December 8, 2021

On behalf of Nevada's health care industry, our coalition has offered commentary and engagement on Senate Bill 420 - The Public Option ("PO") since its initial appearance during the 2021 Legislative Session. On November 23, 2021, we submitted to the Division of Health Care Financing and Policy, a letter reviewing the questions and considerations for the initial health care market actuarial study.

In addition, we offer this letter more specifically focused on the "Required Actuarial Analysis" under SB420 and as described starting on page 16 of the Nevada Public Option Design Session #1 Power Point ("Power Point").

The 81st Session of the Nevada Legislature codified very specific design requirements for the creation and implementation of the Public Option in SB420.

These design requirements are primarily enumerated in sections 11 and 39 of the bill although other sections are referenced as well. Section 39 became law on June 9, 2021, when Governor Sisolak signed SB420. Section 11 also became effective for purposes of preparatory actions that same day. It is important to note that Section 39 specifically references how Section 11 should be carried out e.g., "[…] the actuarial assessment pursuant to subsection 2 of Section 11 of this act […] must be completed before the application for the waiver is submitted…" Section 39(2)(a).

It is useful to review the specific language creating the "Required Actuarial Analysis."

Section 11(2):

> In preparing an application for any waiver described in subsection 1, the Director, the Commissioner and the Executive Director of the Exchange may contract with an independent actuary to assess the impact of the Public Option on the markets for health care and health insurance in this State and health coverage for natural persons, families and small businesses. The actuary must have specialized expertise or experience with state health insurance exchanges, the type of waiver for which the application is being made, measures to contain the costs of providing health coverage, reforming procedures for the purchasing and delivery of government services and Medicaid managed care programs. A contract pursuant to this subsection is exempt from the provisions of chapter 333 of NRS.

Section 39(2):

> In preparing the initial application for the waiver described in paragraph (a) of subsection 1 of section 11 of this act, the Director of the Department of Health and Human Services, the Commissioner of Insurance and the Executive Director of the Silver State Health Insurance Exchange shall contract with an independent actuary to conduct an actuarial assessment pursuant to subsection 2 of section 11 of this act. The actuarial assessment:
> (a) Must be completed before the application for the waiver is submitted; and
>
> (b) Must include, without limitation, an analysis of the likely effect on premiums for health insurance in this State of:

(1) The provisions of subsection 1 of section 13 of this act, as those provisions apply to providers of health care, as defined in NRS 695G.070, who participate in the Public Employees' Benefits Program established pursuant to subsection 1 of NRS 287.043 or provide care to an injured employee pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS, and the amendatory provisions of section 21 of this act; and

(2) Repealing the provisions described in subparagraph (1).

While noted on the Power Point at page 18, one of the most specific items included in the actuarial analysis must be understanding the effects on premiums should the State repeal the mandates on participation by providers. Sec. 39(2)(b)(2).

The Power Point narrows on participation within the Public Option and the premiums of the Public Option. This would ignore the specific focus of Section 39(2)(b)(2) that the legislature understood that mandated participation in the Public Option by providers could put at risk the access to care for state employees, Medicaid recipients, and injured workers.

We note this oversight simply to underscore its importance in understanding how the Public Option may directly, but inadvertently impact access to care for vulnerable Nevadans.

Additionally, it is our recommendation that the actuary specifically review the effect of the Public Option based upon the provisions of Section 12(5) if the Director of the Department of Health and Human Services is required to administer the Public Option directly.

These two provisions will give DHHS a better focus in designing a Public Option to avoid these effects that the Legislature specifically wanted to address.

We appreciate your time and attention to these points, and remain committed to providing feedback throughout this process.