



November 22, 2021

Commissioner Michael Conway
Colorado Division of Insurance
1560 Broadway, #110
Denver, CO 80202

RE: Colorado Option—Colorado Section 1332 Innovation Waiver Amendment Request

Dear Commissioner Conway,

We appreciate this opportunity to provide feedback on the [Colorado Section 1332 Innovation Waiver Amendment Request](#) and respectfully offer the following comments. The Colorado Medical Society (CMS) has long had policy supporting increased competition in the commercial insurance market: “CMS supports a pluralistic delivery system...CMS promotes competition within such a system...CMS supports health care cost containment through free market competition and voluntary efforts” ([185.998](#)). Also, as a matter of reference, policy from the American Medical Association (AMA) states, “The primary goals of establishing a public option [must be] to maximize patient choice of health plan and maximize health plan marketplace competition” ([H-165.823](#)).

We are concerned that the state’s request to waive [Section 45 CFR 156.140\(c\)](#), de minimis variation of actuarial value, seems to be rooted in an intent to decrease competition in the health plan marketplace by restricting the options that may be available to consumers among *non-Colorado-Option plans*. As the waiver request says, “Under the current allowable de minimis [actuarial value] ranges based on federal regulation, non-Colorado-Option plans could frustrate [the Colorado Option’s] goals by offering plans at a lower AV...These plans are likely to have higher deductibles...jeopardizing the impact the Colorado Option will have...” Even though the waiver request couches the rationale for this request in terms of “providing better coverage and mitigating health inequities,” it seems apparent that the intent is to reduce competition in the health plan marketplace by decreasing the numbers and types of plan options consumers have among non-Colorado-Option plans (by making sure consumers do not have the choice to purchase plans that may have lower premiums along with higher deductibles and lower actuarial value, within the current, federal de minimis variations range). This flies in the face of CMS and AMA policy and we are worried it could negatively impact consumers by driving competition out of Colorado’s health insurance marketplace.

Thank you for your consideration of these comments as we work toward the shared goal of improving the health insurance marketplace in Colorado.

Sincerely,

Mark B. Johnson, MD, MPH
President, Colorado Medical Society

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