**Testimony of**

**Commissioner Al Redmer, Jr., on behalf of**

**The National Association of Insurance Commissioners**

**Before the**

**U.S. House Committee on Oversight and Government Reform**

**Regarding:**

# Rising Health Insurance Premiums Under the Patient Protection and Affordable Care Act

**September 14, 2016**

**2154 Rayburn House Office Building**

## *Introduction*

Good morning Chairman Chaffetz, Ranking Member Cummings, and distinguished members of the committee. My name is Al Redmer, and I am the appointed Commissioner of the Maryland Insurance Administration. I want to thank you for inviting me to speak today on behalf of the National Association of Insurance Commissioners (NAIC) about rising health insurance premiums. The NAIC represents the chief insurance regulators of the 50 states, the District of Columbia, and five U.S. territories and we are the primary regulators or health insurance in the United States.

I would like to begin my comments by offering a short historical review of the health insurance market in Maryland, that I believe will add context to our discussion regarding the rate changes coming in January of 2017. In the late 1980's and early 90's, Maryland's health insurance market had conditions similar to those discussed during the debate on the Affordable Care Act (ACA). We had folks that were declined coverage because of pre-existing health conditions and were excluded from the competitive marketplace.

In 1993, the Maryland General Assembly passed small group insurance reform that included provisions similar to those contained in the ACA, such as, guaranteed issue, a ban on pre-existing condition limitations, a standard benefit plan, and adjusted community rating. Initially, those changes created disruptions to the market, but it has evolved into a competitive market that is seeing moderate, single digit premium increases.

With that experience and our knowledge of how health insurance markets work, we knew there would be considerable disruption to the individual market when the ACA was enacted. Adding

guarantee issue subscribers to a medically underwritten pool results in rate instability for a number of years, but eventually there would be equilibrium. Further, with the individual market being historically more transient than the employer sponsored market, with the difficulty in attracting young healthy prospective customers, and with the potential for adverse selection, we projected that the number of years to reach that equilibrium would be longer than it took in the small group market. Unfortunately, due to a variety of factors, that instability has now extended into the fourth year of implementation. Insurance commissioners have some serious concerns about the current condition of the individual health insurance markets in their states and action by Congress and the Administration to address the problems is long overdue.

***Summarizing the Status of the Individual Markets in the Various States***

I have recently returned from the NAIC National Meeting, a triannual meeting of state regulators, where, among other things, we share information on the condition of our insurance markets; discuss issues that are affecting, or have the potential to affect, insurance sold in our states; and consider model laws and regulations intended to improve market stability and protect consumers. At the National Meeting, state regulators across the country expressed serious concerns about the condition of the individual markets in their states. Major insurance carriers, such as Aetna and UnitedHealth, have pulled out of the Exchanges in several states citing substantial losses in the individual markets they serviced, and some insurance carriers have closed their doors or failed to meet solvency requirements. This means thousands of consumers will need to enroll in a new health plan from a another insurance carrier by December 15$^{th}$ of this year or they will not have coverage on January 1, 2017.

Another consequence of fewer carriers participating on the Exchanges is that in many counties across the United States, especially rural counties, there is only one insurance carrier offering individual coverage on the Exchanges, and there remains the possibility that a county or two may not have any insurance carriers competing on the Exchanges at all – we will not know for sure until the Qualified Health Plan contracts are signed later in September. Furthermore, many insurance carriers are only offering HMO-type health plans with very narrow provider networks in the individual markets, which dramatically reduces the coverage options available for consumers. Finally, my colleagues have reported that insurance carriers servicing the individual markets are requesting premium increases of 30 percent, 40 percent, and in some cases, 50 percent.

I and my colleagues take very seriously our responsibility under state law to ensure all rates are actuarially justified, nondiscriminatory, and sufficient to ensure the carriers remains solvent. All rates submitted by carriers are thoroughly reviewed and, under the ACA, they are more transparent than ever. But, premiums continue to rise, especially in the individual market, and for too many consumers coverage is still unaffordable.

***Explaining the Forces that Drive Premium Increases***

Rising health care costs, particularly hospital and pharmaceutical costs, are the driving force behind rising health insurance premiums and this must be addressed if health insurance coverage is ever to be truly affordable for the broadest possible group of policyholders.

Another key factor we are seeing, as a result of the ACA and its implementation, is uncertainty. As any actuary will tell you, insurance hates uncertainty. And in regards to health insurance,

particularly in the Federally Facilitated Marketplaces (Exchanges), there is uncertainty in three important areas: 1) risk pools; 2) funding; and 3) regulations.

**Risk Pools:** The fact that far fewer younger, healthier consumers are enrolling in health plans on the Marketplaces than expected, even with the increasing penalties, means the risk pools are sicker than policymakers and insurance carriers expected. The extension of transition plans through 2017 exacerbated this problem in many states, as these plans are not included in states' single risk pools. Other contributing factors at work here are the uncertainty of Medicaid expansion, the fact that fewer people than projected are moving out of group coverage and into individual coverage, and the frequency and potential abuse of Special Enrollment Periods, which contribute to adverse selection.

State regulators continue to work with the Administration to increase verification of Special Enrollment Period eligibility and to promote participation by younger, healthier consumers. But more must be done if the individual market is to remain viable into the future. There have been several legislative proposals to provide more affordable options for younger people; to encourage more participation in the individual market; and improve the overall risk of the pool. We urge Congress to begin a thorough consideration of these proposals before the market deteriorates further.

**Funding:** Over the past couple of years, many health insurance carriers have seen their risk corridor payments slashed, have received unexpectedly high risk adjustment bills, and are receiving reduced reinsurance payments, which may be reduced even further. Ironically, the very programs that were designed to bring stability to the markets have actually increased uncertainty,

which has contributed to premium increases in a significant way. In addition, carriers are now waiting for the courts to decide whether they will continue to receive reimbursement from the U.S. Treasury for the lower cost-sharing plans provided to low-income enrollees. They would still be legally obligated to provide these more costly plans, but the courts could prohibit Treasury from reimbursing them without an appropriation.

The NAIC does not have a position as to whether any or all of these changes or legal challenges are appropriate, but the impact on rates and the markets are real and should not be ignored. Uncertain funding streams lead to higher premiums. We need to work together to address these issues and provide more stability.

**Regulations:** Ever since the health insurance market reforms were put into place in 2014, insurance carriers have been forced to constantly deal with new regulations, annual and mid-year changes to regulations, and new interpretations of existing regulations. All of these changes create confusion and cost money, which in turn increases premiums. The latest example is the 2018 HHS Notice of Benefit and Payment Parameters, which is over 200 pages of proposed policy and process changes that will impact administrative and claim costs. In addition, there are new Mental Health Parity requirements, non-discrimination rules, certification requirements, and Essential Health Benefit benchmarks that must be implemented in 2017. On top of all this, carriers are facing more and more federal oversight that has led to more confusion and more costs. While some of the objectives here may be worthwhile, there appears to be little cost-benefit analysis, and nearly constant tinkering, which again contributes to uncertainty and directly impacts cost.

There must be more stability in the regulations, the interpretation of the regulations, and the oversight. We strongly believe that states are best suited to provide that stability and that every effort should be made to retain states as the primary regulator of insurance and to provide states the flexibility they need to protect consumers and promote stable and competitive markets.

## *Conclusion*

It has been over six years since the ACA was signed into law, and the time is long past due for state and federal policymakers to move past the politics and come together and make substantive corrections to the law to bring about more stable risk pools, dependable funding and reasonable regulations for the individual health insurance markets. The markets are suffering. Let's roll up our sleeves and fix them.