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October 29, 2024

Dear Chairwoman Carter & Members of the House Insurance & Financial Services Committee:

On behalf of the eleven health plans members of the Michigan Association of Health Plans (MAHP), I would like to express our gratitude for your willingness to solicit input and comments on Senate Bills 633-637, which seeks to establish a state-based exchange (SBE) and reinsurance program in Michigan.

Our health plan members continue to lead the nation in providing access to affordable and equitable health care. Public policy discussions surrounding state and federal health care exchange platforms are vital to improving access and affordability.

Throughout this process, we have had the opportunity to work closely with Chairman Senator Hertel, who has shown a strong commitment to advancing this important legislation. We appreciate the collaborative efforts and the progress made thus far. However, it is important to note that there are still a few outstanding issues that need to be addressed to ensure that the final legislation truly serves the best interests of Michigan residents.

Unlike other stakeholders in Lansing, MAHP has a unique and diverse membership of health insurance providers who provide health care in states with established SBEs. Our association is uniquely qualified to share our members' experiences and provide input on fundamental policy changes that are crucial for the successful implementation and operation of an SBE in Michigan.

Many essential policy elements of SB 633-637 are missing that would effectuate affordable health care coverage in Michigan. Attached are several policy suggestions MAHP would like the committee to consider as you deliberate on this legislation that will improve access, choice, and affordability of health care. These changes would position Michigan as a national leader in providing superior access to affordable healthcare in the individual marketplace.

I would again like to thank Madam Chair Carter for her willingness to solicit input from our health plan members. Our members value and appreciate your outreach and desire to listen.

Sincerely,

Christine Shearer

Christine Shearer
Deputy Director of Legislation and Advocacy, Michigan Association of Health Plans

cc: Chairman Senator Kevin Hertel, Senate Health Policy Committee

Amendment #1 - Fund the Reinsurance Program with Existing Fees

Background: Every state that has established an SBE has implemented a reinsurance program to make health care less expensive for customers. Reinsurance stabilizes the insurance market and makes health care more affordable and available for customers by creating a pool for high-cost claims. State reinsurance programs are typically funded by the fees assessed on health plans for participating in the SBE.

Section 217 of Senate Bill 633 allows the revenue collected from fees on participating health plans to be used to operate the exchange and fund a reinsurance program. However, the bill does not earmark an amount or even a percentage of fee revenue for the reinsurance program. According to research conducted by DIFS, the costs of a Michigan claims-based reinsurance program would range between $20-70 million annually. Instead of relying on annual general fund appropriations from the Legislature that are unpredictable at best, MAHP highly recommends that at least half of the revenue collected from fees on health plans be used to fund the reinsurance program to make health care more affordable in Michigan. If such fee revenue is not earmarked for the reinsurance program, DIFS would have the discretion to use all of the revenue to operate and run the SBE. Without a reinsurance program, the costs of a typical health plan offering could be significantly higher on an SBE than the current federal exchange, especially if the state fee is higher than the federal exchange fee (1.5%).

Suggested Amendments: Amend SB 633 S-7 (As passed by the Senate)

1. Amend page 23, Line 9, after the period by inserting, "The monies collected under this subsection shall be deposited into the exchange fund established in Section 218."
2. Amend page 23, line 25, after "do" by striking out "either" and inserting "any".
3. Amend page 23, following line 29, by inserting "(c) To operate and fund a claims-based reinsurance program described in section 3406nn of the insurance code of 1956, 1956 PA 218, MCL 500.3406nn.".
4. Amend page 24, following line 29, by inserting "(6) The department of insurance and financial services shall expend at least half of the revenue in the fund for purposes of operating and funding a claims-based reinsurance program described in section 3406nn of the insurance code of 1956, 1956 PA 218, MCL 500.3406nn.".

Amendment #2 – Fees Shouldn't be Higher than the Feds

Background: Nearly every state that operates an SBE charges participating health plans a fee based upon a percentage of premiums collected on the SBE. The federal exchange fee charged to participating health plans on the federal exchange will be 1.5% of premiums collected in 2025. Senate Bill 633, as passed by the Senate, sets the fee to be no greater than or less than 1% of the federal fee (so federal fee +/- 1%). However, language remains in the bill that allows the SBE board to increase this fee by any amount with ¾ affirmative vote of the exchange board. It is uncertain if this language allows a fee to be set at a rate greater than 1% of the federal fee or if this is to adjust the fee with the proposed scope (federal fee +/- 1%). Regardless of this ambiguity, MAHP recommends that any SBE fee imposed on participating health plans never exceed the federal exchange fee to ensure that health insurance purchased on an SBE is more affordable for customers than would otherwise be available on the existing federal platform.

Suggested Amendment: Amend SB 633 S-7 (As passed by the Senate)

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1. Amend page 22, Line 28 by inserting a period after "marketplace" and striking the remaining text through the period on page 23, line 2.

Amendment #3 – Ensure APTC is Extended before Establishing a SBE

Background: The single most important aspect that has increased enrollments and made premiums affordable on the individual marketplace has been the federal Enhanced Premium Tax Credits (APTC) which are set to expire at the end of 2025. According to the Center of Budget & Policy Priorities (CBPP), a record 92 percent of marketplace enrollees, or 19.7 million people, qualified for premium tax credits (PTCs) in 2024. These tax credits provide up-front financial assistance to help people afford the individual or family health insurance plans offered in their state through the ACA marketplaces.

If APTC's are not extended, premium costs will increase for people across states, ages, and income levels. According to independent analysis from CBPP, without the APTC tax credits beign extended:

- A single individual making $21,000 (144 percent of the poverty level) would no longer be eligible for a zero-premium plan and would see their monthly marketplace premium rise from $0 to $66 — **an annual increase of $792.**

- A single individual making $30,000 (205 percent of the poverty level) would see their monthly marketplace premium more than double, from $55 to $168 — **an annual increase of $1,350**.

- A 60-year-old couple making $45,000 (228 percent of the poverty level) would see monthly marketplace premiums increase from $117 to $283 — **an annual increase of almost $2,000**.

- A family of four making $60,000 (200 percent of the poverty level) would see their monthly marketplace premium increase from $100 to $326 — **an annual increase of about $2,700**.

Because individual marketplace enrollments and premium affordability is heavily dependent upon an federal income tax incentive structure, state policymakers would be wise to ensure federal APTC's are extended and in place before building a new state marketplace. Furthermore, since there is not a complimentary state income tax incentive or affordability programs in Michigan to replace the APTC like there are in other states, the loss of the APTC would hit Michigan consumers worse. As such, we encourage that an enacting section be added to the bill that would ensure APTC's are extended past 2025 before mirgrating to a SBE.

Suggested Amendment: Amend SB 633 S-7 (As passed by the Senate)

1. Amend page 24, line 25, by inserting "Enacting Section 2. This act doest not take effect unless federal enhanced premium tax credits are in effect at the time of the implementation of a state based exchange"

Amendment #4 – Change Implementation Date

Background: Section 209 of Senate Bill 633 requires the new State-Based Exchange Board to make qualified health plans available on its State-Based Exchange (SBE) before January 1, 2026. Meanwhile federal government has finalized a federal rule requiring states developing a state-based exchange to use the federal platform as their SBE for at least one year before migrating to their own SBE. Furthermore, health plans must submit draft plan designs and rates for DIFS approval in the spring of each year for the subsequent calendar year. Due to this federal rule and DIFS's timeline for plan rate review and approval, the soonest health insurance providers could submit qualified health plans for an SBE would be in the spring of 2026, effective for calendar year 2027. As such, MAHP highly recommends delaying the implementation of an SBE until at least 2027.

Suggested Amendment: Amend SB 633 S-7 (As passed by the Senate)

1. Amend page 13, line 18, Following "1," by striking out "2026" and inserting "2027".

Amendment #5 – Allow more choice on the SBE

Background: One of the benefits of developing a State-Based Exchange (SBE) is the ability to offer different types of qualified health plan offerings for customers to purchase. MAHP previously suggested allowing an unlimited number of non-standardized plan offerings on the SBE to heighten choice and plan offerings for customers beyond what is currently provided on the federal exchange. This idea was rejected in the Senate, and a cap of four non-standardized plans (per metal tier) was instituted in Senate Bill 633, which is more restrictive than what is currently allowed under the federal exchange. As such, MAHP would suggest eliminating the cap on plan offerings on a future SBE.

Suggested Amendment: Amend SB 633 S-7 (As passed by the Senate)

1. Amend page 14, line 19 by striking all of Subsection (6)

If unlimited plan offerings are not allowed and the current proposed cap remains, MAHP highly recommends that an exception be allowed for unique plan offerings that treat certain chronic and high-cost conditions, which is already permitted under federal rule today.

Suggested Amendment: Amend SB 633 S-7 (As passed by the Senate)

2. Amend page 14, line 25, by inserting "(7) A carrier may offer additional non-standardized plan options beyond the limit in subsection (6) if it demonstrates that these additional plans' cost sharing for benefit pertaining to the treatment of chronic and high-cost conditions is at least 25% lower than the cost-sharing for the same corresponding benefits in the carriers other non-standardized plan option offerings."

Amendment #6 – Ensure the Reinsurance Program is Claims-Based

Background: To optimize the affordability of qualified health plans offered on a state-based exchange (SBE), states with an SBE have sought and secured a federal 1332 waiver to run a state reinsurance program. States can seek federal approval for claims-based or condition-based reinsurance programs. Of the 19 states that have implemented re-insurance programs under federal

1332 waiver approval, 16 run traditional claims-based programs, and only three run condition-based programs. DIFS has independently and extensively analyzed the operation and expenses of running a claims-based reinsurance program in Michigan, not a condition-based program. Senate Bill 637 does not describe which type of reinsurance program DIFS can operate. Since DIFS has only performed independent research on developing a claims-based reinsurance program, MAHP highly suggests that "claims-based" reinsurance should be enumerated in the bill for market certainty and predictability.

Suggested Amendment: Amend SB 637 S-2 (As passed by the Senate)

1. Amend page 1, line 7, after "a" by inserting "claims-based."
2. Amend page 1, line 9, after "the" by inserting "claims-based."
3. Amend page 2, line 16, after "a" by inserting "claims-based."

Amendment #7 – Provide Predictable Due Process

Background: Anytime the government creates a new "quasi-governmental entity," as Senate Bill 633 does by establishing a non-profit corporation entitled the "Exchange," entities that are subject to new regulations from these quasi-governmental agencies should be able to exercise predictable processes for resolving grievances, disputes, and appeals. Previous versions of Senate Bill 633 contained due process language that allowed DIFS to decide matters of appeal between aggrieved parties and the Exchange. This due process language was changed in the Senate-passed version to enable DIFS to avoid decision-making authority and punt matters of appeal back to the quasi-governmental entity (Exchange). MAHP would recommend changing the due process language so that final decision-making over appeals rests with the regulatory agency that oversees the Exchange.

Suggested Amendment: Amend SB 633 S-7 (As passed by the Senate)

1. Amend page 24, line 18, by striking ", or directing the exchange to give further consideration to the matter." and replace with a period.

Amendment #8 – Require a Reinsurance Public Hearing

Background: According to regulations from the Centers for Medicare & Medicaid, when a state seeks federal approval for a 1332 waiver, such as the one that would be sought under Senate Bill 637 for a reinsurance program, the federal government requires that a public hearing must be conducted. The current version of SB 637 doesn't require this due process. MAHP would encourage a statutory requirement for a public hearing to be held.

Suggested Amendment: Amend SB 637 S-2 (As passed by the Senate)

1. Amend Page 2, Line 10, by inserting "(c) Before submitting a State Innovation Waiver application to HHS for review and consideration, conduct public hearings regarding the state's application. In addition, a state with one or more federally recognized tribes within its borders must conduct a separate process for meaningful consultation with the tribes as part of the notice and comment process.