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November 27, 2017

The Honorable Eric D. Hargan
Acting Secretary
U.S. Department of Health and Human Services
200 Independence Ave., S.W.
Washington, D.C. 20201

Dear Mr. Secretary:

Please accept this letter as Alabama's request for flexibility on the risk adjustment transfers for the small group market, as outlined in the HHS Notice of Benefit and Payment Parameters for 2019. Because of the challenges we have seen within our small group market, I request we be allowed to reduce small group risk adjustment transfers in 2019 by 50% in addition to the administrative costs reduction, the maximum allowed under the proposal.

In 2015 and in 2016, the current risk adjustment methodology resulted in two of our three companies in the small group market being assessed a significant percentage of their total premium. The calculations imposed a large penalty on issuers that represent a small, but vital share of the small group market in Alabama. One of the issuers has expressed concern that they may not be able to continue participation in the small group market without addressing the risk adjustment formula in Alabama. This could have a chilling effect on competition in our state. Should this issuer elect to pull out of the small group market, the loss of competition and choice for small businesses would be unfortunate.

I understand the risk adjustment program is the permanent provision in the ACA designed to moderate premium increases. Money is transferred from companies that have low risk business to companies that have high risk business. However, the "risk" is based upon a national formula that does not accurately reflect the market in Alabama. The opportunity to establish a formula which would reflect the differences in our small group market would have a significant positive impact on our market.

Thank you for the opportunity to provide the flexibility we need to maintain choice within our small group market. We will be happy to provide any additional information you need as you consider our request.

Sincerely,

Jim L. Ridling
Commissioner

Copy: Randy Pate, Deputy Administrator and Director, CCIIO
Jeff Wu, Associate Deputy Director for Policy Coordination, CCIIO

Alabama Addendum: 2020 Alabama request to reduce risk adjustment transfers

- I. Alabama has requested that Small Group Risk Adjustment transfers for the 2020 benefit year be reduced 50 percent in addition to the administrative costs reduction. This request was made November 27, 2017, in response to the guidance provided in the Draft Notice of Benefit and Payment Parameters. Subsequent to the request, additional requirements were imposed by the Final Notice of Benefit and Payment Parameters. This addendum addresses those additional requirements. The additional requirements are defined in CFR 153.320 (d).
- II. The revised regulation in addition requests:
 - a. we provide “supporting evidence and analysis demonstrating the State-specific factors that warrant an adjustment to more precisely account for the differences in actuarial risk in the State market, and
 - b. that we demonstrate “the requested reduction would have de minimis impact on the necessary premium increase to cover the transfers for issuers that would receive reduced transfer payments.”
- III. State Specific Factors
 - a. The most significant factor in Alabama is the presence of a dominant carrier. As noted in an address to Congress on September 9, 2009, “...consumers do better when there is choice and competition. Unfortunately, in 34 states, 75 percent of the insurance market is controlled by five or fewer companies. In Alabama, almost 90 percent is controlled by just one company. Without competition, the price of insurance goes up and the quality goes down.”
 - b. Nine years later, 97 percent of the Alabama Small Group market is controlled by one company, and the number of companies writing Small Group coverage is down to three, (one company writes under two licenses). The first Risk Adjustment report for 2014 listed six unique corporate groups writing Small Group.
 - c. The HHS Risk Adjustment program is based upon statewide premium, and offers reasons that this is better than issuer specific premium. With a 97 percent market share issuer in our market, the risk adjustment transfers are in essence based upon issuer specific premium.

- d. On page 16956, Federal Register Volume 83, No 74, the 2019 Final Notice of Benefit and Payment Parameters, HHS noted that “certain issuers, including some new, rapidly growing, and smaller issuers, owe substantial risk adjustment charges that they did not anticipate.” This accurately describes the situation in Alabama. We acknowledge that HHS recognizes the issue and has improved the models to address this situation while continuing to explore additional improvements. We note this fact to suggest that precision of the risk adjustment process can be improved by moderating the results of a process still in development. We look forward to the time when the HHS model can accurately reflect a situation similar to that we have in Alabama.

IV. De Minimus impact

- a. On page 16957 of the Federal Register, Volume 83, No 74, de minimus is defined as under 1 percent of premium. Currently in Alabama, the largest issuer receives transfers of approximately 0.2 percent of premium, roughly one-fifth of the HHS standard. Reviewing rate filings for 2019, they are the only issuer loading a credit for risk charge transfers in the Small Group Market. The increase in premium that can reasonably be associated with a reduction of 50 percent of Small Group Risk Adjustment transfers is significantly under the 1 percent standard established by HHS.