



## Maryland Health Benefit Exchange Board of Trustees

August 24, 2018  
4:00 p.m. – 4:30 p.m.  
Telephone Conference

### Members Present

Robert R. Neall, Chair  
Rondall E. Allen  
Alfred W. Redmer, Jr.

Ben Steffen, MA  
Dana Weckesser

### Members Absent

S. Anthony (Tony) McCann, Vice Chair  
K. Singh Taneja

Sastry Dara  
Linda S. (Susie) Comer

### Also in Attendance

Michele Eberle, Executive Director, Maryland Health Benefit Exchange (MHBE)  
John-Pierre Cardenas, Director, Policy & Plan Management, MHBE  
Sharon Stanley Street, Principal Counsel, Office of the Attorney General

### Welcome & Introductions

Secretary Neall called the meeting to order and welcomed everyone.

### 1332 Waiver Regulations

*John-Pierre Cardenas, Director, Policy & Plan Management, MHBE*

Mr. Cardenas gave the Board an overview of the progress of the 1332 waiver to create a state-run reinsurance program for the individual health insurance market in 2019 and 2020. He noted that the Centers for Medicare & Medicaid Services (CMS) has approved the Maryland 1332 waiver, making \$462 million available for 2019. He reminded the Board of the process of stakeholder input gathering undertaken by the MHBE, one outcome of which was that many were concerned about the risk of double payment to issuers under the state reinsurance (RI) program and the federal risk adjustment (RA) program. The Board, he explained, commissioned an analysis of the likely interaction between the two programs by Wakely Consulting Group (Wakely). The study showed that there would be duplicative payments if the programs were left to run without modification. That finding was supported by a study performed by the Maryland Insurance Administration (MIA) Office of the Chief Actuary.

Next, Mr. Cardenas explained that, at its July meeting, the Board heard of the results of both studies. While the two studies agreed that overpayments would occur, they differed on the right approach to addressing the problem. Both analyses led to a recommendation that the MHBE modify RI payments under the new program to adjust for any duplicative payment under through risk adjustment—a technique called “dampening.” Wakely recommended a 36 percent dampening, intended to entirely remove any overlapping payments from the system. MIA recommended 16.5 percent dampening with a view toward normalizing the medical loss ratios (MLRs) between healthy and sick enrollees. During that July meeting, the Board instructed the MHBE to address the issue through the regulatory process leading to a final decision on dampening to be taken by the Board in August. Today’s call, Mr. Cardenas pointed out, is when the Board decided to settle on an approach.

Mr. Cardenas then described four recent public hearings on regulations around the state RI program. From the second hearing, the one specifically convened to discuss the overlap between RI and RA, he shared the testimony of Kaiser Permanente in support of the Wakely approach as well as Carefirst’s testimony in support of the MIA approach. He also shared a portion of the testimony of Consumer Health First in support of the Wakely approach,

given during the fourth hearing. He noted that audio recordings of the hearings have been posted on the MHBE's website.

Next, Mr. Cardenas outlined a number of issues for the Board to keep in mind when coming to a decision. He pointed out that any decision on dampening will have follow-on effects such as impacting the amount of tax credit funding available to consumers by changing the price of the second-lowest-cost silver plan on which tax credits are calculated. Other potential areas of impact mentioned included potentially differential effects of the programs in areas where the two issuers compete versus areas where Carefirst is the only option and the competitive landscape for potential new market entrants.

Mr. Cardenas then described in detail some of the differences between the Wakely and MIA approaches. He summarized the Wakely approach as removing all overpayments but introducing an imbalance in profitability. He characterized the MIA approach as preventing the profit imbalance but making possible some overpayments. He presented the likely impact on premium rates for each carrier by various market segments, including subsidized vs. unsubsidized, health maintenance organization (HMO) vs. preferred provider organization (PPO), and two-issuer regions vs. one-issuer regions. Uptake of PPO plans would likely increase under either approach, he cautioned, although the stronger impact on PPO premium from the MIA approach than the Wakely approach would mean more PPO uptake with MIA than with Wakely.

With regard to competition and new market entrants, Mr. Cardenas stated that the Wakely approach would make Maryland an attractive market for companies offering a narrow network while no model is favored under the MIA approach. He added that decisions about entering the Maryland market should be based on market dynamics, not on enrollee health.

Finally, Mr. Cardenas expressed the size of the RA/RI interaction contemplated under each model as a percentage of the total RI pool. The Wakely approach that completely removes the interaction would account for 12 percent of the total RI program. The MIA approach partly removes the interaction and would account for 6 percent of the total.

Secretary Neall asked Ms. Eberle to read his motion. Ms. Eberle read:

*"I move to approve the recommendation that the MHBE staff take action, as necessary, to structure through regulation the State Reinsurance Program to account and adjust for any potential duplication in payment from both risk adjustment and reinsurance, as independently analyzed by the Maryland Insurance Administration and by the Wakely Consulting Group model provided to MHBE on June 30, 2018, by supporting or approving the modelling as presented under the MIA methodology."*

Mr. Steffen asked whether his understanding was correct that the actual percentage of dampening will not be known until rates are filed, at which time there would be a final determination based on those filings. Ms. Eberle replied that he was correct and added that the Board would then instruct the MHBE staff to take regulatory action to institute the dampening in order to equalize MLRs for 2019.

The motion was carried unanimously. Ms. Eberle then read the Board's resolution. The resolution passed with no opposition.

#### **Adjournment**

Commissioner Redmer moved to adjourn the meeting. Ms. Weckesser seconded the motion. The motion was carried with no opposition.