Introduction and Overview of Maine Guaranteed Access Reinsurance Association

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Health Care, Insurance and Financial Services Committee

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History of MGARA

Introduction. Prior to the implementation of the ACA, Maine was a leader in state-level innovation designed to reduce Mainers' healthcare costs and increase their access to affordable health coverage. The State's flagship innovation was Maine Guaranteed Reinsurance Association ("MGARA"), a legislatively established private nonprofit organization operating a reinsurance program for the higher-risk segment of the State's individual health insurance market. MGARA generated an approximate 20% annual rate reduction in that market during two years of operation governed by a Board of Directors consisting of 12 members, with 7 members appointed by the Maine Superintendent of Insurance and 5 members appointed by the member insurers .

In May 2011, the Maine State Legislature passed Public Law Chapter 90 "An Act to Modify Rating Practices for Individual and Small Group Health Plans and to Encourage Value-based Purchasing of Health Care Services" ("PL90"). Included in the many components of PL90 was the establishment of MGARA as a reinsurance program for the higher risk segment of Maine's individual health insurance market. The portion of PL90 establishing MGARA was codified at 24-A MRS c. 54-A.

MGARA was formally organized as a Maine non-profit corporation on January 23, 2012 and, following an initial start-up phase, commenced reinsurance operations on July 1, 2012. MGARA operated for an 18 month period beginning July 1, 2012 and ending December 31, 2013. Effective as of January 1, 2014, MGARA's operations were suspended. The suspension is currently scheduled to expire on December 31, 2023, unless an earlier re-start is authorized.

Program Description. As a foundational matter, the Board developed a basic mission statement for MGARA to be used as a guide and filter for all major decisions to be made in implementing its reinsurance program. The mission statement has two parts:

1. To operate the reinsurance program described in the Enabling Act in such manner as to maximize the impact of MGARA in lowering the cost of health insurance in Maine's individual market; and

2. To do so without jeopardizing the solvency of MGARA.

The reinsurance program operated by MGARA reinsures health insurance policies ceded to MGARA by primary carriers operating in Maine's individual health insurance market either voluntarily or on a mandatory basis based on the presence of certain specified high-risk conditions. MGARA's reinsurance program was intended to reduce insurance costs in Maine's individual health insurance market by providing reinsurance for a significant portion of the coverage provided through individual health insurance policies. Originally, MGARA's reinsurance program provided reinsurance coverage for 90% of reinsured claims between $7,500 and $32,500 and 100% of reinsured claims over $32,500 (without a cap). These levels have now

been adjusted in connection with the re-start of MGARA as of January 1, 2019.

MGARA's reinsurance program costs were originally spread across the individual, group and self-insurance markets by means of a two-part funding mechanism[1]:

1. Assessments payable by all health insurers and third-party administrators operating in the State of Maine and

2. Reinsurance ceding premiums charged to the carriers ceding policies to MGARA.

Throughout its period of operation, MGARA set the assessment at $4 per person per month ("PMPM") and premiums at a rate of 90% of the premium charged under the underlying policy.

Historical Results. Over MGARA's period of active operation (2012 6 mo. and 2013), MGARA paid approximately $66 million in claims and generated a positive fund balance of approximately $5 million. Based on rate filings submitted by insurance carriers operating in Maine's individual market, the MGARA program generated an approximate 20% reduction in requested rates. By way of example, Anthem Health Plans of Maine, Inc.'s ("Anthem") 2013 rate filing sought a rate increase of 1.7%. Anthem projected that without the MGARA reinsurance program, its 2013 rate increase would have been 21.6%.

Suspension. Despite this success, the MGARA reinsurance program was rendered largely redundant during the pendency of the federal transitional reinsurance program established under the ACA and Department of Health and Human Services ("Federal Transitional Reinsurance Program"), because both programs offered reinsurance for the individual health insurance market in Maine. Although the reinsurance offered under each program was very different, each program served essentially the same function.[2] The ACA established a three-year federal transitional reinsurance program, which, like MGARA, was funded through assessments on each state's insurance market, including Maine's. In order to avoid imposing redundant costs on the Maine market through parallel federal and state individual market reinsurance programs, consistent with recommendations from MGARA and the Superintendent, the Legislature amended MGARA's enabling legislation to suspend MGARA's reinsurance program during the pendency of the Federal Reinsurance Program. That legislation called for reactivation of MGARA as of January 1, 2017. The Federal

[1] MGARA also has the authority to levy a "Deficit Assessment" to cover any Net Losses -- up to a maximum of $2 PMPM; however, the Board views this is a back-stop solvency mechanism to be avoided to greatest extent possible.

[2] The ACA established a temporary uniform national reinsurance program to be operated across all 50 states in the years 2014, 2015, and 2016. The Federal Transitional Reinsurance Program provided coverage for 80% of claims between $60,000 and $250,000 across the entire individual insurance market, and will be funded through assessments payable by all health insurers and TPAs (including those operating in Maine) at a rate of approximately $5.25 per person per month. As a result, Maine's individual market would be subject to double assessments for overlapping reinsurance coverage if both MGARA and the Federal Transitional Reinsurance Program operate conterminously. Accordingly, it is the Board's conclusion that Maine should only be serviced by one of these programs.

Transitional Reinsurance Program ended as scheduled on December 31, 2016; however, subsequent legislation extended MGARA's suspension through December 31, 2023, unless an earlier re-start is authorized by the Superintendent of Insurance.

The extension of MGARA's suspension resulted from the realization that the current structure of the ACA's subsidies for Exchange participants in the form of advance premium tax credits ("PTC") creates an economic disincentive for Maine to implement any MGARA-like reinsurance program. To the extent a reactivated program has the effect of reducing premiums for many persons obtaining individual health insurance coverage on the federally-facilitated exchange in Maine (the "Exchange"), these lower premiums would in turn decrease the PTC amount to which Maine's Exchange participants are entitled, and which the federal government must pay, under the ACA. This result would represent a measurable cost-savings to the federal government, effectively funded by assessments on Maine's insurance market.

Solution - 1332 State Innovation Waiver. A solution to the PTC conflict described above was identified under Section 1332 of the ACA, which permits a state to apply for approval to waive specific provisions of the ACA to permit the state to operate a health insurance program that deviates from certain ACA requirements, provided that the state can demonstrate that its program will:

1. Provide coverage to a comparable number of residents of the state as would be provided coverage absent the waiver,

2. Provide coverage that is at least as comprehensive and affordable as would be provided absent the waiver, and

3. Would not increase the Federal deficit."[3]

Under Section 1332, a state that applies for and receives a waiver (a "1332 Waiver") is eligible to receive "the aggregate amount of such [premium tax] credits or [cost-sharing] reductions that would have been paid on behalf of participants in the Exchanges ... had the State not received such waiver, ... for the purposes of implementing the State plan under the waiver."[4] Accordingly, once a 1332 Waiver was approved, Maine would be eligible to receive pass-through funding[5] equal to the federal government's cost-savings resulting from MGARA's positive effect on premium rates and corresponding reduction in the amount of PTC claimed by Maine's Exchange participants. The 1332 Waiver would be effective for an initial period of five years, with an option to renew for an additional five years.

Current Status

On June 2, 2017 LD 659 was enacted (the "Legislation"), authorizing the State

[3] 31 CFR Part 33, Guidance issued 12/16/2015.

[4] 42 U.S.C. 18052(a)(3).

[5] The applicable regulations use the term "pass-through funding" to refer to this return of savings to the state pursuant to Section 1332.

Superintendent of Insurance ("Superintendent") to develop a proposal for a 1332 Waiver to facilitate resumption of the State Program, and to apply for and implement such waiver upon approval by the Governor. The Legislation conditioned resumption of MGARA operations on the granting of a 1332 Waiver.

On July 30, 2018, the State of Maine received approval from the United States Department of Health & Human Services, Centers for Medicare & Medicaid Services ("CMS") of its Application for State Innovation Waiver under Section 1332 of the Patient Protection and Affordable Care Act attached hereto as Exhibit A ("Section 1332 Waiver Application"). On August 21, 2018 the State of Maine accepted the Section 1332 Waiver by executing and delivering to CMS the Specific Terms and Conditions of the Section 1332 Waiver, a copy of which is attached hereto as Exhibit B ("STCs"). The Section 1332 Waiver Application and the STCs are collectively referred to as the "Section 1332 Waiver."

On August 18, 2018, the MGARA Board approved the re-initiation of MGARA operations as of January 1, 2019, and the submission of an amended and restated Plan of Operation for approval by the Maine Superintendent of Insurance based on the conceptual changes to the Original Plan summarized below, which have been incorporated into this Amended and Restated Plan of Operation (January 1, 2019 Re-Start).

In late December MGARA received approval of its Amended and Restated Plan of Operation for a January 1, 2019 Re-Start of operations. The following tables summarize both the major changes(Table No. 1) and the constants (Table No. 2) under MGARAs Amended and Restated Plan of Operation

Table No.1
Summary of Changes

Change	Description
Implementation	Re-Start operations 1/1/19
1332 Pass Through Payment Revenue	Provide for receipt of 1332 Innovation Waiver Pass-Through Payments. Pass-through payments for the year are calculated based on the agreed upon financial model and approved rates for that year. A true-up calculation and payment will be performed by CMS after year end.
Attachment Points	Attachment Pt 1 - @ $47,000 MGARA reimburses 90% of claims to $77,000. Attachment Pt 2 - @ $77,000 MGARA reimburses 100% of claims not reimbursed through the federal high-cost risk pool ("Federal High-Cost Risk Pool").
Federal High-Cost Risk Pool	Under the Federal High-Cost Risk Pool for 2019 carriers are eligible for reimbursement of 60% of claims above $1 million.

Table No. 2 Summary of Unchanged "Constants"	
Element	**Description**
Assessment	Maintain $4 PMPM assessment level (with $2 PMPM emergency solvency assessment held in reserve).
Premium	Maintain ceding premium levels at 90% of underlying policy premium.
Mandatory Ceding Conditions	Maintain same 8 mandatory ceding conditions as the Original Plan.
Future Attachment Points	MGARA has flexibility to adjust assessment levels, premium and attachment points. Current expectations are to maintain assessment and premium levels, with potential adjustments to be made to attachment points to reflect program performance and a targeted minimum 10% surplus.

Total funding for MGARA for 2019 is estimated to be approximately $93 million. MGARA estimates that its reinsurance program will result in a net premium decrease of approximately 9% in 2019, and reduce the uninsured population between 300 and 1,100 individuals. Set forth in Table No.3 below is MGARA's financial model for anticipated MGARA operations.

Table No. 3
MGARA 2019 Financial Model

Revenue:		Percent of Revenue
Assessment	$22,600,000	24.3%
Reinsurance Premium	$37,000,000	39.8%
1332 Pass-Through Payments	$33,400,000	35.9%
Total Revenue	$93,000,000	100%
Expenses:		
Reinsurance Claims	$89,700,000	96.4%
Operating Expenses	$ 700,000	0.8%
Total Expenses	$90,400,000	97.2%
Solvency Margin	$2,600,000	2.8%

Future

With the 1332 Waiver in place and MGARA reinsurance program in operation, MGARA projects a positive impact on premiums ranging from approximately 9% to 10% over the period 2019-2023. It goes without saying that the health care environment is extremely dynamic and that these are only estimates based on MGARA's actuarial and financial model. Actual results will, no doubt, vary from current modeling, and those variances could be substantial.[6] Nevertheless, the projected impact of the program is significant.

It is important to understand that, in the current ACA environment, the primary beneficiaries of the MGARA program will be individuals with household income exceeding 300% of the federal poverty level ("FPL") because premiums for that group are not afforded the same buffering under the ACA's PTC structure due to their income level, and those individuals purchasing off-exchange. The majority of Exchange participants (i.e., those between 100% and 300% FPL) will, by and large, not be affected by increase or decrease in premium due to the compensation provided through PTCs, which have the effect of capping Exchange participants' financial exposure based on their household income.

MGARA's assessment authority is capped at $4 PMPM. This assessment level was established in 2012, and will have increasingly less market impact in 2019 and each year thereafter than it did originally. Medical costs continue to increase and the static $4 PMPM assessment is falling behind because it is not indexed to medical inflation, or even general inflation. Additionally, the increase in the size of the individual market (which has more than tripled since MGARA's inception) results in dilution of the ameliorative effect of the $4 PMPM assessment – due to putting the same dollars into a much larger market. In order to maintain a consistent level of market impact, the assessment level would need to be adjusted to reflect increases in medical costs and market demographics. The amount of the Pass-Through Payments is directly related to the amount of the assessments made against the Maine insurance marketplace. The larger the assessment amount, the larger the Pass-Through Payments could be.

MGARA's ability to adjust for these factors is somewhat limited; however, its enabling legislation does allow for increases in the attachment points for its reinsurance, which aids in mitigating the effect of these market forces. The go-forward operating model would make significant adjustments in the attachment points from the original 2012 levels to the levels projected to maintain MGARA' solvency. These changes adjust the original attachment points of 90% at $7,500 in loss and 100% at $32,500 in loss to 90% at $47,000 in loss and 100% at $77,000 in loss for 2019, and scaling up thereafter if needed.

In conclusion, I turn again to the Mission Statement adopted by the Board in 2012, which is to:

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[6] MGARA's actuarial and economic modeling includes assumptions for numerous factors that are not empirically verifiable, resulting primarily from continued changes in the regulatory and political environment.

- To operate the reinsurance program described in the Enabling Act in such manner as to maximize the impact of MGARA in lowering the cost of health insurance in Maine's individual market; and

- To do so without jeopardizing MGARA's solvency.

As I think you can see, the Board's vision for MGARA's future remains true to this founding mission.

The foregoing analysis is based upon various assumptions stated therein. The health insurance and ACA environment is highly dynamic and the validity and accuracy of our assumptions will depend in large part on future events over which we have little or no control. Consequently, we cannot assure that MGARA's operating results will correspond to this analysis. To the extent the assumptions upon which the projections are based are incorrect or inaccurate, the anticipated benefits derived from any MGARA program might be adversely affected and the variations could be material.