



OFFICE OF  
INSURANCE COMMISSIONER

April 14, 2020

The Honorable Patty Murray  
154 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Maria Cantwell  
511 Hart Senator Office Building  
Washington, D.C. 20510

The Honorable Suzan DelBene  
2330 Rayburn House Office Building  
Washington D.C. 20515

The Honorable Rick Larsen  
2113 Rayburn House Office Building  
Washington D.C. 20515

The Honorable Jaime Herrera Beutler  
2352 Rayburn House Office Building  
Washington D.C. 20515

The Honorable Dan Newhouse  
1414 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Cathy McMorris Rodgers  
1035 Longworth House Office Building  
Washington D.C. 20515

The Honorable Derek Kilmer  
1410 Longworth House Office Building  
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The Honorable Pramila Jayapal  
1510 Longworth House Office Building  
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The Honorable Kim Schrier  
1123 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Adam Smith  
2264 Rayburn Office Building  
Washington, D.C. 20515

The Honorable Denny Heck  
2452 Rayburn House Office Building  
Washington, D.C. 20515

Re: Maintaining health insurance coverage during and after the coronavirus pandemic

To the members of the Washington State Congressional Delegation:

Since 2017, beginning with Senator Patty Murray's partnership with Senator Lamar Alexander to bring forward bipartisan legislation to stabilize the individual health insurance market, I have had several opportunities to communicate with Washington State's Congressional Delegation regarding this critical issue. I value your interest in my experience as a health insurance regulator and appreciate your receptiveness to my recommendations to strengthen health insurance markets in Washington State.

Over this same period, I have consistently recommended that Congress revive the Affordable Care Act's (ACA) reinsurance program that operated from 2014 to 2016. The program limited health insurers' liability for their highest cost cases by paying a portion of claims costs above a threshold set by the federal government. That program reduced individual market premiums in Washington State between 10-15% below what they would have been. As Congress considers next steps in the Coronavirus (COVID-19) response, I urge you once again to revive the federal reinsurance program.

Washington State Congressional Delegation

Re: Maintaining health insurance coverage during and after the coronavirus pandemic

April 14, 2020

Page 2

As you know, the individual health insurance market is a crucial safety net for self-employed individuals, people who do not have health care coverage through their employer, people who are between jobs, and early retirees. With the massive impacts of the COVID-19 pandemic on businesses and their employees, the individual health insurance market's role as a safety net is even more critical.

I am doing everything in my power to help people retain their coverage and access care during this emergency. I have issued three emergency orders during this COVID-19 pandemic. Copies of the orders can be found on the Office of the Insurance Commissioner's Technical Assistance Advisories and Emergency Order webpage. These orders bar cost-sharing for Coronavirus testing and services related to testing, prohibit insurers from imposing prior authorization requirements on Coronavirus testing and treatment, direct insurers to allow early prescription refills, and expand use of telemedicine services and to mandating longer grace periods for employers and individuals to pay their health insurance premiums. I also partnered with Governor Jay Inslee, who issued an emergency proclamation requiring telemedicine payment parity so that providers will be paid the same amount for telemedicine visits as they would for in-person visits.

I have directed my office to exercise unprecedented flexibility and responsiveness to health insurers' requests to change employer sponsored health plans so that employers can keep their employees covered during this period, through actions such as reducing the number of hours employees must work to be eligible for benefits and covering former employees. However, the reality for too many employers who have had to temporarily scale down or close their businesses is that maintaining health insurance coverage for their current and former employees is just too great a financial burden. Thankfully, for these employers and their employees there is a safety net – the individual health insurance market. Now more than ever, it's important to maintain the stability of the individual health insurance market.

Our state's experience with our individual health insurance market is a cautionary example. In the early 1990's, Washington State enacted health insurance reforms including an individual mandate and a rich benefits package. Two years later, our Legislature repealed the mandate but kept the benefits. As a result, rates went up and healthy people stopped buying insurance. The risk pool got smaller and sicker, and rates went up again. This "death spiral" resulted in the complete collapse of our individual market. For two years, consumers could not buy an individual or family health insurance plan in Washington State.

With the recent reduction of the ACA's personal responsibility penalty to \$0, the risk of market instability increased. The availability of premium subsidies, through advance premium tax credits (APTC), and cost-sharing reductions have been absolutely key to maintaining sufficient enrollment of healthy individuals and families to sustain our market. However, affordability is unquestionably the key challenge. Unlike many other states, Washington's individual market has a high number of individuals who purchase coverage without premium subsidies – nearly 50%.

As the table on the following page illustrates, market uncertainty in 2017, 2018, and 2019 generated major increases in premiums, which thankfully settled down in 2020. These increased costs have resulted in lower enrollment in our individual market, with the greatest declines in the off-Exchange market, which is wholly non-subsidized.

Washington State Congressional Delegation

Re: Maintaining health insurance coverage during and after the coronavirus pandemic

April 14, 2020

Page 3

|      | Weighted average increase in premiums | On-Exchange enrollment | Off Exchange enrollment | Total enrollment |
|------|---------------------------------------|------------------------|-------------------------|------------------|
|      |                                       | (January)              | (January)               | (January)        |
| 2017 | 14.10%                                | 161,559                | 120,969                 | 282,528          |
| 2018 | 34.99%                                | 215,026                | 60,492                  | 275,518          |
| 2019 | 13.57%                                | 208,847                | 51,272                  | 260,119          |
| 2020 | (-3.25%)                              | 196,481                | 38,774                  | 235,255          |

Because so many of the people in our market are not receiving a premium subsidy, increased premiums may have an even greater impact in Washington than other states. In 2018, I proposed legislation to establish a state-based reinsurance program modeled on the ACA reinsurance program. While there was strong support for reinsurance as a policy solution, the relatively high percentage of non-subsidized enrollees in our individual market made the state cost of such a program prohibitively high, and the proposal was not enacted.

I continue to believe that reviving the federal reinsurance program is the most important step that Congress could take to maintain and increase the stability of our individual market. It would decrease premiums across the board, resulting in greater affordability for all non-subsidized enrollees as well as subsidized enrollees with income at the higher end of the subsidy range, i.e. 300 – 400%. In addition, at a time when insurers are facing uncertainty regarding the financial impacts of COVID-19 treatment, it would provide certainty for them that the costs to care for their highest cost enrollees would be limited.

I look forward to working with you on this vital and key issue. This is a remarkable opportunity to help provide greater certainty and stability during these uncertain times. If you have any questions, please do not hesitate to contact me or Jane Beyer, my Senior Health Policy Advisor, at [janeb@oic.wa.gov](mailto:janeb@oic.wa.gov).

Sincerely,



Mike Kreidler  
Insurance Commissioner

cc: Jack Lovell, Acting Chief Deputy Commissioner, Office of the Insurance Commissioner  
Candice Myrum, Deputy Commissioner, Policy and Legislative Affairs, Office of the Insurance Commissioner  
Jane Beyer, Senior Health Policy Advisor, Office of the Insurance Commissioner  
Lonnie Johns-Brown, Legislative Director, Office of the Insurance Commissioner





## Washington State Legislature

The Honorable Eileen Cody  
303 John L. O'Brien Building  
Olympia, WA 98504

The Honorable Annette Cleveland  
220 John A. Cherberg Building  
Olympia, WA 98504

April 16, 2020

The Honorable Patty Murray  
154 Russell Senate Office Building  
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The Honorable Maria Cantwell  
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Washington, D.C. 20515

Dear members of the Washington State Congressional Delegation,

Thank you for your service to the people of Washington State. It is with great appreciation of all the work your offices are currently doing in response to the COVID-19 public health crisis that we write today in support of Washington State Insurance Commissioner Kreidler's letter regarding a federal

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reinsurance program. As Chairs of the Health Care Committees in the Washington Legislature, we know how important your leadership and work in Congress is for Washingtonians and urge your consideration of Commissioner Kreidler's request for reinstating a reinsurance program.

Now more than ever, we as elected leaders have a responsibility to our constituents to make sure they have access to affordable health care – this starts with affordable health insurance. While we see Medicaid enrollments in our state soar up to over 1,600 per day and we see, since reopening on March 10<sup>th</sup>, approximately 10,000 new qualifying individuals on the Washington Health Benefit Exchange during this crisis, it is clear that our markets are experiencing unprecedented shifts and pressures during the COVID-19 crisis. As the state health care legislative leaders, we urgently request that you take steps to help stabilize markets and increase affordability as we look ahead to the 2021 plan year.

After much consideration of possible solutions, we would suggest with Commissioner Kreidler that Congress implement a reinsurance program in the next COVID-19 response stimulus package. We believe this program would positively impact the entire health system by providing stability during this volatile and unpredictable period. As the prime sponsors of a 2018 bill to establish a state reinsurance program, we share Commissioner Kreidler's hopes that a federal program would encounter less obstacles in its passage and have maximum impact during this unprecedented time as we respond to COVID-19.

We could continue to talk to the merits, but Commissioner Kreidler's letter has already succinctly outlined the needs of Washingtonians and the benefits of a federal reinsurance program. Thank you for considering reinstating a federal reinsurance program, and for all that you do for the people of Washington State. Please feel free to contact us if we can answer any questions or address any concerns.

Sincerely,



Representative Eileen Cody, RN  
Chair, House Health Care & Wellness  
Committee  
Washington State 34<sup>th</sup> Legislative District



Senator Annette Cleveland  
Chair, Senate Health & Long Term Care  
Committee  
Washington State 49<sup>th</sup> Legislative District