



April 5, 2013

Commissioner Joseph Murphy  
Division of Insurance  
1000 Washington Street  
Suite 810  
Boston, MA 02118-6200

Dear Commissioner Murphy:

You have requested a three year transition period for Massachusetts to phase out certain rating factors currently in place in the Commonwealth.

The Affordable Care Act makes clear that Congress had significant interest in promoting stability for states that, like Massachusetts, had implemented robust Exchanges and were succeeding in providing health insurance coverage for their residents prior to the enactment of the law. Specifically, in section 1321(e) of the law Congress created a presumption in favor of the ongoing operational processes of such existing Exchanges. The law created a transition period for those Exchanges to come into compliance with the standards of the Affordable Care Act.

While the rating requirements of section 2701 of the Public Health Service Act are not among the Exchange standards that are described in section 1321(e) of the Affordable Care Act, there is a relationship between those requirements and the operational concerns that Congress envisioned when it enacted section 1321(e). For this reason, we have concluded that it is appropriate to afford issuers in Massachusetts a three year transition period instead of coming into full and immediate compliance with the rating requirements at issue. For policy years beginning in 2014 and 2015, we will consider an issuer that meets the standard described below to be in compliance with Public Health Service Act section 2701.

Specifically, consistent with your proposal, there will be a three year transition period in Massachusetts for the elimination of current state rating factors (i.e. account group size, industry, participation rate, and allowing the use of intermediary and small group purchasing cooperatives factors) that are otherwise disallowed under the Affordable Care Act:

- For policy years beginning on or after January 1, 2014 but before January 1, 2015, issuers may use 2/3 of the disallowed factors;
- For policy years beginning on or after January 1, 2015 but before January 1, 2016, issuers may use 1/3 of the disallowed factors;

For policy years beginning on or after January 1, 2016, issuers must be in full compliance with the rating rules under Public Health Service Act section 2701.

We look forward to continuing to work with you and your staff to implement the Affordable Care Act.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary M. Cohen". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Gary M. Cohen  
Deputy Administrator and Director  
Center for Consumer Information & Insurance Oversight