



August 25, 2017

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Massachusetts Health Connector

100 City Hall Plaza

Boston, MA 02108

RE: MA Draft Requests for Federal Flexibility to Support Commercial Market Stability & Reforms

Dear Director Gutierrez,

The Retailers Association of Massachusetts (RAM), established in 1918, is a statewide trade association of approximately 4,000 member companies. Our membership ranges from independent, "mom and pop" owned stores to larger, national chains operating in the general retail, restaurant and service sectors of the retail industry. The retail industry in the Commonwealth is the backbone of our local Main Streets, supporting over 928,000 jobs and operating in more than 73,000 brick-and-mortar establishments.

RAM appreciates the opportunity to comment on the Commonwealth's draft request to the federal Departments of Health and Human Services (HHS) and Treasury for increased state flexibility to support commercial insurance market stability and reforms. In particular, RAM strongly supports the state's call for increased flexibility on the use of state based rating factors as well as efforts seeking state administrative authority over the federal small businesses health care tax credit.

State Based Rating Factors

Since the adoption of the universal healthcare law in Massachusetts and the merging of the individual and small group markets, our state's small businesses have continuously experienced disproportionate rate increases compared to their large competitors. The merged market's community rating structure has resulted in significant cross subsidization of individuals by small groups and essentially prevents the feasible utilization of cost containment tools typically available to larger groups purchasing coverage outside the

merged market. This structure significantly limits the ability of merged market consumers to translate efforts to reduce their own presented risk into direct premium savings.

The one marketplace based tool that our regulators, insurers, and small businesses have always had at their disposal to help stabilize the merged market and produce a more equitable rates for consumers has been state adopted rating factors. Authorized by our elected officials through state law, developed by our state's licensed insurance carriers, and regulated by the Massachusetts Division of Insurance, state based rating factors have provided our system the flexibility to respond to existing and emerging market disparities.

State based rating factors also played a role in our 2010 cost containment reform law, which statutorily authorized the creation of the state's small business group purchasing cooperative program. An innovative approach to reducing healthcare costs and presented risk through the utilization of education and wellness, group purchasing cooperatives rely on a state based rating factor to provide participants direct premium savings reflective of their efforts to become better and healthier consumers of healthcare. This unique model began working as designed until implementation of the Affordable Care Act (ACA) limited the state's ability to utilize certain rating factors, including the cooperative factor. Rather than serving as a model cost containment tool for the rest of the country, the ACA's rigid market rating rules essentially prohibited the continued operation of the Massachusetts cooperative model as it was originally designed. They have likewise interfered with the effectiveness of alternative state based rating factors designed to ensure market stability and more affordable and equitable rates.

While Massachusetts has been allowed to continue to use the prohibited rating factors at a diminished capacity pursuant to a series of transition waivers issued by HHS, complete elimination of the restricted state rating factors is set to occur at the end of calendar year 2018. These changes will undoubtedly result in the type of market disruptions previously anticipated by the DOI and remove important tools for addressing affordability issues faced by merged market consumers.

The restoration of state based rating factors to their pre-ACA values is an essential step towards addressing the inequitable premium rates experienced by small businesses purchasing coverage through the Massachusetts merged market. In addition to removing the chilling effect on the use of group purchasing cooperatives, restoration of our state based rating factors would reintroduce important incentives to grow jobs resulting from the state's size rating factor and incentives for employers to keep their employees on their sponsored plans resulting from the state's participation rate rating factor. These factors are of particular importance in light of the recent budget debate over growing MassHealth costs.

As such, RAM strongly urges the Connector to seek full restoration of these important mechanisms for market stability and consumer cost relief, in particular the cooperative, size and participation rate rating factors.

Federal Small Businesses Health Care Tax Credit

RAM also supports the state's request for flexibility to allow for state administration of the federal Small Business Tax Credit. We would however ask that the request be amended to seek permission for Small Business Tax Credits to be available to small businesses purchasing coverage outside the Connector. It should not be a requirement that coverage be purchased through the Connector as doing so limits access to these important benefits to a small subset of the market. Such a restriction has been the reason for so little uptake of this program in the past.

As the goal of Small Business Tax Credits is to assist small employers facing affordability issues stay in the merged market and offer commercial coverage to their workers, additional access to these credits would further promote universal coverage and reduce the burden facing our government sponsored plans. To provide small businesses a level playing field and greater options for premium relief, the use of such credits should be allowed by businesses purchasing coverage directly from private market health plans. The state's request for flexibility should therefore include language expanding availability of these credits to ensure more affordable and accessible coverage for our small businesses.

RAM would like to again thank the Connector for its effort thus far in seeking flexibility from the federal government as well as for any consideration given to these comments. RAM stands ready to answer any questions the Connector may have regarding these comments.

Sincerely,

A handwritten signature in black ink that reads "Jon B. Hurst". The signature is written in a cursive, flowing style.

Jon B Hurst, *President*
Retailers Association of Massachusetts