

Minutes



Market Stability Workgroup

Date of Meeting: May 29, 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, Jane Hayward, Peter Hollmann, Kim Keck, Chairman Joshua Miller, Teresa Paiva-Weed, Janet Raymond, Samuel Salganik, Susan Storti, Larry Warner, Bill Wray (co-chair)

Workgroup Members Absent: Mia Ackerman, Gayle Goldin, Joseph McNamara

Minutes

- I. **Meeting was called to order** at 8:04am by Co-Chair Bill Wray.
- II. **Minutes** from the May 22, 2018 meeting were approved unanimously.
- III. **Opening Remarks/Feedback**
 - a. Co-Chair Bill Wray said that an analysis concerning the impact of reinsurance on subsidized enrollees was sent to the Workgroup last Friday, and inquired as to whether any of the Workgroup members had any questions regarding the analysis. There were no questions at that time.
 - b. Co-Chair Steve Boyle reviewed the agenda for the day. He said that the purpose of today's meeting is to take an initial look at 2019 proposed rates, review the draft report, address open questions, and identify a pathway to finalization. Co-Chair Steve Boyle mentioned that because rates are being discussed, neither

Minutes



Commissioner Marie Ganim nor Kim Keck will be present at the meeting until those discussions conclude at 8:45am.

- c. Co-Chair Steve Boyle said that Cory King and Deb Faulkner will present on the topic of 2019 initial rate filings, and he introduced Cory King, Principal Policy Associate at the Office of the Health Insurance Commissioner (OHIC), as the first presenter.

IV. Preliminary 2019 Rate Requests

- a. Cory King began his presentation with a few preliminary remarks. He said that the rate filing information that he would be discussing reflects proposed rates that have not been approved by OHIC. OHIC's final approval will be announced by August 1, 2018. He also mentioned that BCBSRI's rate filing will be subject to an administrative hearing under RI's APA.

Cory King discussed OHIC's standards of rate review. He explained that OHIC evaluates whether an insurer's proposed rates are consistent with the proper conduct of its business and with the interest of the public based on three standards: 1) solvency and actuarial soundness; 2) consumer protection; and 3) health insurer policies to improve affordability, quality and accessibility of medical care. Cory King said that since 2012, OHIC's rate review has saved Rhode Island consumers \$235.7M.

Rate review is largely a prospective exercise, said Cory King. He explained that there is a significant lag between data and rate effective date; for rates effective on January 1, 2019, OHIC and carriers use CY 2017 claims data and prior. Cory King explained that in light of rate review being a prospective exercise, OHIC won't have a full year's worth of data without the individual mandate penalty until 2020 to use for rates effective January 1, 2021.

Minutes



Cory King discussed the carriers' proposed 2019 rates for plans sold in the individual market through the Exchange, including whether they had included a factor based on the repeal of the individual mandate penalty. NHPRI proposed a 1.9% premium increase and BCBSRI is not including an adjustment.

In the small group market, the proposed overall weighted average rate increase for 2019 is 5.7%. In the large group market, the increase is 10.3%. Cory King also mentioned that not all states review large group market rates, but Rhode Island does.

Co-Chair Bill Wray asked if OHIC has any concerns about insurer solvency. Cory King said that OHIC looks at carriers' reserves very closely, and that it does not have concerns at the moment.

Teresa Paiva-Weed asked if NHPRI has different reserve standards than BCBSRI. Cory King responded that OHIC looks very closely at NHPRI's financial statements, but is not sure whether the standards differ because of NHPRI's unique corporate structure. David Burnett added that NHPRI has an agreement with OHIC regarding reserves, but that NHP is subject to the same law as BCBSRI.

Teresa Paiva-Weed asked how many states in the country have the affordability standards that Rhode Island has? Cory King responded that there is only one other State; Maryland. Al Charbonneau added that not enough states have adequate affordability standards.

- b. Deb Faulkner, President of the Faulkner Consulting Group, presented on the underlying trends and customer impacts of market destabilization.

Deb Faulkner said that her presentation would address whether there are signs of market destabilization based on the 2019 proposed rate filings, and what the

Minutes



implications of these rate increases could have on specific subgroups and populations.

Deb reviewed the data and analysis showing signs of market destabilization in the individual market. She explained that her analysis involved a review of underlying data carriers used to propose rates for 2019, and that the latest data available is from CY 2017.

Deb Faulkner said that nothing in the data that her team reviewed has indicated that rates in the individual market were stabilizing; in fact, the data shows the opposite. She said that the individual market saw a 3% decline in member months between CY 2016 and 2017. In turn, PMPM costs in the individual market increased from \$413 in 2016 to \$449 in 2017. This is a 9% increase in 2017, compared to an average 6% increase between prior years. She said that potential cost drivers include increases in inpatient and pharmacy costs. Teresa Paiva-Weed asked if ER costs were included in the data. Deb Faulkner said that she was not sure which category ER costs fell into.

Deb Faulkner reviewed the data and analysis showing signs of market destabilization in the small group market. Member months declined 12% in 2015, 7% in 2016, and 5% in 2019. The average PMPM cost increased from \$437 in 2014 to \$485 in 2017. Deb Faulkner said that the decline in member months is baffling. Co-Chair Bill Wray added that the decline is troubling, and will become a problem over time because the size of the pool is getting dangerously small and may not be able to sustain itself.

Deb Faulkner discussed the individual market impact. She said that about 40% of enrollees were unsubsidized and about 60% of enrollees were subsidized. About 53% of enrollees who purchase plans through the Exchange will see a \$0-\$5 increase, and over 70% will see an increase greater than \$5. She also explained younger enrollees will see more moderate decreases/increases, and older enrollees will see more dramatic decreases/increases.

Deb Faulkner reviewed some customer scenarios. She said that the premium impact on an unsubsidized family of four is greater than the premium impact on a subsidized family of 4. Subsidized families/individuals are more protected from rate increases because generally, when rates increase, their subsidies also increase.

V. **Workgroup Discussion**

- a. Rosemarie Day facilitated the Workgroup's discussion around its draft recommendation.

Rosemarie Day began by reviewing the charge to the Workgroup and its three guiding principles.

Rosemarie Day then turned the Workgroup's attention to the Shared Responsibility Requirement (SRR). She said that the Workgroup had already decided that the SRR recommendation is consistent with the Workgroup's guiding principles.

Sam Salganik asked that language be added to ensure that both the subsidized and unsubsidized enrollees are protected. He said that he wants to be careful about recommending anything that would support the unsubsidized market at the expense of the subsidized market. Co-Chair Bill Wray asked whether the recommendation should treat subsidized and unsubsidized populations differently or whether it should just focus on the market as a whole. He said that drawing a distinction seems superfluous but is not necessarily objectionable.

Director Zachary Sherman asked whether the Workgroup wants to suggest any alternative language to the text "should mirror the federal structure". Teresa Paiva-Weed said that she generally approves of the "based off of the federal structure" language and would like the ability to tailor the structure based on Rhode Island's needs. Bill Wray suggested that the draft recommendation state that the Workgroup recommends using the federal structure as a basis. The Workgroup

Minutes



members agreed with this suggestion. Sam Salganik reiterated his point that he wanted it to also state that the policy should be designed to protect both the subsidized and unsubsidized enrollees. Teresa Paiva-Weed said that as long as RI has the flexibility to tailor the policy to RI then this should address Sam Salganik’s concern. Rosemarie Day suggested that the Workgroup circle back to Sam’s suggested language after it had the chance to discuss the document analyzing a reinsurance program’s impact on subsidies.

Rosemarie Day turned the Workgroup’s attention to the section of the draft recommendation titled “Future action required”. She asked whether the Workgroup supports the idea that further action is required to work out the details of SRR and a state reinsurance program. Peter Hollmann recommended adding that although these two items require further action, it is not necessary to delay the recommendations that the Workgroup has reached a consensus on. Kim Keck added that there may be additional action items required that are not identified in this section of the draft recommendation. She explained that these additional items could help to further stabilize the market. For instance, she mentioned BCBS drug costs being available on their website. She said that there are several of these considerations that could stabilize the market but are not mentioned in the recommendation as items warranting further discussion, and that it should be noted that this work could be ongoing.

Chairman Joshua Miller added that he has sponsored market stabilization legislation for the last couple of years to codify much of what is in the ACA. He said that one of the bills he is working on incorporates state-level protections to preserve EHBs, and asked if the Workgroup would support his bill. He said that he plans to have another draft on Thursday, and would like to share it with the Workgroup. Co-Chair Steve Boyle recommended supporting the preservation of EHB’s because such action would align with the Workgroup’s guiding principles and help stabilize the market. Co-Chair Bill Wray said that the Workgroup hasn’t

Minutes



discussed whether risk to EHBs is a cost driver or not. He said that he doesn't doubt that it is, but that because it hasn't been discussed and analyzed to the extent the other recommended policies have been, he's not sure the Workgroup will have enough data to sign off on it by next week.

Rosemarie Day asked the Workgroup if the draft adequately reflects its recommendations for a 1332 waiver under the ACA to implement a reinsurance program, state authority to regulate STLD plans, and a state-based share responsibility requirement. She also asked whether the Workgroup felt that these three recommendations should not be held up by items requiring further discussion. There was general consensus among the Workgroup members that recommendations were well reflected and that near-term recommendations should not be held up by longer-term or future work/recommendations.

- b. Co-Chair Bill Wray turned to the topic of reinsurance and its impact on subsidized enrollees. He said that John Cucco would provide an overview.

John Cucco said that Advanced Premium Tax Credits (APTCs) are based on premium costs. He explained that a household's affordable amount is determined by income and family size, and that the Second-Lowest Cost Silver Plan (SLCSP) is used as the benchmark for APTC calculation. The APTC covers the difference to make the premium more affordable for enrollees.

John Cucco explained that individuals enrolled in the SLCSP pay the same premium each year after APTCs are applied so long as their household size and income remain the same. This is because when the SLCSP rate increases, the APTC amount also increases dollar-for-dollar. Sam Salganik asked John Cucco to confirm whether this means that reinsurance would have no premium impact on individuals enrolled in the SLCSP? John Cucco said that individuals enrolled in the SLCSP who receive APTCs would not see an increase in their share of the premium.

John Cucco said that premiums vary across plans and increase from year to year. He said that if all plans increase by the same percentage, then cheaper plans increase by fewer dollars than the SLCSP and the APTC. Conversely, more expensive plans increase by more dollars than the SLCSP and the APTC. The spread of costs across all plans gets larger. Accordingly, customer costs after APTC remain steady for the SLCSP, but vary for other plans.

John Cucco said that if a reinsurance program were implemented and it offsets premium increases across all plans, then enrollees in more expensive plans will see a moderated year-to-year increase and those in less expensive plans will see a moderated year-to-year decrease. Sam Salganik said that he understands the data to mean that a reinsurance program increases the premium for about half of the subsidized enrollees who buy down. Kim Keck clarified that this is only with regard to the out-of-pocket premiums after APTCs are applied, and not the actual rates.

- c. Co-Chair Bill Wray turned the focus of the meeting back to the draft recommendation, and asked whether any additional revisions are required. Sam Salganik recommended adding a requirement that stakeholders be engaged in the development process and that all actions be considered for their impact on both subsidized and unsubsidized enrollees. Teresa Paiva-Weed cautioned against recommending future legislation regarding funding. Joshua Miller said that he is frequently being asked how much a reinsurance program would cost. Co-Chair Bill Wray added that the recommendation is to seek a waiver but not require the State to commit funds. Sam Salganik said that the Workgroup has not decided on any questions regarding funding, and that this would need to be determined by the General Assembly. Chairman Joshua Miller added that the recommendation does not design the reinsurance program; it only permits the state to apply for a waiver and implement the program contingent on waiver approval and state appropriation.

Minutes



Teresa Paiva-Weed said that the 1332 Waiver is premised on state savings in the form of federal pass-through funds and reduced rates. When she bounces the idea of a reinsurance program off her peers, the most common question she is asked is “How much does it cost?”, she said. Teresa Paiva-Weed recommended that instead of referring to the pass-through funds as “federal funding”, they should be referred to in terms of “state savings”. Teresa Paiva-Weed and Sam Salganik agreed that their recommendations did not conflict, and that they could coexist.

Co-Chair Bill Wray turned the group’s attention to its recommendation on STLD plan regulation. Sam Salganik said that the authority to regulate may need to be broadened because many of the plans being sold in Rhode Island do not fall within the definition of STLD plans, but rather indemnity plans. Co-Chair Steve Boyle said that authority to regulate indemnity plans is already vested in the DBR. Commissioner Marie Ganim agreed that DBR has authority to regulate indemnity plans. She offered to add a line to the draft STLD legislation stating that other plans that segment the market will be adequately regulated by DBR if they are being marketed as health insurance products. Sam Salganik said the draft legislation may already address his concern, but he wants to check with OHIC’s legal counsel. He said that the current draft STLD legislation authorizes the state to regulate policies that pay on a cost-incurred basis, which appears to encompass more than just STLD plans and therefore may address his concern.

Rosemarie Day asked the Workgroup if there was a consensus around the STLD section in the draft recommendation. She recognized that a line may need to be added depending on whether Sam Salganik determines the existing language in the STLD legislation encompasses the plans he is concerned about. There was general consensus among the Workgroup members that the STLD section of the draft adequately reflects their joint recommendation.

Co-Chair Bill Wray revisited the concern raised earlier in the meeting by Sam Salganik regarding the need to ensure that all market stability efforts benefit both

Minutes



subsidized and unsubsidized enrollees. He recommended that this be added once to the preamble of the draft recommendation, rather than adding it multiple times in each section of the draft recommendation. There was consensus among the Workgroup members that this was the best approach to incorporating Sam Salganik's requested language.

Co-Chair Bill Wray said that the Workgroup staff will do a redraft of the recommendation and send it out on Friday. He asked whether anyone has any material issues about signing the recommendation next week. Peter Hollmann said that he would be willing to sign the recommendation. He suggested that the Workgroup add a line to the document stating that there is a cost if action is not taken to stabilize the market. Without action, premiums could spike 20%. He recommended adding this to the preamble. Al Charbonneau added that we may want to add FFS, state taxes, fees and assessments, which could also affect affordability. Co-Chair Bill Wray cautioned that including other policy recommendations that the Workgroup had not reached consensus on could cloud the policy recommendations that they had reached consensus on. Director Zachary Sherman asked Al Charbonneau to send him some proposed language and Al Charbonneau said he would email it to him.

Sam Salganik asked about the purpose of pages 4-8 of the draft recommendation. Co-Chair Bill Wray said that it's an exposition of the prior issues to show the amount of analysis that the Workgroup did. Essentially, its background material to support the executive summary.

Co-Chair Bill Wray asked the Workgroup whether there were any factual issues missing from the draft recommendation. There were none noted.

Minutes



VI. Public comment

- a. No public comment offered.

VII. Adjourn

- a. The meeting was adjourned at 9:55am.