Senate Health Care Committee
Salem, OR

Dear Senator Monnes-Anderson and Committee Members:

The Patient Protection and Affordable Care Act also referred to as the ACA or Obamacare, was passed by the US Congress in February, 2010. This act approached health care reform through two main avenues: health insurance reform and delivery system reform. The health insurance path endeavored to ensure more Americans had access to health insurance coverage, ensure fair and appropriate benefits were offered under health insurance plans, and to lower cost of health insurance.

By accomplishing these three goals, we expected to see a drastic reduction in the uninsured and the associated uncompensated care, as well as improvements in the overall health of our population. These positive outcomes would be accompanied by a reduction in healthcare costs.

We all know the story of the state of Oregon's foray into the ACA – and the Cover Oregon debacle has had a far-reaching and long lasting negative impact on our health insurance markets. As a result of the state's desire to get Oregonians access to health insurance in the wake of Cover Oregon, was to take advantage of the option to allow "transitional plans" to remain in the Oregon insurance market. Transitional plans are health insurance plans which were offered by carriers prior to the implementation of the ACA. These plans are not required to offer the same level of benefits as ACA compliant plans and they are only available through carriers who were in the market prior to 2014.

Without a functioning individual or SHOP marketplace, it may have made sense for Oregon to allow transitional plans to remain in the market for the 2014 plan year. It may have even made sense to allow them to remain for the 2015 plan year. But it is now detrimental to the market to allow them to remain any longer.

The Oregon Insurance Division has discontinued transitional plans in the individual market for 2016. We applaud their decision and hope it will provide a much needed diversification to the risk pool in Oregon's individual market. Oregon health insurers experienced very high costs in the individual market in 2014 and those costs appear to be the same in 2015. While we do not yet have enough data to know the root cause of this higher than expected cost, it is interesting to note that states which did not allow transitional plans are not experiencing the same level of risk in the individual market. We can look north to Washington for an interesting comparison.

However, the Insurance Division is also currently planning to allow transitional plans to remain in the small employer group market (currently an employer with 1 – 50 employees is defined as a small group for health insurance purposes). This extension of transitional plans bifurcates the small group market into two markets: the ACA compliant market and the transitional market. This bifurcation results in a smaller and less diversified risk pool, which is associated with higher insurance rates. These businesses are being led to believe their costs would dramatically increase if they switch to ACA compliant plans.

This, however, is not always the case. Many businesses have seen their rates stable, and some even reduced, by switching to an ACA compliant plan.

Regardless, the ACA intended to have these groups included in the risk pool, and there is no prevailing reason to require some businesses to move to the ACA compliant market while giving a “pass” to others purely because they bought health insurance prior to 2014. This is putting more pressure on the risk pool of those who do not have a transitional plan option and potentially leading to higher rates for this population.

More concerning, however, is the Insurance Division’s request to allow for Large Group transitional plans until at least 2020. Beginning January 1, 2016, the ACA changes the definition of a small employer group from one with 1 – 50 employees to an employer with 1 – 100 employees. HB 2466 would allow employers with 51 – 100 employees to avoid moving to the small group insurance market as required under the ACA if they choose to stay with their current insurance plan. These large group transitional plans also reduce the size of the intended small group risk pool in the same way, and with the same impact as do the small group transitional plans. However, these plans also create an opportunity for adverse selection into the small group market – and this will have a severe impact on the rates for small group health insurance.

In the large group market segment, insurance carriers can modify plans to meet the specific needs of each group. Carriers do not submit rates for OID approval, but base the rate for each large group on a host of underwriting criteria such as type of industry, number of employees participating in the plan, and the prior claims of the group (“experience rating”). The large group segment is not guaranteed issue; insurers can decline to offer a quote to a group or impose large rate increases on groups it no longer wants to insure.

As the large group segment is not subject to guaranteed issue, insurers offering these large group plans (51 – 100 employees) today will have the option of offering low rates to those groups they want to retain on these transitional plans. These will be the groups with the best risk profile and best profitability for the insurer.

Groups on transitional plans with higher risk profiles will be offered large rate increases. This will force these riskier 51 - 100 employee groups into the newly expanded small group market segment (1 – 100 as of January 1, 2016). **This will cause the newly expanded small group segment to absorb *only the high risk groups*** with the lower risk groups staying with their current carrier in a transitional plan in the large group market.

Allowing groups to keep these plans artificially skews the entire small group market to be riskier, and therefore more expensive than it might otherwise be. 51 – 100 employee groups who remain on their transitional plans are, by definition, those groups that were the least costly and most attractive to carriers pre-ACA.

Some numbers help make the potential for negative impact clearer. The total small group market as of today is approximately 168,000 lives. Of these, 98,857 lives are in transitional plans, 69,364 are in ACA compliant plans. Terminating transitional small group plans would more than double the current small group market, thereby increasing the diversity and size of the risk pool.

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The current large group market is approximately 682,000 lives. Of these, only a fraction are with employers with 51 – 100 employees, Using employment data and industry standards, it can be assumed that approximately 140,000 employees are employed by companies with 51 – 100 employees. These employees represent approximately 250,000 lives. If we assume as much as 70% of these lives are deemed to be good risk to the current insurers, we will see approximately 75,000 lives forced into the small group market – these are 75,000 lives that are the highest risk lives – with the balance staying in the large group market.

The termination of transitional plans in both the small and large group market will help stabilize the market and move everyone to a level playing field.

Lastly, this is a very anti-competitive proposal that flies in the face of market based principles and sound business practices. It preserves monopolies and inhibits innovation. This may be especially true in rural areas, where we see more health disparities and already have reduced competition among carriers. It provides a path for carriers in the market prior to 2014, sole access to 300,000 lives new market entrants will be prohibited from accessing these lives. They will also have the ability to cherry pick the groups they wish to keep through premium rate increases.

Sincerely,

Dawn Bonder, CEO
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