October 31, 2019

Frank Opelka
Deputy Commissioner, Office of Health, Life and Annuity
Louisiana Department of Insurance
1702 N. Third St.
Baton Rouge, LA 70802

RE: Response to Act 412 Request for Information – Self-Insurance Institute of America

Dear Mr. Opelka:

As a national trade association representing companies involved in the self-insurance marketplace, including third-party administrators (TPAs), stop-loss insurance carriers, brokers and attorneys, the Self-Insurance Institute of America (SIIA) and its members are proud to represent and assist tens of thousands of self-insured employees and their dependents in both the public and private sector. We appreciate the opportunity to submit comments on Act 412.

1. Briefly describe the program you wish the LDI to consider in its Act 412 analysis.
    a. Has this program been tried, proposed, discussed or examiner by any other state?
    b. Is there any particular program information which you would recommend LDI examiner as part of its analysis?

SIIA appreciates that states are looking for ways to stabilize their individual health insurance markets. Many have created reinsurance programs, approved for federal funding by the Centers for Medicare and Medicaid Services: Alaska, Colorado, Delaware, Maine, Maryland, Minnesota, Montana, New Jersey, North Dakota, Oregon, Rhode Island and Wisconsin. SIIA does not have an opinion about the design of the reinsurance program or which state's reinsurance program is the best fit for Louisiana, but has significant concerns about the way a program is financed.

<u>SIIA objects to a TPA assessment that will raise employer health plan costs to subsidize individual market health care costs that employers cannot control.</u> As Maine is the only one that finances its program with a TPA assessment, SIIA believes there are better financing options than the one in the Maine Guaranteed Access Reinsurance Association (MGARA) or House Bill 472 from the 2018 session. To our knowledge Maine is the only state that funds its reinsurance program with a TPA assessment and only one other state has introduced reinsurance legislation with a TPA assessment, Washington State in 2018. The legislation did not pass.

As you know, in order to stabilize individual markets for health insurance in the early years of Affordable Care Act (ACA) implementation, Section 1341 of the ACA included a temporary national reinsurance program that included fees assessed on self-insured plan sponsors. This three-year program transferred funds from small businesses and self-insured employer-sponsored plans into the individual market, providing no benefit to those employers or their plan beneficiaries. The result was higher costs to individuals and families enrolled in employer-sponsored plans in order to artificially lower costs for those on the individual market.

As the program has expired, employers are no longer subject to this fundamentally unfair assessment on the national level. Given the program is no longer being implemented on the national level, we respectfully suggest it should not be applied state-to-state at this time.

2. One program that has been subject of significant discussion throughout the drafting and passage of Act 412 is the "Maine Model" in which insureds either with one of a defined set of pre-existing conditions or with claim costs exceeding a pre-determine amount have some of all of their remaining claims cost covered by a state high-risk pool without changing their actual enrollment status, premium or cost-sharing. Please provide any information you wish regarding this program.

One notable difference between Maine and Louisiana was raised by a public health care advocate at the August 15th Protecting Health Care Coverage Task Force meeting: Louisiana's population is more diverse than Maine. And, as you may know, the US Census recently reported that Maine has one of the oldest populations in the country. These two factors will affect the types of claims ceded to a reinsurance program and program cost projections.

To us, what makes Maine's reinsurance program unique is the TPA assessment, which would allow a reinsurance program to assess self-insured employers and pay for individual market health insurance claims. Self-insured employers are some of the largest employers in the state and are an important source of comprehensive health benefits. Assessing these employers that have no interaction with the insurance market would force them to pay for something they are not using, artificially inflating the cost of the benefits they are providing to their participants. As you know, this assessment method met significant opposition from the Louisiana employer community in 2018 and will again, if it is proposed.

If the intent is for the state to adopt a reinsurance program that functions similar to Maine, we believe any federally-approved state reinsurance program could be altered to function this way. The reinsurance could be triggered by a specific diagnosis or a dollar-specific claim such as $50,000. One would not need to adopt the Maine program and associated TPA assessment to adopt this risk-transfer. Finally, to our knowledge, all state reinsurance programs are "invisible" to the consumer, as the ACA prohibits individuals to be treated differently based on their health status.

Thank you for your consideration of these comments. If you have any questions, feel free to contact me at 202/595-0641 or abrackemyre@siia.org.

Sincerely,

Adam Brackemyre
Vice President of State Government Relations