Minutes

Market Stability Workgroup

Date of Meeting: May 8, 2018
Meeting Time: 8:00 am
Meeting Location: Institute for the Study and Practice of Nonviolence
265 Oxford St
Providence, RI 02905

Workgroup Members Present: Cristina Amedeo Stephen Boyle (co-chair), David Burnett (on behalf of Peter Marino), Al Charbonneau, Ralph Coppola, Rosemarie Day, Peter Hollmann, Kim Keck, Robert Millerick (on behalf of Joseph McNamara) Janet Raymond, Samuel Salganik, Susan Storti, Teresa Paiva-Weed, Larry Warner, Bill Wray (co-chair)

Workgroup Members Absent: Mia Ackerman, Gayle Goldin, Jane Hayward, Chairman Joshua Miller

Minutes

I. **Meeting was called to order** at 8:08am by Co-Chair Bill Wray.

II. **Minutes** from the May 1, 2018, meeting were approved unanimously.

III. **Opening Remarks/Feedback**

a. Co-Chair Bill Wray opened the meeting by discussing a chart which depicted the timeline for passing legislation. He explained that the group needs to be cognizant of the timeline if it wants to recommend that market stabilization legislation be in place for 2019.
b. Co-Chair Wray introduced Robert Miller, Deputy Director of the Office of House Policy, and said that Mr. Millerick will be attending the meetings on behalf of Representative Joseph McNamara.
c. The Workgroup discussed whether the meeting should be moved to another time, and ultimately decided to keep the meetings at 8am on Tuesdays.
d. John Simmons offered to answer any questions concerning RIPEC's reinsurance cost estimate work. A copy of the RIPEC Reinsurance Cost Estimate was passed around to the Workgroup. There were no questions.
e. Co-Chair Steve Boyle reviewed the agenda for the day. He explained that the meeting will include presentations on short-term limited duration plans, reinsurance, a health insurance down payment program, additional state subsidy programs and would conclude with a discussion.

IV. **Short-Term and Limited Duration Plans**

a. Dan Meuse, the Deputy Director at State Health and Value Strategies, discussed short-term limited duration (STLD) health plans.

He summarized the proposed regulations on STLD plans, explaining that they reverse the 2016 rule's 3-month duration limit and revise the requirements around consumer disclosures.

Mr. Meuse said that the potential impact of STLD plans is that they will cause healthier people to leave the individual market and purchase STLD plans. This will create a smaller, sicker individual market, which means higher premiums for ACA-complaint plans and fewer plan choices. He also mentioned that STLD plans have a history of deceptive marketing tactics.

Mr. Meuse said the estimated impact to RI if it permitted the sale of STLD plans along with the mandate penalty repeal would result in premiums in the individual market increasing by 20.7%.

Sam Salganik mentioned that some carriers are already offering STLD plans in RI. Mr. Meuse agreed and said that the plans are based out of state and therefore are not regulated by OHIC. Mr. Salganik added that some states prevent STLD plans from being sold. Mr. Meuse replied that some states have outlawed the sale of STLD plans, but RI is not one of them.

Teresa Paiva-Weed asked whether there would be a benefit if RI outlawed the sale of STLD plans. Mr. Meuse replied that there would be a benefit because even though RI already has some regulation in place, there are statutory opportunities that would help stop the sale of STLD plans in RI and require better consumer disclosures.

Dan Meuse said the states retain the primary role as regulators of STLD plans. He explained that states have several options, including an outright ban on the offering of STLD plans, requiring compliance with all individual market rules, requiring compliance with selected individual market rules, limiting duration and renewability, and requiring contributions to reinsurance.

Sam Salganik said that he has a client enrolled in an STLD plan. He brought the policy marketing material and passed it around to the Workgroup members.

Co-Chair Wray asked about the premiums for STLD plans. Mr. Meuse said that they are very cheap; even unsubsidized the premiums are 25-30% percent cheaper than QHPs.

V. **Reinsurance – how to size a reinsurance program for RI**

a. Deb Faulkner, President of the Faulkner Consulting, Group, presented on the topic of sizing a potential reinsurance program. She said that many states are considering reinsurance programs and three have already implemented them.
b. Ms. Faulkner explained how reinsurance works at a high level. There is a cap, a coinsurance rate, and an attachment point. She explained that states have the ability to determine these thresholds in advance, which creates predictability for carriers. This predictability reduces volatility in the market and makes it so that carriers don't have to price for the risk that they might otherwise be exposed to if healthy individuals exited the market.
c. Ms. Faulkner discussed the estimated cost of a reinsurance program in RI using a baseline 10% premium impact. Ms. Faulkner clarified that an actuary has not evaluated the costs yet. Her estimates are based on three scenarios that her team used to assess the cost of a reinsurance program in RI; (1) rule of thumb, (2) other state assumptions (Oregon), and (3) an RI illustrative scenario. Ms. Faulkner further divided the estimates by state funds and 1332 waiver funds. The share of state funds ranged from 34% to 41%.

Ms. Paiva-Weed stated that she was skeptical about estimating the cost to RI using Oregon as a benchmark. Ms. Faulkner said that the premium costs were more similar in RI and Oregon as opposed to say, Alaska, another state with a waiver, and RI. Director Zachary Sherman added that only three states have implemented reinsurance programs and Oregon is the closes benchmark of the three states to RI.

Ms. Janet Raymond asked whether budget projections need to be completed prior to submitting a waiver application. Ms. Faulkner responded that they do need to be completed prior to submitting an application.

Mr. Ralph Coppola asked Ms. Faulkner to confirm that RI would need to contribute state funds to operate a reinsurance program. Ms. Faulkner confirmed his understanding and said that RI would need to contribute approximately 40%.

Co-Chair Boyle asked whether there were any unintended consequences of implementing a reinsurance program that could cause premiums to increase. Ms. Faulkner responded that she was not aware of any. She explained that the reinsurance program has the potential of driving down premiums for all plans in the individual market, especially for individuals who are not receiving subsidies.

Sam Salganik said that very few people are in the benchmark plans, and said that he would be interested in knowing whether costs would increase for bronze plan enrollees because of silver plan "loading" [due to CSR payments not being made by the federal government] if RI adopted a reinsurance program. This data was not readily available, but there was discussion of whether it could be obtained.

Co-Chair Wray pointed out to the Workgroup that legislators need to authorize the state to apply for a 1332 waiver, but the details of a funding source do not need to be fully worked out as a prerequisite to passing that legislation or applying for the waiver.

Mr. Coppola added that a reinsurance program would make premiums for the unsubsidized population in the individual market more affordable so pursuing this option is a no-brainer.

Ms. Faulkner concluded her presentation by reviewing the Reinsurance Impact slide in her presentation deck. She explained that reinsurance by itself is not a solution to achieving market stability but that it is an important tool that has the benefit of bringing federal funding to RI.

VI. **Health Insurance Down Payment Program – understanding Maryland's proposal to apply penalty money to coverage**

a. Dan Meuse discussed solutions for keeping consumers covered. One option is the health insurance down payment concept, which Maryland explored. The mandate penalty could be held and applied as a health insurance down payment, which would support continuous enrollment.

Dan Meuse said the pros of implementing a health insurance down payment are that it is less punitive, maintains the pre-repeal risk pool, builds a pool of healthier risks, and is familiar to consumers. He also noted there were some downsides, including significant operational barriers (how would the state implement this?) and could lead to a low benchmark plan, resulting in lower APTCs.

Co-Chair Wray asked if people currently paying the penalty are subsidy eligible. Mr. Meuse responded that they are. He said that many people paying the penalty are young and healthy, and would qualify for subsidies if they purchased coverage.

Kim Keck explained that down payments may not work because there are only two carriers in RI, and that it may create a selection bias.

Cristina Amedeo pointed out that many people who she works with do not understand health insurance subsidies. She said that where English is not someone's primary language and they do not understand the fine print, they avoid purchasing health coverage because it is too confusing. Mr. Meuse agreed, and added that the biggest issue is explaining to people the benefits of subsidies due to their complexity.

Dan Meuse explained that another solution to keeping Rhode Islanders covered is to implement subsidy wraps. Massachusetts implemented subsidy wraps. It uses state funds to support the costs for enrollees up to 300% of the FPL. Mr. Meuse explained that Massachusetts accomplished this prior to the enactment of the ACA using a Medicaid waiver, and said most states would not be able to utilize this option post ACA.

Sam Salganik made the point that affordability programs for low income people also have an impact on the unsubsidized segment of the market. He asked whether there had been any analysis done to confirm this point. Mr. Meuse said he's not aware of any large-scale study, but agreed in theory that there would be a positive impact on all premiums.

Dan Meuse discussed rebates for unsubsidized consumers as another solution for keeping Rhode Islander's covered. Minnesota currently does this by offering a 25% rebate that is applied directly to the monthly premium bill for enrollees in the individual market who are not eligible for APTCs.

Larry Warner asked how the rebates were funded and Mr. Meuse responded that Minnesota considered the high premium costs for unsubsidized consumers a public crisis so it dipped into its rainy-day fund.

Co-Chair Boyle asked whether any states have subsidy plans for young, healthy consumers. Mr. Meuse responded that Colorado has attempted to offer subsidies to consumers under 30 years old. Mr. Salganik said that states have the authority develop a subsidy program for the young, healthy population to get them into the market.

VII. **Taking Stock of the Policy Options Presented in Today's Meeting: Wrap-Up Discussion**

a. Director Sherman asked the workgroup whether there are iterative steps that it would like to take over the next five weeks given the legislative calendar.

Kim Keck expressed support for implementing a reinsurance program in RI, and she suggested that we get started sooner rather than later. Ms. Keck said that the devil is in the details, and she recognizes that they need to be worked out before a reinsurance program can be implemented. Ms. Keck said that she needed to leave the meeting early but that she looks forward to discussing the details of a reinsurance program as the Workgroup moves forward.

b. Ms. Rosemarie Day turned the groups attention to the easel pad and asked the Workgroup whether the policy options discussed during the meeting would achieve the Workgroup's three goals of sustaining a balanced risk pool, maintaining a market that is attractive to consumers, providers and carriers, and maintaining the coverage levels that RI has worked so hard to achieve. Ms. Day added that we will just be discussing the "carrot" (incentive) options today.

   Ms. Day said that there is a here and now aspect to their deliberations and advised that the Workgroup needs to see what can be done before the end of the legislative session so that it doesn't miss out on the legislation required to apply for a 1332 waiver. Ms. Day posed a question to Workgroup about whether the members feel like there is a need to implement some of the policy options now or whether further study is required.

   Ms. Paiva-Weed expressed trepidation that if the workgroup started the discussion about funding for some of the policy options that it will get bogged down. She said that she senses unity around the idea that the Workgroup wants to protect consumers from STLD plans.

c. Co-Chair Boyle agreed with Ms. Paiva-Weed. He said that RI needs to get legislative authority to pursue a 1332 Waiver to implement a reinsurance program now and then focus on the mandate discussion after.

   Co-Chair Wray asked whether there is any legislation currently in place or pending before the general assembly that authorizes the state to apply for a 1332 Waiver. Mr. Coppola said there is a sole prop bill that exists that authorizes the commission to do a study with a 1332 waiver where sole proprietors could buy into the small business market. Commissioner Ganim clarified that while there may be existing 1332 Waiver legislation the state would need legislation that specifically allows it to seek a waiver to operate a reinsurance program in RI.

d. Co-Chair Boyle reiterated the point that we don't want to get caught up on funding for a reinsurance program. He said it is not necessary to agree on funding to enact the legislation needed to authorize RI to apply for a waiver to operate a reinsurance program.

   Co-Chair Wray asked whether the Workgroup would achieve any tactical advantages if it recommended several policy options to the legislature as a package or just recommended the reinsurance bill on its own.

Ralph Coppola added that if the reinsurance bill is taken on its own then all the Workgroup would be asking permission for would be for RI to do a study and application; not to commit funds.

Theresa Paiva-Weed said that by recommending authorization legislation for a reinsurance program to the legislature, the Workgroup would also be asking the legislature for permission to have actuarial work done.

e. Co-Chair Wray pointed out that there may be people in the legislature asking what the reinsurance program costs but the answer is we don't know yet. He asked when funds need to be appropriated by, and if anything could be done to effect 2019 premiums. Director Sherman responded that funds would ideally be authorized and appropriated before next year's rate filings.

Theresa Paiva Weed said that in the meantime, RI could enact a law outlawing the sale of STLD plans in RI. This would help protect the market until the reinsurance program could be implemented in 2020.

Theresa Paiva-Weed asked whether there was a way to package the reinsurance program as stabilizing the Exchange by providing a long-term source of funding. Director Sherman said that federal pass-through funds from a reinsurance program should primarily be used to stabilize the market by funding the reinsurance program. He also addressed the concern related to exchange funding, explaining that generally speaking, that historical concern was no longer a top concern as the Exchange had greatly reduced its budget.

Sam Salganik posed the question of whether RI could obtain federal pass-through funding if it enacts a mandate that brings down premiums. Mr. Meuse responded that it may be possible if the mandate has the effect of holding premiums down.

f. Rosemarie Day asked the Workgroup whether the following carrots achieve the workgroups three goals: reinsurance, and consumer protections around STLD plans.

Sam Salganik said that a potential downside that applies to reinsurance is that it mostly benefits consumers who are over 400% of the FPL, and does not do much for people under 400% of the FPL. Mr. Salganik said that he would be interested in seeing a study that identifies the impact of a reinsurance program on premiums for both subsidized and unsubsidized consumers.

Peter Hollmann cautioned that the Workgroup should avoiding diving too deeply into the details of a reinsurance program if the goal of the meeting's discussion is only to determine whether the Workgroup should make a general recommendation to the legislature to enact authorizing legislation.

There was consensus among the Workgroup members that a reinsurance program would help create a balanced risk pool (two checks on the easel pad), protect coverage gains (two checks on the easel pad) and creates an attractive market for carriers and providers. There was also a general consensus among all Workgroup members that a reinsurance program creates an attractive market for consumers, but Sam Salganik said that is only directly impactful to unsubsidized consumers.

g. There was consensus among the workgroup members that consumer protections around the sale of STLD plans would help create a balanced risk pool (three checks on the easel pad), protect coverage gains (three checks on the easel pad) and create an attractive market for carriers, providers and consumers (three checks on the easel pad).

Co-Chair Wray asked if the Workgroup was comfortable recommending that the staff work to provide draft legislation to the legislature to enact authorizing legislation to implement a reinsurance program and enact a statute to regulate STLD plans. There were no objections.

VIII. **Public Comment**

a. Karen Malcolm said that she had significant concerns about low income people being targeted by STLD plans through unfair and deceptive practices, and said that she would fully support a prohibition on the sale of STLD plans in RI.

IX. **Meeting was adjourned** at 10:04 am.