VERMONT

Green Mountain Care Board
89 Main Street
Montpelier, VT 05620

[phone] 802-828-2177
www.gmcboard.vermont.gov

Cornelius Hogan
Jessica Holmes, PhD
Robin Lunge, JD, MHCDS
Susan Barrett, JD, Executive Director

To: Rep. William Lippert, Chair, House Committee on Healthcare
From: Susan Barrett, Executive Director, GMCB
Date: March 6, 2017
Re: ACA repeal; contingency authority

In an open meeting conducted March 3, 2017, the Green Mountain Care Board addressed whether additional authority would be necessary to maintain a stable health insurance market in the event that the Affordable Care Act (ACA) was repealed while the Vermont Legislature was out of session. The substance of the discussion is summarized below.

Board's Authority to Review Health Insurance Rates

No immediate revisions are necessary for the Board's principal rate review statute. Under 8 V.S.A. § 4062 and 18 V.S.A. § 9375(b)(6), the Board has broad authority to review and approve, disapprove or modify major medical health insurance rate requests in a process that is transparent and facilitates consumer participation.

Repeal of the ACA would eliminate the federal loss ratio requirements of 80% for individual and small group insurance and 85% for large group insurance. The individual and small group market standard is contained in 33 V.S.A. § 1811(j), but references the Affordable Care Act (ACA). The large group market standard is solely set forth in the ACA. Although Vermont's regulatory activities prior to the ACA often resulted in rates that met or exceeded these standards, the Board recommends adding the standards to Vermont law to ensure there is a limit on administrative costs.

DFR and DVHA's Authority to Maintain Plan Designs and Markets

As noted by Jennifer Carbee's memo, there are several provisions in Vermont insurance law that rely on the Affordable Care Act. Accordingly, depending on what federal changes occur, there could be a variety of impacts on Vermont's markets and insurance plans. One solution, given the uncertainty at the federal level, would be for the General Assembly to provide time-limited authority for the appropriate departments to maintain the status quo to ensure time for the General Assembly to react to federal changes. This approach balances providing some certainty in the interim without prematurely making a policy determination in the absence of a federal proposal.

If the General Assembly would like to pursue this course of action, Vermont Department of Financial Regulation (DFR) and the Department of Vermont Health Access (DVHA) would need additional authority to maintain the status quo regarding benefits, cost sharing, and enrollment in the individual and small group insurance plans and in large group insurance plans in Vermont. A non-exclusive list of current potential issues includes:

- The ACA's addition of pediatric dental and vision care for individual/small-group plans
    - There are many benefit mandates currently in state law
- Annual maximums on out-of-pocket expenses paid by policyholders
- Prohibition on exclusions for pre-existing conditions
- Prohibition on annual and lifetime limits
- Prohibitions on cost-sharing for preventive services rated A or B by the United States Preventive Services Task Force
- Well-Woman visits, Well-Child visits, vaccine schedules
- Dependents up to age 26 eligible for coverage
- Requirement that individual/small-group plans have one of four defined total actuarial values or "metal levels"
- Requirement that large group plans provide a minimum actuarial value of 60%
- Merger of the individual and small-group markets into a single risk pool
- Maintaining open enrollment periods

Additionally, although the focus of health care reform in Vermont and nationwide has been on the individual and small-group markets, the large-group market could see changes more quickly if insurers chose to reduce benefits and policyholders' contractual security for the sake of lower premiums. This is because large group premiums are reviewed quarterly and not annually like the individual and small group plans.

As of the Board's March 3rd meeting, the Administration had not yet expressed an opinion on this suggestion.

Individual Mandate

The Board also had a brief discussion of the individual mandate, which may be at risk of repeal more quickly than other parts of the ACA. The Board did not take a position on the mandate due to the uncertainty of the financial components of the ACA, including Medicaid proposals and the premium tax credits. In the absence of affordability protections, the mandate could be difficult to implement and potentially harmful for consumers. In addition, the costs of implementing a state mandate are beyond the scope of the Board authority.

Please do not hesitate to contact me if we can be of further assistance.