RE: BCBSA Comments in Response to House Ways and Means Committee Request to the NAIC Related to including Long-Term Services and Supports (LTTS) in Medigap

Dear Director Wing-Heier and Commissioner Caride:

The Blue Cross Blue Shield Association (BCBSA) would like to provide feedback as the Senior Issues (B) Task Force prepares a response to House Ways and Means Committee Chairman Richard Neal's request for recommendations on a proposal to add long-term care services and supports (LTSS) to Medicare Supplemental Insurance (Medigap) policies.

BCBSA is a national federation of 36 independent, community-based and locally operated Blue Cross and Blue Shield companies (Plans) that collectively provide healthcare coverage for one in three Americans. Every Plan sells Medigap in their respective states, with some Plans offering all standardized Medigap options while other Plans offer only selected options. Collectively, Plans provide Medigap coverage to approximately 4 million Medicare beneficiaries.

Having participated in the June 19th Task Force conference call, we would agree with the overall perspective Task Force members shared in response to the Committee’s request. There is no doubt that we are all looking for affordable and accessible solutions to balance the inherent cost of an aging population and our member Plans continue to look for innovative solutions to address the social components of health care.

With CMS’ recent guidance that increases flexibility for benefits in Medicare Advantage (MA) by allowing plans to offer new supplemental benefits, we understand why the Committee wants to explore the option of adding LTSS to Medigap plans. However, it is important to keep in mind the fundamental differences between MA and Medigap. While Plans continue to work to address social determinants of health and look to expand services that promote or expand home care services, we are concerned about the impact of embedding LTSS in the current Medigap framework. The scope and cost of supplemental benefits – like transportation, nutrition services and housing supports – do not match in cost the extensive range of services that make up LTSS.

Our concerns, as echoed by the Task Force, revolve around the potential unintended consequences of this action. As such, we offer the following specific concerns as you draft your response to the Committee.

- **Retain Medigap's Role:** Medigap is, by definition, essentially supplemental coverage to Medicare Parts A and B benefits. It was developed to "wrap" around traditional fee-for-service Medicare, providing an option for beneficiaries to choose additional or more expansive
coverage for Medicare covered services. Plans are permitted in some states to include innovative benefits in standard Medigap policies that may attend to social determinants of health. While there have been some changes in the standardized package of benefits within Medigap in the past, most of those changes were balanced with the expectation that beneficiaries can afford the product while taking advantage of additional benefits and coverage protections. It is important to ensure Medigap continues to meet the needs of beneficiaries and remains affordable to ensure its long-term viability.

It is also important to remember that Medigap policies are insurance products that are not tied to any health delivery system. When a patient incurs Medicare covered expenses, their claim is first processed by a Medicare Administrative Contractor and then forwarded to another contractor for processing of any remaining Medicare allowable costs against their Medigap policy. LTSS requires health assessments, care coordination and most importantly, the actual delivery of health services. Were this benefit to be added, Medigap issuers would have to add a health delivery system to their operations, creating significant add-on costs to these policies in addition to the cost of underwriting these new benefits. Right now, Medicaid is the primary provider of these services and some Medicare Advantage special needs plans. But Medigap is strictly an insurance product without any attachment to health care delivery and that is an essential factor to consider in any review of this issue. Notably, LTSS benefits in Medigap would also need to be paid by beneficiary premiums while in Medicare Advantage supplemental benefits are paid for with rebate dollars, if available.

There is also additional uncertainty around the intention of making LTSS benefits a mandated or optional benefit within the Medigap rubric. We are concerned that adding LTSS benefits would invite adverse selection and significantly impact costs. Right now, Medigap is not a mandated product, and there is no requirement for Plans to offer this supplemental coverage. The Committee should also keep in mind that there are new federal changes to the Medigap program that will go into effect as of January 1, 2020 (MACRA). Taken together, these policies will influence pricing and availability of Medigap plans going forward. It would not be in the best interest of beneficiaries to limit the availability of affordable Medigap products, upon which they depend for financial protection and access to affordable health care.

• **Cost Implications:** Medigap provides protections against out-of-pocket costs for beneficiaries, many of whom are low-income. It is critical that these benefits remain affordable. The addition of LTSS to Medigap could make the coverage option out of reach for many Medicare beneficiaries. If products are priced out of the marketplace due to these additional benefits, it could also lead Plans to re-evaluate the financial viability of offering these new products, limiting choice for beneficiaries.

Right now, there are fewer underwriters of long-term care policies due to utilization and the ever-rising cost of LTSS in the aging population. It is generally advised that individuals purchase a LTC policy well before Medicare eligibility. This policy would leave Medigap plans at risk, as consumers are not eligible to purchase Medigap until they are deemed eligible for Medicare. It is also important to keep in mind that long-term care policies are currently available to federal employees as an option under the Federal Employees Health Benefits Program as well as by some larger private employers. These policies can be expensive and generally have a limited take-up rate. The LTC market has been struggling with financial stability for some time and while regulators and other policymakers continue to seek new and
innovative ways to address the needs of the aging population, incorporating LTSS benefits into the stable Medigap market is not the solution.

- **Maintaining State Flexibility:** We would encourage the Task Force to emphasize the state’s role in regulating Medigap. As such, each state establishes fundamental standards that reflect the needs and desires of its population. Some states have opted to maintain federal Medigap minimum standards while others have expanded those standards, such as the inclusion of guaranteed issue provisions or choosing to implement community rating or issue age (or attained age) rating. Additionally, many states also have their own long-term care insurance laws and regulations, separate from Medigap laws and regulations. Adding LTSS as a standard Medigap benefit may raise conflicts or confusion between consumer protections that are available to separate LTC plans versus Medigap plans with LTSS. We believe that it is critical for states to maintain their regulatory authority and flexibility regarding Medigap requirements in order to best serve their local Medicare beneficiaries.

We would also agree with the Task Force’s discussion around the need to help consumers better understand their options around Medicare. As Plans, we recognize that consumers are not always aware of the products available to them or how best to utilize their benefits. We would echo the recommendation urging Congress to do more education and outreach. This is particularly critical as individuals consider products within the Medicare and LTC markets. Helping consumers evaluate what is best for their particular health and financial needs is something that we, as an industry, have struggled with for years. Given the nation’s rapidly aging population, it is prudent that we develop public-private partnerships way to help educate and prepare consumers before they become Medicare eligible.

We appreciate your consideration of our comments and look forward to the discussion of your proposed response to the Committee. As always, we appreciate the opportunity to engage with the Task Force as collaborative partners. If you have any questions or want additional information, please contact Jeremy Crandall, Managing Director of State Affairs at (202) 626-4802 or jeremy.crandall@bcbsa.com.

Sincerely,

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