal pass-through funding for 2021 to be around $568 million, up from the $447 million received for 2020. The increase to the pass-through funding for 2021 is primarily driven by a projected 16% decrease in the average benchmark premium, as well as a number of factors influencing changes in the pass-through funding, including rate decreases reducing premiums and APTC, a new carrier entrant, and assumptions that the APTC population will be increasing over time (e.g. SEP enrollment from COVID-19 and the Maryland Easy Enrollment Health Insurance Program).

Table 4. Projections for the State Reinsurance Program, 2020-2023

	2020	2021	2022	2023
SRP Cost (excluding administrative expenses)	$377,828,828	$416,782,404	$447,975,589	$478,434,269
Reduction in Premiums as a Direct Result of the SRP	-25.7%	-28.1%	-28.6%	-29.1%
Total Individual Market Premium PMPM	$494	$424	$443	$461
Total Individual Market Enrollment	207,160	224,909	226,017	227,132
Estimated Federal Pass-Through Funding	$447,277,359	$567,748,703	$628,614,048	$684,842,457

Source: July 2020 Lewis and Ellis Projections

B. 2020-2023 Projected State Funding

The 1% state-based health insurance provider fee is estimated to collect approximately $112 million to $125 million per year, as shown in Table 5. 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 fee ensures that Maryland has consistent funding to support the SRP and allows Maryland to access the federal pass-through funding that undergirds the SRP. Current estimates project that Maryland will not have to draw down state funding through 2023; however, these are only projections. Circumstances that would increase the SRP cost or reduce federal funding, and therefore require use of state funding, are possible. Any unspent state funding can be rolled forward to support the reinsurance program in future years.

The commitment to and availability of dedicated state funding supports carrier confidence in the soundness of the SRP and the stability of the individual market. That confidence in turn supports carrier assumptions regarding SRP payment, yielding lower premiums and attracting carriers to compete in the market. As previously mentioned, in 2020 UnitedHealthcare announced it was reentering the individual market, citing the stability of the reinsurance program as a reason for their participation.

Table 5. Health Insurance Provider Fee Assessment of 1%

Assessment	2020	2021	2022	2023
1% Premium Tax	$118,517,416	$112,591,545	$118,896,671	$125,554,885

Source: MIA estimates as of July 9, 2020

VI. State Subsidy Program

Although the SRP provided immediate relief through lower premiums, Marylanders continue to voice concern over costs, including rising deductibles and out-of-pocket-costs, and limited plan options. In 2019, the MHBE established a work group to study affordability issues, including how to reduce out-of-pocket costs, maximize APTC for subsidized consumers, and maximize affordability for unsubsidized consumers. To improve the individual market risk pool and support long-term market sustainability, the Affordability Work Group recommended that the MHBE study a "supplemental premium subsidy for Young Adults that does not modify the existing federal tax credit structure," with young adults defined as those ages 18-34.[11]

During the 2020 session, the General Assembly passed Senate Bill 124, Maryland Health Benefit Exchange – Assessment Applicability and State–Based Individual Market Health Insurance Subsidies, which requires the MHBE to submit a study of the potential design, implementation, and effects of an individual subsidy program to the legislature by December 1, 2020. MHBE will be forming a workgroup to gather public input this fall, which will inform the final study.

MHBE is currently working with Lewis & Ellis and the Maryland Insurance Administration to model the design and impact of potential state subsidies, including an evaluation of the impact to the reinsurance program and the market overall if state funding currently designated for the reinsurance program were used to support these targeted state subsidies. Although the federal government requires that Maryland "must ensure sufficient funds, on an annual or other appropriate basis, for the reinsurance program to operate" as described in the 1332 waiver application, the federal government does not limit the state's use of state funding that exceeds that necessary to support the reinsurance program.[12]

[11]Maryland Health Benefit Exchange Affordability Work Group. Recommendations to strengthen the individual market in Maryland. August 1, 2019. https://www.marylandhbe.com/wp-content/uploads/2019/09/Affordability-Work-Group-Report-09252019.pdf

[12] Maryland 1332 Waiver Approval and Standard Terms and Conditions. August 22, 2018. https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/1332-STC-MD-Signed.pdf