



The Commonwealth of Massachusetts
Commonwealth Health Insurance Connector Authority
100 City Hall Plaza • Boston, MA 02108
Office of Consumer Affairs and Business Regulation
Division of Insurance
1000 Washington Street • Boston, MA 02118

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Insurance

March 25, 2016

Mr. Kevin Counihan
Director, Center for Consumer Information and Insurance Oversight
Chief Executive Officer, Health Insurance Marketplace
Centers for Medicare & Medicaid Services, Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Via mail and e-mail to: Kevin.Counihan@cms.hhs.gov

Dear Director Counihan:

Thank you for responding to our respectful request that the United States Department of Health and Human Services (HHS) grant the Commonwealth of Massachusetts permanent flexibility to retain the current structure of its merged insurance market.

We are writing to memorialize our conversation with your staff on March 18, 2016, in which your staff indicated that Massachusetts' current market structure is permissible and may continue on a permanent basis.

As we discussed, Massachusetts has implemented a unique variation of a merged market that meets the needs of Massachusetts' residents and small businesses. Massachusetts merged its non-group and small group markets in 2007 as part of the comprehensive state health reform that served as a precursor to the Patient Protection and Affordable Care Act (Affordable Care Act). As implemented, the Commonwealth's version of a merged market includes the shared risk pool that is the hallmark of a typical merged market, but also retains some structural characteristics typical of a non-merged market. Specifically, Massachusetts' hybrid merged market features the following enrollment and rating practices:

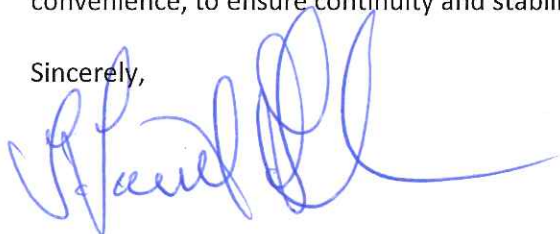
- Non-group enrollees may enroll and renew in health plans on a calendar-year basis.
- Small group enrollees may enroll and renew in health plans on a rolling basis throughout the year.
- Issuers must set premium rates for non-group and small group for the first quarter of the year using the combined experience of non-group and small group enrollees.
- Issuers may refresh small group premium rates for the second, third, and fourth quarter of the year. These rates may only be offered to small groups purchasing or renewing coverage during the second, third, or fourth quarter of the year.

- Issuers may not refresh non-group premium rates for the second, third, and fourth quarter of the year.
- All non-group plans are effective from the date of enrollment until January 1 of the next calendar year.
- All small group plans are effective from the date of enrollment for a 12-month period.

Though this hybrid version of a merged market has operated successfully in Massachusetts for nearly a decade, it may not fully align with the characteristics of a federally-designated merged market as currently described in federal regulations. Your staff has clarified, however, that although Massachusetts may not fully align with federal characteristics of a merged market, its hybrid merged market arrangement satisfies the Affordable Care Act's risk pool and enrollment requirements and provides an equivalent level of consumer protection. As a result, your staff has indicated that Massachusetts may continue to operate its hybrid merged market, with the enrollment and rating practices described above.

On behalf of the Commonwealth of Massachusetts, thank you for offering Massachusetts the flexibility to continue its version of a merged market, and your ongoing partnership in our shared commitment to robust health coverage. We would appreciate your confirmation of this letter and the content therein at your earliest convenience, to ensure continuity and stability for the Commonwealth's insurance market.

Sincerely,



T. Louis Gutierrez
Executive Director
Commonwealth Health Insurance Connector Authority



Daniel R. Judson
Commissioner
Massachusetts Division of Insurance