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December 2, 2019

Ryan Loke, Special Projects  
c/o The Office of the Governor  
206 Washington Street, Suite 115  
State Capitol, Atlanta, GA 30334

Dear Mr. Loke:

America's Health Insurance Plans (AHIP) appreciates the opportunity presented by the Department of Community Health to comment on the Section 1332 waiver submitted for the State of Georgia. AHIP is the national association representing health insurance plans. Our members provide health and supplemental benefits to the American people through employer-sponsored coverage, the individual insurance market, and public programs such as Medicare and Medicaid. AHIP advocates for public policies that expand access to affordable health care coverage to all Americans through a competitive marketplace that fosters choice, quality, and innovation.

**We commend the Department on their work to improve access to affordable health coverage for people in Georgia.** Section 1332 waivers provide an opportunity for states to explore solutions to increase consumer choice and reduce costs while ensuring consumers access to coverage. Since health insurance markets are shaped by local dynamics, we support using 1332 waivers to implement state-specific solutions to state-specific challenges.

AHIP also commends the Department on its proposed Georgia Pathways Section 1115 waiver to expand access to low-income adults with a household income up to 100% of the FPL. AHIP supports state-driven innovation to provide health care for low-income individuals, and Medicaid is a critical safety net that offers quality health care coverage to people who need it and when they need it the most. To avoid gaps in coverage, it is important to highlight that the "qualifying activities" requirement, the premiums, and the copayments under the waiver must be reasonable and achievable for enrollees. Consideration should be given to allowing exemptions from the qualifying activities requirements for specific populations (e.g., caregivers). We look forward to working with the state to ensure that low-income individuals who qualify for the Pathways program get the health care they need without encountering barriers to coverage. Additionally, given that the Pathways enrollees will be a new population served under Medicaid, we wish to work with the Department to ensure actuarially sound rates.

In the following pages we offer comments and questions on the Georgia 1332 waiver application published on November 4, 2019. We understand stakeholders have already submitted several questions to the Department for clarification on some aspects of the proposal and we look forward to providing additional input as additional details about the proposal are made public.

Our comments in response to the materials published on November 4 can be summarized as follows. More detail on these comments is provided below.

- We support provisions in the waiver application to protect Georgia residents with pre-existing conditions.
- We support coverage options that provide comprehensive medical coverage and encourage further definition of “eligible non-QHPs” to ensure the level of coverage provided by those plans is sufficient to meet consumer expectations, support good health outcomes and not cause adverse selection against QHPs. If not, Georgia will be at risk of budget issues from increasing QHP Advanced Premium Tax Credits.
- Health insurance providers are eager to work with the Department on implementation details to minimize disruption to Georgia residents and ensure that a new infrastructure is funded in a manner that does not increase costs.
- We appreciate the timeline provided in the waiver application and suggest that more time may be needed to implement Phase 2, the Georgia Access Model. Phase 2 of the application includes major changes to the infrastructure and products for individual market coverage, and sufficient time is needed to implement those changes in a way that minimizes confusion and gaps in coverage for consumers.

### **Phase 1 - Reinsurance**

AHIP supports reinsurance programs that lower premiums for individuals and families. A reinsurance program with a broad-based funding mechanism will allow health plans to offer more affordable coverage in the individual market and increase competition and the number of plan options for residents. We want to partner with the Department as they design the reinsurance program to ensure maximum premium relief while also maximizing the state’s investment and securing adequate funding.

While we are generally supportive of the proposal to establish a state reinsurance program, we are concerned that the waiver application does not include analysis of the impact of variable coinsurance on each geographic rating area. Further actuarial analysis is needed to ensure an equitable coinsurance spread between the regional tiers. The analysis should demonstrate that the program doesn’t lead to unforeseen adverse impacts on affordability or access to care in regions that receive the lower rates of reinsurance.

### **Phase 2 - Georgia Access Model**

#### ***Eligible Non-QHP Plan Certification***

We commend the Department for their commitment to ensuring that the Georgia Access Model maintains protections for those with pre-existing conditions. We also support the Department's goal to "spur innovation while not eroding availability and affordability of QHPs." Everyone in Georgia deserves affordable, comprehensive coverage—regardless of their income, health status, or pre-existing conditions. This is a core principle for AHIP members as we work to improve coverage, affordability, and access to high-quality care. However, access to non-QHPs may cause affordability challenges beyond premiums. Further analysis is needed to determine how the program design would impact overall affordability, e.g out-of-pocket costs, deductibles, etc.

To protect residents with pre-existing conditions, careful consideration will need to be given to further defining the certification requirements for subsidy-eligible non-QHPs. We are concerned that making subsidies available for non-QHPs may lead to adverse selection that increases costs for QHPs and reduces coverage options for residents with pre-existing conditions.

The expansion and promotion of coverage products that are not comprehensive could lead to a reduction in the number of comprehensive options over time due to adverse selection. This would ultimately reduce the number of coverage options that provide real protection from financial devastation due to an injury or illness.

#### ***Single-Risk Pool & Risk Adjustment***

Further clarification is needed on how eligible non-QHPs will be integrated into the single risk pool and on whether Georgia will implement a state risk adjustment program to accommodate the Georgia Access Model. Risk adjustment is critical to maintaining a stable individual insurance market that does not permit discrimination based on pre-existing conditions.

The federal risk adjustment formula and processes do not account for subsidized non-QHP products and detailed analysis is needed on how the Georgia Access Model would interact with the current federally-administered risk adjustment program. Risk adjustment cannot be waived under a 1332 waiver, but states do have the option to operate a state-specific risk adjustment program rather than using the federal program.

#### ***State Subsidies***

Georgia will need considerable financial resources and infrastructure to develop and administer a system for subsidy-eligibility determinations and payment. In the absence of the existing Federally-Facilitated Exchange (FFE) platform for enrollment and subsidy payment infrastructure to administer subsidy payments to insurers, it is crucial to ensure a reasonable timeline to implement state infrastructure and avoid gaps in coverage for residents.

As stated above, we also have concerns about the use of premium subsidies for non-QHPs, and the potential for undermining comprehensive individual coverage, if the coverage provided by those plans is not comprehensive, with full protections for pre-existing conditions.

#### ***Georgia Access Exchange Platform***

More than 400,000 Georgia residents enrolled in exchange plans on the FFE in 2019<sup>1</sup>. The waiver proposal calls for a transition from the FFE to a Georgia Access Model private sector platform. In planning for the new platform, the transition plan should minimize disruptions to consumers and ensure the costs and administrative burdens for plans to participate in the new program aren't preemptive.

As implementation planning begins, AHIP and our member plans are eager to give input on technical details to ensure a smooth transition with minimal costs to the state and minimal disruption to Georgia residents.

#### ***Front-End Functions – Web Brokers and Carriers***

Consumer education on new coverage options--with an emphasis on clearly displaying differences between the QHP and non-QHP plans--will be vital to preventing unpleasant surprises for Georgia residents, like surprise bills, when they need to use their coverage. Additional details are needed to understand the standards and oversight for web brokers and carriers that will be facilitating plan selection and enrollment through the Georgia Access platform.

Currently, the Centers for Medicare and Medicaid Services (CMS) provides for a pathway to enhanced direct enrollment (EDE) on the FFE through approved partners. The pathway allows for enrollment for consumers in a QHP directly through an approved issuer or web-broker without the need to be redirected to HealthCare.gov. CMS subjects EDE partners to extensive security and privacy reviews, as well as ongoing testing and audits to ensure compliance with CMS standards. Our questions include: will there be similar oversight and testing of the private entities participating in Georgia Access; and how will the oversight align with CMS standards and current state insurance marketing laws?

We also recommend that web-brokers and carriers certified to assist with enrollment should be required to be knowledgeable about all subsidy-eligible plan options available under the Georgia Access Model. With non-QHP plans marketed on the platform and available for subsidies, it is crucially important that consumers are properly informed about the comprehensiveness of coverage that these plans offer versus QHP plans.

Further details are needed on the funding of the new exchange platform. The states should recognize the impact of exchange budgets on overall affordability, recognizing that any assessments or user fees on insurers increase the premiums for consumers. Innovative funding that does not contribute to the increase in health insurance premiums should be encouraged and explored.

#### **Additional Factors to Consider For 1332 State Innovation Waivers**

The following factors should also be considered in the development and implementation of a program that provides access to high quality affordable healthcare to the state and its residents:

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<sup>1</sup> [https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Marketplace-Products/2019\\_Open\\_Enrollment](https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Marketplace-Products/2019_Open_Enrollment)

- ***States should consider the impact that future changes to the ACA could have impact on a state-based solution.*** For a waiver application based on the requirements of the ACA and other federal guidance, the state should consider how future federally imposed requirements could impact that proposed program, including the potential for future disruption for individuals who purchase coverage under a 1332 Waiver program. States need to provide certainty that their efforts to pursue state-based solutions will not be undone or negatively impacted by future federal action after a waiver is approved and implemented.
- ***Have a realistic picture of the capacity of state government resources needed to successfully develop and implement a state innovation waiver.*** This is important not only to the development of a successful waiver application but also the planning and implementation of the program when it is approved. Considerable resources will be needed including, but not limited to, budget allocations, actionable data, and knowledgeable personnel. For example, Georgia will need the financial and infrastructure resources to develop and administer a system for both Medicaid- and subsidy-eligibility determinations and distribution. Planners should ensure that state resources will be sufficient for fulfilling such functions.

As a portion of the funding is to be appropriated from the State General Fund, the Department should ensure that it has the needed support from the legislature and regulatory agencies which will be needed for appropriations and regulatory oversight. The full engagement of all affected state agencies will be key.

- ***Seek and rely on pertinent and actionable data.*** A measured and objective analysis of the opportunities and challenges for the state through a waiver is essential to its success; and key to that analysis is actionable data. Data could be derived from a variety of sources, including national data vendors that have cost and quality data, or other knowledgeable sources of information that can assist in evidence-based decision-making.

We appreciate the Department's work to create a more robust and affordable individual market. We look forward to working with you to ensure consumers have access to quality, affordable coverage for years to come.

If you have any questions, please do not hesitate to contact me at [mosman@ahip.org](mailto:mosman@ahip.org) or (202) 861-1474.

Sincerely,



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America's Health Insurance Plans