

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

APPROPRIATIONS COMMITTEE HEARING

STATE CAPITOL
MAIN BUILDING
ROOM 140
HARRISBURG, PENNSYLVANIA

MONDAY, FEBRUARY 27, 2012
3:10 P.M.

PRESENTATION FROM
INSURANCE DEPARTMENT

BEFORE:

HONORABLE WILLIAM F. ADOLPH, JR., MAJORITY CHAIRMAN
HONORABLE MARTIN T. CAUSER
HONORABLE GARY DAY
HONORABLE GORDON DENLINGER
HONORABLE BRIAN L. ELLIS
HONORABLE MAUREE GINGRICH
HONORABLE GLEN R. GRELL
HONORABLE DAVID R. MILLARD
HONORABLE MARK T. MUSTIO
HONORABLE BERNIE T. O'NEILL
HONORABLE MICHAEL PEIFER
HONORABLE SCOTT PERRY
HONORABLE SCOTT A. PETRI
HONORABLE TINA PICKETT
HONORABLE JEFFREY P. PYLE
HONORABLE THOMAS J. QUIGLEY
HONORABLE MARIO M. SCAVELLO
HONORABLE CURTIS G. SONNEY

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BEFORE (cont.'d):

- HONORABLE JOSEPH F. MARKOSEK, MINORITY CHAIRMAN
- HONORABLE MATTHEW D. BRADFORD
- HONORABLE MICHELLE F. BROWNLEE
- HONORABLE H. SCOTT CONKLIN
- HONORABLE PAUL COSTA
- HONORABLE DEBERAH KULA
- HONORABLE TIM MAHONEY
- HONORABLE MICHAEL H. O'BRIEN
- HONORABLE CHERELLE L. PARKER
- HONORABLE JOHN P. SABATINA
- HONORABLE STEVE SAMUELSON
- HONORABLE MATTHEW SMITH
- HONORABLE RONALD G. WATERS

ALSO IN ATTENDANCE:

- EDWARD J. NOLAN, REPUBLICAN EXECUTIVE DIRECTOR
- MIRIAM FOX, DEMOCRATIC EXECUTIVE DIRECTOR
- HONORABLE JOHN D. PAYNE
- HONORABLE JOHN TAYLOR
- HONORABLE KATHARINE M. WATSON
- HONORABLE ROBERT GODSHALL
- HONORABLE GEORGE DUNBAR
- HONORABLE MIKE TOBASH
- HONORABLE H. WILLIAM DeWEESE
- HONORABLE DANTE SANTONI, JR.
- HONORABLE PAMELA A. DeLISSIO

JEAN M. DAVIS, REPORTER
NOTARY PUBLIC

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1 P R O C E E D I N G S

2 * * *

3 MAJORITY CHAIRMAN ADOLPH: Thank you. I'd like
4 to call to order the House Appropriations Committee Budget
5 Hearing with the Pennsylvania Insurance Department. Good
6 afternoon. It's my pleasure to introduce Mr. Michael
7 Consedine, the Commissioner of the Pennsylvania Insurance
8 Department.

9 Commissioner, if you would, you can introduce the
10 folks sitting at the table with you as well as making a
11 brief comment before we start with the questions.

12 MR. CONSEDINE: Thank you very much, Chairman.

13 It's my pleasure to be here. Let me make the
14 introductions first. Sitting to my left is Department
15 Counsel Sandy Ykema, who is the lead Department attorney
16 dealing with health care issues for the Insurance
17 Department. To my immediate right is Randy Rohrbaugh, who
18 is the Executive Deputy Insurance Commissioner. And to his
19 right is Peter Adams, who is the Director of our CHIP
20 program.

21 It is a pleasure to be back here again this year.
22 It represents my second year at the helm of the Department,
23 a Department I firmly believe to be one of the finest
24 insurance regulatory agencies in the country, if not the
25 world.

1 I don't know if many of you know, but
2 Pennsylvania is the fifth largest insurance market in the
3 country and 12th largest in the globe. Pennsylvania is
4 home to some of the largest multi-national insurance
5 companies globally, but also to single county mutuals that
6 trace their history back to the 1700s.

7 It's an industry that brings thousands of jobs to
8 Pennsylvania, quality jobs. And our marketplace, I'm glad
9 to report, continues to be, for the most part, vibrant and
10 competitive and diverse.

11 We believe ourselves to be a world-class
12 regulator of this world-class market. We are among the
13 largest insurance markets in the world. We do it on a
14 decidedly spartan budget just by way of comparison to the
15 Texas Insurance Department, which is the fourth largest
16 market. It has a budget that exceeds 100 million a year
17 with a staff of over 1,600.

18 By way of comparison, we do it on a budget --
19 this year of GGO funds. I'm not complaining. I'm merely
20 stating a fact. We recognize that times are tough and that
21 the Governor's proposed budget reflects current fiscal
22 realities.

23 While our budget has shrunk, the complexity of
24 the job we have has not. We have a number of very
25 significant issues before us at both the State level and

1 then at a national level. It would be our pleasure today
2 to talk to you not only about our fiscal challenges but
3 also some of the policy challenges we face here in the
4 Commonwealth.

5 With that, I'd be happy to answer any questions
6 that you might have.

7 MAJORITY CHAIRMAN ADOLPH: Thank you,
8 Commissioner.

9 If I may, my first question would be regarding
10 medical malpractice insurance. As you know, in this last
11 decade, that's been a subject that the Legislature has
12 addressed with various pieces of legislation. And when we
13 started out, there were only a few carriers selling medical
14 malpractice insurance.

15 The costs of the premiums were skyrocketing,
16 resulting in difficulties for our hospitals as well as
17 individual practitioners. We were receiving letters from
18 them saying that they were leaving the State, attending our
19 medical hospitals and not practicing here in the
20 Commonwealth.

21 I would like to hear from the Pennsylvania
22 Insurance Commissioner, what is the state of the medical
23 malpractice insurance industry here in Pennsylvania right
24 now?

25 MR. CONSEDINE: I'm happy to report,

1 Mr. Chairman, that the malpractice industry here is now a
2 very competitive market. And through the work that was
3 done by the General Assembly in passing a number of
4 reforms over the years, we have that market.

5 I can tell you that rates, especially over the
6 last five years, have decreased in many cases. By and
7 large, physicians are now staying in Pennsylvania because
8 they are not being driven out of the State by increasing
9 medical malpractice insurance premiums that they're seeing
10 in other states.

11 So we have the premiums. We have the
12 competition. So it continues to be a marketplace that I
13 think is attractive to other companies coming here to do
14 business.

15 We still have work to do. We have to address the
16 MCARE issue and the future for MCARE which continues to be
17 something that represents, to some, an entry, given the
18 uniqueness of the Pennsylvania market. But overall it is a
19 competitive and healthy marketplace.

20 MAJORITY CHAIRMAN ADOLPH: I guess this next
21 question, personally, Sandy, I guess, handles the claims.
22 Who handles the claims in this group here? Do you?

23 MR. CONSEDINE: Not personally. But our MCARE
24 area handles most of those claims. And I'd be happy if
25 there's a specific question.

1 MAJORITY CHAIRMAN ADOLPH: This is just claims
2 and complaints generally. You know, whether it's a
3 physician or whether it's a business, whether it's a
4 consumer, they file a complaint with the Insurance
5 Department. How many of those complaints do you receive a
6 year?

7 MR. CONSEDINE: I actually don't think we get
8 much in the way of actual MCARE complaints. If you're
9 talking about complaints about --

10 MAJORITY CHAIRMAN ADOLPH: I'm talking about all
11 insurances, all insurances.

12 MR. CONSEDINE: All insurances, we deal with
13 thousands of complaints every year. I think last year we
14 had over probably 6,000 complaints that we dealt with.

15 MAJORITY CHAIRMAN ADOLPH: So 6,000 complaints.
16 How many folks in your Department are handling those
17 claims?

18 MR. CONSEDINE: Probably 20 people deal directly
19 with consumers. We then have an enforcement staff of
20 probably a dozen or so that take complaints which we
21 believe to be actual violations and investigates them
22 further.

23 We have another part of a staff probably totaling
24 also a dozen or so, market conduct examiners, if we're
25 dealing with market conduct issues at a company level.

1 A good part of our Department -- most of our
2 Department view ourselves very much as a Consumer
3 Protection Agency. And most of our staff has some
4 responsibility dealing with consumer-protection-type
5 issues.

6 MAJORITY CHAIRMAN ADOLPH: Out of those 6,000
7 complaint forms, how many do you feel are resolved in favor
8 of the person that filed the complaint?

9 MR. CONSEDINE: I don't know if I have the exact
10 number. That would be something that we would be happy to
11 get for you.

12 MAJORITY CHAIRMAN ADOLPH: I would be very
13 interested in seeing that.

14 MR. CONSEDINE: We'd be happy to get that to you,
15 Mr. Chairman.

16 MAJORITY CHAIRMAN ADOLPH: Thank you.
17 Chairman Markosek.

18 MINORITY CHAIRMAN MARKOSEK: Thank you, Chairman
19 Adolph.

20 First of all, I would like the folks to know that
21 Rep. Matt Bradford from Montgomery County has joined us.

22 I have a question, Mr. Commissioner, relative to
23 the health insurance Exchange situation that the Federal
24 Government has mandated that we have in place by I believe
25 it's January 1st, 2014.

1 And I know the Department has received some funds
2 and has applied for additional funds to get that up and
3 running and I believe has had some draft legislation
4 proposed as well.

5 Can you give me the status of where we are with
6 that and what your Department is doing to move that
7 forward?

8 MR. CONSEDINE: I'd be happy to. I'll try to
9 keep it as concise as possible because we could spend a
10 great deal of time talking about health care reform and the
11 issues associated with that.

12 We have spent much of the last year dealing with
13 health care reform, the Affordable Care Act and Exchanges
14 in particular. One of the first things that we did over
15 the course of the summer dealing with Exchanges
16 specifically was hold a series of hearings across the State
17 to hear from Pennsylvanians across the board.

18 The issue of Exchanges and whether or not they
19 first and foremost preferred a State-based Exchange or
20 preferred to have a Federal Exchange operate in the
21 Commonwealth, again, the vast majority, if not unanimously,
22 what we heard from those folks was we prefer to stay as a
23 State-based Exchange.

24 In addition to those hearings, we received close
25 to 100 written comments. We conducted a survey using KP&G

1 to take a look at our marketplace and if we move forward
2 with the State-based Exchange what the challenges
3 associated with that would be, what it might look like.

4 And all of that has helped us move to the point
5 where Governor Corbett, again, while he is challenging
6 that, we, as a State, are one of the States that are
7 challenging the constitution, constitutionality, of the
8 affordable cap. Nonetheless, we believe it is prudent for
9 us as a State to be prepared if the Supreme Court upholds
10 the constitutionality of that act to be ready with a
11 State-based Exchange.

12 We have applied for a number of grants. Last
13 week, in fact, we received a Level 1 Exchange Grant of
14 \$33.4 million. The vast majority, I think about 27 million
15 of that, would go to all of the IT issues associated with
16 that. And we also, I should add, can't access a vast
17 majority of those funds unless and until the Legislature
18 passes some type of Exchange legislation here in
19 Pennsylvania.

20 What we have been floating around in terms of
21 legislation at this point is just sort of a conceptual
22 draft. There have been a number of groups that have been
23 talking about this. And we have been, again, trying to
24 reach out throughout this process to hear from stakeholders
25 on what they want an Exchange to look like. And we

1 continue the process of reaching out to them.

2 There's a lot of issues associated with
3 Exchanges. It's a very complex topic. But I think at one
4 point I should and can make -- assuming the Court upholds
5 the constitutionality of the law, we will have an Exchange
6 operating here in Pennsylvania in 2014. The question is,
7 will it be a State Exchange or will it be a Federal
8 Exchange?

9 So that is really the first step in this
10 fundamental question you have to deal with. If we do
11 nothing, we will have a Federal Exchange operating here.
12 And that has consequences for the State as does operating a
13 State-based Exchange. It is an issue where we have had
14 dialogue with many of you. We look forward to continuing
15 to have that dialogue. Probably for us it's one of the
16 most important issues that we're dealing with right now.

17 MINORITY CHAIRMAN MARKOSEK: Any idea of when the
18 courts -- have they indicated at all when they may hear
19 this particular case?

20 MR. CONSEDINE: They have scheduled argument for
21 this in March of this year. And I believe it's over a
22 period of a couple days that they have scheduled argument.
23 So the expectation is maybe as early as some of the
24 coalition decisions. Again, there are no guarantees.

25 And as a sort of reformed lawyer, there's a

1 possibility that they may issue a decision, based on one of
2 the technical questions that it's not ready for a decision,
3 which would probably be the worst of all decisions, but it
4 still is a possibility.

5 MINORITY CHAIRMAN MARKOSEK: If the courts rule
6 against the way the Governor would like them to rule, does
7 that mean then that by law, we, as the Commonwealth, would
8 have to move forward with the Federal-regulated Exchange
9 program or is there -- are you suggesting that there would
10 be a choice in that matter?

11 MR. CONSEDINE: The Affordable Care Act is set up
12 very much to give states a choice. We have a choice at
13 that point to either create a State-based Exchange which
14 would be run as the General Assembly determines how it
15 should be run involving Pennsylvania companies,
16 Pennsylvania producers, designed and built for
17 Pennsylvania, or if we do nothing, at that point a Federal
18 Exchange would operate in Pennsylvania and any other State
19 that does not form a State-based Exchange.

20 And that Exchange, I should stress, isn't going
21 to be disconnected from the rest of Pennsylvania. It will
22 be plugged into our Medicaid system. It will be plugged
23 into our health insurance markets. It will pervade a
24 marketplace that to date has been historically regulated by
25 this Department and through laws passed by this Assembly.

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MINORITY CHAIRMAN MARKOSEK: Thank you.

MAJORITY CHAIRMAN ADOLPH: Thank you, Chairman.

The next question will be by Rep. Mario Scavello.

REP. SCAVELLO: Thank you, Mr. Chairman.

Good afternoon, Mr. Secretary. Two quick questions. First of all, could you talk about the PA Fair Care Program and the pre-existing conditions? How is the program doing in PA? And how does it compare to other states?

MR. CONSEDINE: I'd be happy to. The PA Fair Care Plan is basically a high-risk insurance program that arose out of the Affordable Care Act. It has a limited life that is due to expire once an Exchange comes into being a Federal- or State-based Exchange. So it was really designed to be sort of a stopgap measure between the passage of the Affordable Care Act and really the entry of the Exchanges.

Pennsylvania has one of the most successful high-risk pools in the country. Right now our enrollment is around 4,700. We recently were approved for additional funding that will allow us to go up to 6, 500 enrollees. And it is a plan that continues to get enrollment on a fairly regular basis.

There are a couple of conditions that are written into the Affordable Care Act. You have to have six months

1 without insurance. But after that, you can enroll in the
2 plan that does provide for fairly significant benefits at
3 that point.

4 REP. SCAVELLO: I don't know if anyone else has
5 this issue. And I really don't know if I should be asking
6 here or the State Police. But in my county, the last two
7 and a half years there's been a huge emphasis on DUIs. And
8 they take the person from the scene and they'll bring them
9 to the hospital. In the last two and a half years, they
10 have about a half a million dollars in bills at the
11 hospital. Who pays for that? Where does that money come
12 from? Do you know?

13 MR. CONSEDINE: These are bills from the
14 hospital?

15 REP. SCAVELLO: From the taking of the blood.
16 The hospital bills from bringing that individual that is at
17 the scene.

18 MR. CONSEDINE: That's a very interesting
19 question. It's not services being sought for medical care,
20 which would typically trigger a health insurance policy.
21 So I actually don't know the answer to that question.

22 REP. SCAVELLO: I'm going to question the State
23 Police. My hospital has about a half-million-dollar note
24 there because of the amount of folks that they have been
25 pulling over. I'm happy that they're getting them off the

1 road. But the problem is that the hospital needs to get
2 paid somehow.

3 Thank you very much.

4 MAJORITY CHAIRMAN ADOLPH: Thank you,
5 Representative.

6 Rep. Brownlee.

7 REP. BROWNLEE: Thank you, Mr. Chairman.

8 Good afternoon, Mr. Secretary.

9 MR. CONSEDINE: Good afternoon.

10 REP. BROWNLEE: I have a question or a series of
11 questions regarding the implementation of the Affordable
12 Care Act. First of all, assuming that the Supreme Court
13 upholds the constitutionality of the Act and also assuming
14 that the State sets up a State Exchange, under that Act the
15 insurance plans must cover ten central health benefit
16 categories by 2012.

17 One of those categories is maternity and newborn
18 care. The Federal Government is permitting states to
19 define the actual benefits based on benchmarks, such as the
20 three highest small group insurance plans. It has come to
21 my attention that unfortunately two of the three largest
22 small group plans in Pennsylvania do not offer any
23 maternity benefits at all.

24 Question, how can you or your Department
25 reconcile these differences? How will you ensure that all

1 health care plans in 2012 offer meaningful, comprehensive
2 maternity care? And who in your Department will be
3 identifying and/or reviewing the benefit packages offered
4 as a part of the essential health benefits?

5 MR. CONSEDINE: Thank you. That's a very good
6 question on a very challenging issue that has been given
7 back to us by HHS just within the last three or four weeks
8 which is on the question of what is the essential health
9 benefits, which is a very important question, because it
10 deals with health insurance products both inside and
11 outside of the Exchange.

12 I'll defer to my very learned counsel here for
13 some more detail on some of this. What HHS did is, the law
14 said that HHS is going to define what the essential health
15 benefit plan was. It was one of the few areas where I was
16 happy that they were going to try to deal with that
17 question for us because they recognized, as did we, that it
18 could be a very difficult question.

19 As you look across the State of Pennsylvania,
20 being a good example, there is a lot of diversity in what
21 insurance companies are required state to state. We in
22 Pennsylvania have a number of mandated benefits that the
23 question, not only for us but for all of the states, is,
24 which one of those mandated benefits would then find their
25 way back into the essential health benefits plan? So HHS,

1 instead of dealing directly, said, you know, we are going
2 to let the states decide.

3 And as you pointed out, Representative, you can
4 do it any number of ways. You can pick from one of a
5 number of benchmarks that we will have given you, the
6 largest small group plan being one of them, a Federal plan
7 being offered in your State being another. And as you
8 point out, depending on which one of those you look at, the
9 way our laws are written, some mandated benefits are
10 covered under those and some are not.

11 And using our small group plan, for example,
12 there are some mandated benefits which don't apply to small
13 groups. So we could pick, for example, another one of the
14 benchmarks, the HMO being an example of where more mandated
15 benefits are covered. But then the trade-off is you have a
16 higher-cost product.

17 At the end of the day, it's not necessarily a
18 question that we at the Insurance Department have decided
19 on. One of the things that HHS has also said is, we'll
20 leave it up to either the Executive Branch or the
21 Legislative Branch to figure out. And if they can't figure
22 it out, we'll pick something for you. So thank you very
23 much for that.

24 It's, again, one of the many areas within the
25 Affordable Care Act that I think is going to require a

1 dialogue between both the Executive and Legislative Branch
2 because it's something that I think is going to require a
3 very informed decision because there's a lot of
4 complexities when it comes to our current system of
5 mandated benefits that we need to work through.

6 I don't know if you want to add anything.

7 MS. YKEMA: I'll just add one other point. And
8 that is if the benchmark plan that is selected happens not
9 to cover one of the benefits that is required by the ACA to
10 be covered, then we're supposed to borrow from a different
11 benchmark plan to fill in the gap.

12 REP. BROWNLEE: So am I understanding that
13 whatever benchmark, whether it is a Federal plan or a State
14 employee plan or HMO plan, as it relates to maternity
15 coverage that would be one of the essentials that will be
16 covered?

17 MS. YKEMA: Yes. Because maternity care is
18 required to be covered under the ACA, if the benchmark that
19 is selected does not already include it, we would borrow
20 from another benchmark plan to insert it in so that there
21 would be coverage of maternity.

22 REP. BROWNLEE: Thank you.

23 MAJORITY CHAIRMAN ADOLPH: Thank you,
24 Representative.

25 Rep. Mauree Gingrich.

1 REP. GINGRICH: Thank you, Mr. Chairman.

2 Thank you so much for being with us. I'm going
3 to borrow one of your descriptive words from earlier and
4 talk about our world-class CHIP program.

5 Obviously, the numbers we're seeing in the
6 proposed budget indicate pretty significant administrative
7 cuts. Some were a little over 24 percent.

8 Can you talk to us a little bit about the genesis
9 and reason for that cut and as deep as it is? And also
10 then let us know what impact that may have operationally.
11 And then I'd like to go from there.

12 MR. CONSEDINE: Okay. I'd be happy to. And I'll
13 let Mr. Adams, our CHIP Director, fill in more detail.

14 But the changes that you see to the
15 administrative cuts are really more our budget artifact
16 from the runoff of the adultBasic program, which used to be
17 part of the CHIP Program. I'll let Mr. Adams talk in more
18 detail about that.

19 But really to go to what I think the most
20 important question is, is it going to affect our ability to
21 continue to enroll kids in CHIP or to current benefits in
22 CHIP?

23 And the answer to that question, based on what
24 our budgeted numbers are right now, is no. And for us, we
25 recognize that this is a world-class program. It is a

1 program that we, as the Department and as the Commonwealth,
2 take a great deal of pride in. And one may want to make
3 absolutely sure that we are able to continue to have open
4 enrollment and have kids join the program as necessary.
5 And we can achieve that in part because some of the
6 administrative changes we're doing are going to make us
7 more efficient. But that money we saved there allows us
8 really to continue the expansion of the program.

9 Mr. Adams, do you want to add anything further?

10 MR. ADAMS: Yes. As the Commissioner indicated,
11 some of the apparent change is a result of the fact that
12 the CHIP Program and the adultBasic Program were run as one
13 operation, which is a fine thing to do to achieve some
14 efficiencies and also some improved customer service.

15 Effectively, the reduction in administrative
16 funding for CHIP is in the order of a few hundred thousand
17 dollars comparing fiscal year '12-'13 to fiscal year
18 '11-'12. So that amount is something that in these tough
19 fiscal times we can absorb without affecting customer
20 service. And it certainly won't interfere with our ability
21 to maintain open enrollment in CHIP.

22 REP. GINGRICH: That explains it a little bit
23 when you bring in the adultBasic piece of the equation.

24 That leads me to ask, we understand that from
25 your perspective, the CHIP enrollment is not supposed to

1 increase significantly in large increments and a number
2 leveling off at about 195,000.

3 So is that a good sign from your perspective? Is
4 that still the number you're looking at? And I'll tell you
5 why in a minute.

6 MR. CONSEDINE: Okay. Well, we know we still
7 don't have all children who are technically eligible for
8 CHIP coverage in CHIP. So our goal obviously would be to
9 get every child who is eligible for the CHIP Program into
10 the program. The numbers you see have been fairly steady
11 over the year. I think our overall coverage in terms of
12 eligibility is well into the 90s.

13 MR. ADAMS: For a number of years we have been
14 running close to 95 percent of the children eligible for
15 CHIP.

16 MR. CONSEDINE: So we would like to be at 100.
17 But we're pretty close to that.

18 REP. GINGRICH: Here is why I asked that
19 particular question. Over the past several months, we had
20 charged our Department of Welfare to do some eligibility
21 checking and some cleanup that just hasn't been done for a
22 long time.

23 As a result of that -- I don't know what the
24 absolute numbers are. But the numbers that I heard are
25 somewhere around 88,000 children coming off the rolls of

1 Medicaid. Ordinarily, I would assume, depending on
2 eligibility, it would be a fluid transition over to CHIP if
3 it was an eligibility factor.

4 Are you looking at those numbers? Do you have
5 any idea if that number is correct? And if so, are we
6 going to get those kids over to CHIP? Or is it some other
7 factors? Maybe the standard review process isn't complete
8 yet. But we're all looking at a lot of kids that look like
9 they're in a limbo-type situation.

10 MR. CONSEDINE: We have been working very closely
11 with DPW as they go through this eligibility review process
12 to ensure that there is a seamless transition of kids who
13 are now eligible for the CHIP program into the CHIP
14 Program.

15 Mr. Adams, you can provide more detail. I know
16 it's an issue that you've been working on very closely the
17 last few months.

18 MR. ADAMS: A number of years ago the Department
19 of Public Welfare and the Insurance Department developed a
20 means to electronically transfer over children who cease to
21 be eligible for medical assistance and appear to be
22 eligible for CHIP or the other way around. If a child's
23 household income went down and the child appeared to be
24 eligible for medical assistance, rather than the family
25 having to submit a brand-new application, the application

1 was electronically transferred.

2 In this case, that mechanism works. We have been
3 receiving and -- for many months, for many years, we've
4 been receiving these electronic transfers. But we only
5 receive transfers if a child is found ineligible for
6 medical assistance because of excess income. And this
7 question really should be going to the Department of Public
8 Welfare.

9 REP. GINGRICH: And it will.

10 MR. ADAMS: If the child's family does not
11 respond to a renewal process, then that child's application
12 is not sent over to the CHIP Program because the
13 information isn't there. It's not an active application.

14 REP. GINGRICH: Any idea of what the numbers are
15 over the past few months or this fiscal year since we have
16 been looking at some of this eligibility status? Have you
17 had a large number of transitional shifts into CHIP?

18 MR. ADAMS: We average about 6,300 transition new
19 enrollees in CHIP per month from the medical assistance
20 program. But that's not much different than the historical
21 average.

22 REP. GINGRICH: Good.

23 MR. ADAMS: There doesn't appear to be a
24 bottleneck because we see large numbers of children coming
25 to CHIP from medical assistance. But you'd have to ask

1 Medical Assistance about the nature of those 8,000
2 children.

3 REP. GINGRICH: Well, your part of the system is
4 working then from your perspective?

5 MR. ADAMS: Yes.

6 REP. GINGRICH: Okay. Thank you. We'll go from
7 there. Thank you very much.

8 And thank you, Mr. Chairman.

9 MAJORITY CHAIRMAN ADOLPH: Thank you,
10 Representative.

11 Rep. Parker.

12 REP. PARKER: Thank you, Mr. Chairman.

13 Welcome, Mr. Secretary. Thank you so much for
14 being here. Mr. Secretary, nationally here in our
15 Commonwealth and in states across the U.S., we've seen an
16 influx of legislative initiatives concerning reproductive
17 rights for women, allowing access to birth control via
18 health insurance, even sort of the requiring of different
19 sort of medical procedures for women who could possibly
20 seek abortion services.

21 And with all of these issues sort of coming to
22 light, it seems to me that there truly is an overwhelming
23 amount of interest and concern in prenatal and overall
24 maternity care for women.

25 And since I know that we are very concerned with

1 making sure that pregnant women, you know, are cared for, I
2 wanted to know if you would sort of answer for me something
3 that -- and I'm really not clear about this at all. I
4 understand the Affordable Care Act and I understand that
5 we're working on 2014, our targeted date.

6 I was a little shocked when it was recently
7 brought to my attention that pregnancy can still be
8 considered a pre-existing condition in determining
9 eligibility for coverage, talking about small groups here
10 in Pennsylvania.

11 So someone said to me today -- I'm talking about
12 the Affordable Care Act. Pennsylvania is working on it.
13 And their response to me is, okay. This is 2012. And 2014
14 is not here yet. What happens in the meantime for pregnant
15 women in the Commonwealth of Pennsylvania if pregnancy can
16 still be considered a pre-existing condition in determining
17 eligibility for coverage? So help me understand how we are
18 addressing the needs of pregnant women.

19 MR. CONSEDINE: You're right. The picture does
20 become a lot clearer once we get to 2014. Until then under
21 current Pennsylvania law, which is what we enforce, there
22 is nothing that restricts the ability of the insurance
23 carrier to use pregnancy as a pre-existing condition.

24 It depends on the contract. It depends on what
25 the policy itself provides . Is there coverage still

1 available? Absolutely. And in many cases, it is not
2 considered a pre-existing condition. In some, it is. So
3 it really depends on the carrier. It depends on the policy
4 in question. Once we get to 2014, it's off the table.

5 REP. PARKER: But in the meantime?

6 MR. CONSEDINE: Again, the law does not prohibit.

7 REP. PARKER: Let me also ask you, sir, if you
8 could comment on whether or not -- I want to just sort of
9 give you a hypothetical as it relates to small group
10 insurance. A woman does a job that is physically extremely
11 strenuous. She becomes pregnant and can no longer do that
12 job because she is pregnant.

13 Are there any sort of provisions that will allow
14 a woman to receive temporary disability because the only
15 reason why she's not doing her job is not because she
16 doesn't want to work but simply because of the pregnancy?

17 Does the Insurance Department at all sort of help
18 to address those issues or is that something that insurance
19 companies are compelled to accept?

20 MR. CONSEDINE: It's an interesting question.
21 And I don't know the answer off the top of my head so I
22 would be basically guessing at this point. We can look
23 into it for you. I think you're getting into less of a
24 health insurance issue and more of a disability insurance
25 issue in whether or not pregnancy can be considered a

1 disability under a disability policy or workers' comp or
2 the Family Medical Leave Act.

3 So there are a lot of other laws that would come
4 into play other than the health insurance policy that she
5 may have at that point. But it is something we can look
6 into and get back to you on.

7 REP. PARKER: Okay. Finally, since 2014 is
8 coming and we do know it's right around the corner, I know
9 there have been two legislative initiatives proffered in
10 the Legislature. One was House Bill 1957 and the other was
11 Senate Bill 1063. And they make some changes since the
12 Federal Government is directing the states to sort of
13 develop their own packages.

14 Has the Department reviewed these legislative
15 initiatives? And have you taken a position on any of them?
16 And the reason why I ask is because when we listened to
17 this national debate, even what we've seen proffered here
18 in the Commonwealth, there is a lot of concern about what
19 happens before a woman has made the decision that she
20 definitely wants to carry a pregnancy full term. It's not
21 a concern about how she makes that decision, what she has
22 to do before she makes that decision. But then once she
23 decides to make that decision, it's, oh, well, it could
24 possibly be a pre-existing condition before 2014.

25 I want to know if you've taken a position with

1 those two pieces.

2 MR. CONSEDINE: We really haven't, to the best of
3 my knowledge. For us the issue is, are we going to have a
4 State Exchange where those are going to be issues that we
5 had to deal with in the first place anyway?

6 We've been more focused on the fundamental policy
7 question of, are we going to build a State-based Exchange?
8 at which point we open the door to a whole bunch of other
9 issues, those being included, or are we going to default to
10 a Federal Exchange? at which point the Federal law is going
11 to really control.

12 So from the Insurance Department's perspective,
13 we haven't gotten too far down into the weeds of all of
14 those other questions until we figure out what we're going
15 to do on that first and most important fundamental issue.

16 REP. PARKER: Thank you, Mr. Secretary.

17 And thank you , Mr. Chairman.

18 MAJORITY CHAIRMAN ADOLPH: Thank you,
19 Representative.

20 Rep. Tina Pickett.

21 REP. PICKETT: Thank you, Mr. Chairman.

22 Greetings. We talked a lot about health
23 insurance and the general overall health of people. But I
24 think one of your missions also is to judge the overall
25 health of the insurance marketplace. It seems like

1 sometimes it's a buyer's market and sometimes it's a
2 seller's market, investment financial markets affecting it
3 all.

4 Can you just give us kind of an overview of where
5 you think Pennsylvania stands right now with the overall
6 insurance marketplace?

7 MR. CONSEDINE: Sure. And I'll let Commissioner
8 Rohrbaugh get into a little bit more detail since it's an
9 area that he personally supervises.

10 But overall in terms of our personal lines,
11 homeowner's, which most consumers are mostly involved
12 with -- we have a very competitive market here. We have a
13 number of choices. Our rates overall over the last five
14 years have remained steady or increased slightly. The same
15 is true of workers' compensation. Life insurance,
16 long-term care have been a bit different.

17 I know we've been getting a lot of inquiries and
18 I'm sure you have as well. But with that, probably the
19 only exception in health care, health insurance, I would
20 say most of our personal ones continue to be competitive.
21 And our premiums continue to be also competitive and
22 affordable.

23 MR. ADAMS: I think you did an excellent job.

24 MR. ROHRBAUGH: I could add for you a few
25 specific facts. Starting with workers' comp, we just

1 approved two annual filings: one for the PCRB, the main
2 workers' comp, and one for the coal mine. Both were
3 significant rate reductions. So our employers in the State
4 will enjoy a rate reduction with this next cycle of
5 renewals.

6 I mean, going through the gamut of all product
7 lines, starting with auto, our auto marketplace is one of
8 the healthiest in the country. We have over 230 insurance
9 companies competing. You can't turn on the TV without
10 looking to the innovative marketing that's going on in
11 Pennsylvania.

12 That's great for not only folks in Central
13 Pennsylvania but also the urban marketplace is where we
14 struggled over the years to bring stability and bring
15 competition. And there is pretty fierce competition even
16 in the urban marketplaces. So we are happy to report that.

17 The homeowner's marketplace in Pennsylvania --
18 we're fortunate that we don't have the catastrophic losses
19 like the coastal states or mudslides that they have in
20 California or the fires. So our homeowner's market again
21 continues to be very healthy.

22 This is also a product of the international
23 market cycle that you see. There's a lot out there in the
24 marketplace. That keeps the cost of insurance and
25 particularly reinsurance down. And as insurance companies

1 need to negotiate for those products to insure themselves,
2 they're certainly finding that the rural market is also
3 competitive for them.

4 And as the Commissioner mentioned, we do have
5 struggles on the health care side with the innovation in
6 the health care industry continuing to improving technical
7 procedures and the pharmaceuticals. It's not only that we
8 have an aging population in Pennsylvania, but we have an
9 improving state-of-the-art medical community that is
10 providing better services.

11 So on a general basis, I would report that our
12 marketplace is in very good shape. You know, when I
13 started with the Department 18 years ago, I came in at the
14 worst of times with the medical malpractice prices and
15 workers' comp prices. Fortunately, the cycle has turned
16 for the better.

17 How long will this cycle continue? I wish I had
18 a crystal ball, but enjoy it while it lasts.

19 REP. PICKETT: Thank you.

20 Thank you, Mr. Chairman.

21 MAJORITY CHAIRMAN ADOLPH: Thank you.

22 Rep. Samuelson.

23 REP. SAMUELSON: Thank you, Mr. Chairman.

24 Two questions. One about property insurance a
25 couple of churches in my area were buying. And the second

1 question is about the adultBasic Program.

2 The churches apparently got a very competitive
3 price from a company and switched their insurance for the
4 roof and other property to this company. That was fine
5 until they had a claim and the company denied it. It was a
6 high windstorm with eight inches of rain and the company
7 said, no, no. That had nothing to do with the damage to
8 the roof.

9 Now, in reviewing this case -- and I talked to
10 somebody in the Department who had no previous experience
11 with this company -- I noticed a challenge here is that the
12 company is based in Iowa. They have an administrator from
13 Missouri that tries to market to several churches. The
14 agent that sold the policy was from Reading, Pennsylvania.
15 And then when there was a problem, the decision was made by
16 an adjuster in New York, not based on any site visit but
17 based on looking at photographs that were received in the
18 mail.

19 Out of those four entities, the company in Iowa,
20 the administrator in Missouri, the adjuster in New York,
21 and the agent in Pennsylvania, which of those four has to
22 be licensed by the Department? And as a followup, if there
23 was a complaint, what authority do you have over those four
24 entities to make this right?

25 MR. CONSEDINE: Well, at the very least, we'd

1 have licensure first and most importantly over the
2 insurance company itself. In order for an insurance
3 company to do business in this Commonwealth, it has to be
4 licensed here and has to agree to abide by laws and subject
5 to the jurisdiction of the Insurance Department.

6 By and large, I will tell you that the vast
7 majority of companies that do business here understand that
8 they are subject to our laws, to our regulations, and want
9 to be both good corporate citizens and good regulatory
10 citizens and are generally responsive to complaints
11 certainly when they are raised by the Department. We would
12 also have licensure over the producer here, the insurance
13 agent here in Pennsylvania, possibly, although not likely,
14 the TPA, the out-of-state TPA.

15 But really it's the company name that is on the
16 policy who we would go to directly in this case. And if
17 your constituent hasn't filed a complaint, the Department
18 would encourage them to do so.

19 REP. SAMUELSON: Okay. And the second question
20 is about the adultBasic Program which was eliminated about
21 a year ago. And I know we talked a few minutes ago about
22 we have a 95 percent rate on the children's health
23 insurance, that 95 percent of the eligible children in
24 Pennsylvania are signed up for our CHIP Program.

25 And then when they hit their 19th birthday, that

1 rate falls from 95 percent down to zero because we no
2 longer offer a comparable policy for adults.

3 The adultBasic Program -- I know one of the first
4 initiatives of the Corbett Administration when they came in
5 was to eliminate this program. And when we had signed
6 people up in the past, the income limits were very similar,
7 I think identical, to the CHIP income limits. A family of
8 four, 44,000, the kids could sign up under the CHIP Program
9 and the adults used to be able to sign up under the
10 adultBasic health insurance program.

11 When that program went away, I understand there
12 were 40,700 people who lost their health insurance, not the
13 kids but the adults in that very same family. And I'm
14 wondering if the Department tracks what has happened to
15 these people. Did some of them sign up for private
16 insurance? Did some of them qualify for medical
17 assistance? Are some of them uninsured even to this day a
18 year later? Have you compiled any statistics on those
19 40,700 people who lost their insurance?

20 MR. CONSEDINE: We have and we continue to,
21 because it's a population that we've worked very hard over
22 the last year to make sure they did have as soft a landing
23 as possible. A good deal of the work we did about a year
24 ago was identifying for that population the various options
25 that they did have.

1 What we know, because there are programs that we
2 track, is that over 40 percent of them ended up in either
3 special care, which was an alternative product, a
4 subsidized health insurance product that was offered, or in
5 Medicaid.

6 That does not mean the other 60 percent are now
7 uninsured. They just fell into a population that we were
8 not able to track because they did not go into State
9 programs where we have the ability to look at the numbers.
10 Our expectation is a number of those did find insurance
11 either through their employers, spouses. But it's possible
12 and quite likely that some have ended up uninsured.

13 But as I said, we continue to track the numbers
14 where we have the ability to track numbers.

15 REP. SAMUELSON: And just to follow up, it sounds
16 like a significant number of people. If 40 percent have
17 found some kind of insurance, 40 percent of those 40,700,
18 about 16,000 people might have now found some insurance.
19 But the 60 percent that you are not sure of, that's about
20 24,000 people.

21 Is there any way that you can continue to track
22 those or are you looking at providing some other
23 alternatives so that those adults who used to qualify for
24 health insurance benefits in Pennsylvania now could
25 qualify?

1 MR. CONSEDINE: Yes. We continue to make
2 outreach efforts. We talked earlier about our PA Fair Care
3 Plan, which is our high-risk pool. The folks who were
4 eligible for adultBasic if they've gone without insurance
5 for six months, which they have at this point in many
6 cases, would be eligible for PA Fair Care.

7 So we went through efforts not too long ago to
8 again increase the visibility of the Fair Care Plan to make
9 sure that people knew that continued to be an option as
10 well.

11 REP. SAMUELSON: Isn't that Fair Care limited to
12 6,500 people?

13 MR. CONSEDINE: It is. But we still have
14 capacity. We have 4,500 enrolled right now. And as we get
15 near that 6, 500, we can go back and ask for more money to
16 increase it further.

17 REP. SAMUELSON: If all 24,000 signed up for the
18 Fair Care, you couldn't accommodate them, could you?

19 MR. CONSEDINE: I don't know. We have a very
20 successful program at this point with HHS encouraging
21 further enrollment where possible.

22 REP. SAMUELSON: Well, thank you for your
23 answers.

24 MAJORITY CHAIRMAN ADOLPH: Thank you,
25 Representative. Rep. Scott Perry.

1 REP. PERRY: Thank you, Mr. Chairman.

2 Thank you for being here, Commissioner. I want
3 to get back to the Exchanges and some questions there. I
4 understand you have a 33-plus-million-dollar Federal
5 startup grant. And as you stated, it's going to be applied
6 mostly for IT but you're waiting on implementing
7 legislation from this body.

8 How is the Exchange paid for once this one is
9 exhausted, assuming the Federal mandate holds?

10 MR. CONSEDINE: The Affordable Care Act requires
11 that Federal funds will be provided for initial startup.
12 Operational cost has to be entirely self-sufficient and
13 self-funding once it's up and running.

14 So one of the things that states are looking at
15 as they go through the process of formulating legislation
16 is, what is the mechanism for that? And you can do it
17 through a variety of ways: You can either assess the
18 insurance companies that are participating in the Exchange;
19 you can charge a user fee for everybody who utilizes the
20 Exchange, purchases the product, much the way you sometimes
21 have a user fee if you buy plane tickets over Expedia.

22 Those are the two that you hear most about. But
23 there are any number of ways that you could potentially
24 raise those fees.

25 Our goal obviously, working with the Legislature,

1 is to try to propose an Exchange where you don't have a lot
2 of administrative fees that are going to require somebody
3 to pay for it.

4 REP. PERRY: It's my opinion we're planning for
5 the worse-case scenario if the mandate is forced upon us.
6 I know there's at least one bill available that's been
7 drafted or is being drafted or something to that extent.

8 Is the Insurance Commission working with the
9 Legislature or the person drafting that legislation?
10 Because I'm trying to figure out what your vision is and
11 how much input that you have to the process.

12 MR. CONSEDINE: Yes. We have been working with
13 members of both the House and the Senate on Exchanges. We
14 have again worked on what I call sort of a conceptual idea
15 and draft legislation which we have put out for
16 stakeholder's feedback into the Legislature.

17 When it comes to the specifics, we are open to
18 having conversations because it's something that is only
19 going to get done if there is consensus across a large
20 number of stakeholders.

21 REP. PERRY: What do you see as the deadline for
22 that legislation to have to move through bodies so that you
23 can act appropriately and have this thing up and running by
24 2014?

25 MR. CONSEDINE: Honestly, we are already behind

1 in reading the specs. 2014, to be up and running, we would
2 need legislation no later than, say, June at this point.
3 That's pushing it. That's being very optimistic.

4 But I guess we can all take comfort in the fact
5 that we are in good company. At this point you only have
6 17 states across the U.S. that have done anything on this
7 issue. And that's not because states are generally sitting
8 on their hands. It's because there are so many unanswered
9 questions out there that we need answers to, mistakes to
10 figure out, to make informed choices.

11 For example, HHS has talked about maybe there's
12 an option where you do some type of Federal/State
13 partnership. Or we do some of the work and you do some of
14 the work. That sounds like a really interesting idea. But
15 they haven't given us the details.

16 So I think, until we collectively have a lot more
17 in the way of details, it makes it very difficult to make
18 informed choices about legislation. But at the same time,
19 the clock continues to tick. It's a very difficult issue
20 for all of us at this point at the insurance company.

21 REP. PERRY: Thank you. One final question, if
22 you know it. I understand that companies will be assessed
23 and, say, I don't -- this is implemented and I don't have
24 insurance and I don't go get insurance, starting out
25 somewhere in the \$95-per-year price range and then going up

1 to \$650- or \$675-a-year penalty, who will be required to
2 assess that and collect that? Will it be the states or
3 will it be the Federal Government?

4 MR. CONSEDINE: I think what you're talking
5 about, there is it's the IRS that will ultimately have to
6 collect it. And that would be just on small businesses.

7 REP. PERRY: I understand there was an individual
8 requirement.

9 MR. CONSEDINE: Yes, there is. But most of the
10 time you hear about it in both the individual -- it's a
11 requirement for both individual and small groups, most of
12 it in the small group context, because most small
13 businesses, when they're looking at the financial capital
14 associated with it, well, why provide health insurance when
15 I can just put people in Exchanges?

16 REP. PERRY: But we don't know who is collecting?

17 MR. CONSEDINE: IRS.

18 REP. PERRY: Thank you very much.

19 MAJORITY CHAIRMAN ADOLPH: Thank you,
20 Representative. Rep. Matt Smith.

21 REP. SMITH: Thank you, Mr. Chairman.

22 Thank you, Commissioner, for your testimony
23 today. Just to sort of build off of what Rep. Perry asked
24 you regarding the Exchanges. I think you testified earlier
25 that the State received a grant of about \$34 million that

1 would go in part towards implementing the change; is that
2 correct?

3 MR. CONSEDINE: It would go entirely.

4 REP. SMITH: Entirely. And part of that \$34
5 million I guess is restricted until the Legislature passes
6 legislation and the Governor signs it. What's the amount
7 that's restricted out of that?

8 MR. CONSEDINE: It's a little over 24.

9 REP. SMITH: Okay. So about 10 million is free
10 and clear that can be spent and invested now?

11 MR. CONSEDINE: It is still dedicated to certain
12 specific activities. But they did not put strings attached
13 in terms of requiring legislation. So that's mostly
14 stakeholder outreach, continuing market research, things
15 like that, which we can do now without having to have
16 legislation.

17 REP. SMITH: And has any of that \$10 million been
18 expended to date or is that all future expenditures?

19 MR. CONSEDINE: We have received prior grants
20 which we did utilize for some of the outreach that I spoke
21 about earlier. But the 33.4 we were just granted a week or
22 so ago. That hasn't actually been appropriated at this
23 point.

24 REP. SMITH: And do you have any -- again, I know
25 you mentioned stakeholder average. But specifically any

1 idea as to how that appropriation that you can expend
2 before legislation is passed, how the Department will
3 expend that money?

4 MR. CONSEDINE: Yes. In fact, without going into
5 detail -- but we have on our website -- one of the things
6 we're proud of is our transparency throughout this process.
7 But we have actually put on our website our grant
8 application which lays out in fairly excruciating detail
9 what we're going to be using those funds for. And we'd be
10 happy to provide you with access to a copy. But it's
11 directly on the website.

12 REP. SMITH: That would be great.

13 And I think you had said earlier that it's at
14 least -- and correct me if I'm overstating this. But I
15 believe it's the Administration and the Department's
16 position that a State-run Exchange would be preferable to a
17 Federal-run Exchange; is that correct?

18 MR. CONSEDINE: Yes.

19 REP. SMITH: Does the fact that we really have no
20 legislation really even being discussed -- as a member of
21 the Insurance Committee, we have not seen any legislation
22 or held any hearings or had any public hearings or anything
23 like that on specific legislation towards implementing the
24 Exchange.

25 Does the fact that we don't have that, at least

1 that ball rolling down the hill right now, does that put us
2 in jeopardy to having the Administration, the Obama
3 Administration say, because X number of states, including
4 Pennsylvania, haven't done anything on their end, the
5 Federal Exchange will be implemented in those states? Are
6 we at risk of that?

7 MR. CONSEDINE: Well, again, assuming the law is
8 upheld and the 2014 date doesn't shift. I mean, there's a
9 great deal of discussion that they're going to push the
10 2014 date further out simply because you have the vast
11 majority of states not participating in exchange of
12 information at this point.

13 But, yes, there is the possibility that come
14 2014, if we do not have legislation in place or moving down
15 that road that you could have a Federal Exchange operating
16 the marketplace.

17 Now, just within the last couple of weeks,
18 Federal HHS has suggested that they're willing to even
19 lower the thresholds for their certification process which
20 they're going to start in 2013. So it's going to be a much
21 lower barrier than what they originally envisioned to not
22 have a Federal Exchange in place.

23 And they have been very clear that if we have a
24 Federal Exchange in place for a short period of time, that
25 a state, say, 2016 has a State Exchange up and running,

1 they will happily move out of the state and defer at that
2 point to the State Exchange.

3 REP. SMITH: But at some point the State would
4 have to take some action?

5 MR. CONSEDINE: Absolutely.

6 REP. SMITH: No matter how high the bar is, the
7 Legislature would have to pass legislation, the Governor
8 would have to sign it, in order to avoid the Federal
9 Exchange from being implemented?

10 MR. CONSEDINE: Yes.

11 REP. SMITH: You had mentioned sort of the
12 framework for an Exchange that the Department has
13 discussed. As part of that conceptual draft, how would the
14 Exchange be paid for -- Fees? Taxes? What is included in
15 that draft?

16 MR. CONSEDINE: Again, in the conceptual draft,
17 we have provided for significant flexibility in terms of
18 the fee collection. At this point, the options that -- and
19 the office of the Exchange could utilize it to cover its
20 expenses. And they ran a full range of the options that I
21 talked about before, including actually sort of almost a
22 data access fee if the Exchange of an insurer utilizes our
23 information -- our data exchange for information to
24 populate so somebody could buy an Exchange, much like
25 travel.

1 At this point, we didn't say it has to be this.

2 REP. SMITH: At this point, you haven't taken a
3 position as to how this specific -- it's just sort of a
4 menu of fees that will be, I guess, discussed and part of
5 that menu will be implemented by the Legislature and the
6 Governor should it move forward with the Exchanges?

7 MR. CONSEDINE: Yes.

8 REP. SMITH: Has the Obama Administration or HHS
9 given any indication as to what their deadline is in terms
10 of states enacting Exchange legislation? When will they
11 decide whether or not to put the Federal Exchange in place
12 in certain states?

13 MR. CONSEDINE: Well, under the Affordable Care
14 Act and the rules the HHS has put out, what they envision
15 is sort of an accreditation process or review process
16 starting next year and starting as early as the summer of
17 next year where they will start to evaluate states'
18 readiness.

19 As I said, starting just the last couple weeks,
20 they have kind of backed away from what that state of
21 readiness might mean from where they originally were, which
22 was you have got legislation passed and you're really far
23 down the line to doing testing and modeling and all of
24 that. Maybe you still want to do this kind of thing. It's
25 an area where you're still seeing a significant amount of

1 give and take between HHS and the states.

2 REP. SMITH: But from your standpoint, in order
3 for your Department to have the time to put a system up and
4 running, we need to pass legislation by June 2012, just a
5 couple months from now?

6 MR. CONSEDINE: We do. Again, a large part of
7 this is going to be an IT overhaul that is going to be very
8 significant. And I think, as you heard about from our
9 friends in the Liquor Control Board, the procurement
10 process here requires a six months' sort of head start to
11 even get the consultants in place to do that. So we don't
12 have a lot of time here.

13 REP. SMITH: And does your budget have that
14 capacity right now or will we have to appropriate
15 additional funds?

16 MR. CONSEDINE: That is what that 33.4 vast large
17 majority of that will go to.

18 REP. SMITH: Thank you, Mr. Chairman.

19 MAJORITY CHAIRMAN ADOLPH: Thank you.

20 Rep. Brian Ellis.

21 REP. ELLIS: Thank you, Mr. Chairman.

22 Commissioner, thank you for coming today. Just
23 real quick, in your earlier testimony, you talked about the
24 competition levels here in Pennsylvania and how you felt it
25 was pretty robust.

1 One of the areas that I would have concern with
2 would be from a small business perspective when they're
3 trying to get insurance for their employees. And what I
4 see certainly as an impediment to that -- and I guess I'm
5 going to tell you about it and ask you what you think or if
6 you already have plans to go in that direction.

7 I'm a small businessman. When I want to save
8 money, I have people come in and tell me, oh, switch and
9 we'll save you money. But then I have to fill out a form.
10 And I have to detail each one of my employees over and over
11 again. And each company has a different form.

12 So the man hours that I use to do that deter
13 myself and my brother and I'm sure many other small
14 businesses from even looking into the option because we
15 just don't have the time or the man hours during our daily
16 operations.

17 Have you thought about simplifying the process to
18 "one form fits all," whether it's going to be this
19 insurance carrier or this one or this one or this one? And
20 if not, would you please think about it?

21 MR. CONSEDINE: That's an excellent suggestion.
22 I assume you're talking about health insurance, which we do
23 recognize.

24 REP. ELLIS: Yes.

25 MR. CONSEDINE: From a small-employer

1 perspective, can we particularly be involved? because you
2 do have to provide a significant amount of information
3 about the individual employee's health background.

4 And you're right. It's an area where a lot of
5 companies have their own way of approaching it. The good
6 companies potentially looking to do business will, I think,
7 generally try to find ways to help get that information in
8 as painless way as possible.

9 But the single form, I can see the attraction of
10 that. I don't know if it's something we've explored in the
11 past or not.

12 MR. ROHRBAUGH: I don't know that we have
13 explored that, although it's not uncommon in the insurance
14 industry to have a generic application form that's used for
15 many insurance lines, whether it be auto or homeowners.

16 I would only suggest to you that the more the
17 insurance company knows about you and the business, the
18 more accurate the price is going to be, because those
19 generic applications tend to get you generic price quotes
20 at renewal or at new-business quoting time.

21 There are other mechanisms to assist you. And
22 that's your insurance broker. The more they know about
23 you, the more they're able to take that burden off.

24 Quite frankly, that passes that burden over to
25 them. That's your representative. They're representing

1 you and they're paying a commission in order to find you
2 coverage. So I would suggest you consider that as another
3 option.

4 REP. ELLIS: And I agree with your statement that
5 the more they know, the better off we are. What I'm saying
6 is that if we're going to put it out there, we could put it
7 out one time. And the form can be as complicated as it has
8 to be as long as I only have to fill it out one time is
9 what I'm looking for.

10 Now, ultimately I guess my question would be, is
11 that something that if you looked at it, you could make a
12 policy decision to just start implementing it or do you
13 think you would need legislation to move forward telling
14 you to accept a one-size-fits-all form?

15 MR. CONSEDINE: I mean, my reaction would be, you
16 probably would need legislation much in the way as with the
17 auto laws. You have set forth certain requirements both in
18 terms of policy and notices, the disclaimers, that auto
19 carriers are required to give on a uniform basis.

20 REP. ELLIS: I appreciate that.

21 My thought process was, hopefully we can get it
22 accomplished without legislation because that process takes
23 a long time. Perhaps you could suggest to the carriers
24 that they may want to sit down and have a conversation
25 about that. And certainly I'm sure there's members of the

1 Legislature that would be willing to participate in those
2 conversations.

3 MR. CONSEDINE: That's an excellent idea.

4 REP. ELLIS: Thank you very much.

5 MAJORITY CHAIRMAN ADOLPH: Thank you.

6 Rep. Matt Bradford.

7 REP. BRADFORD: Thank you, Mr. Chairman.

8 And thank you, Commissioner. I just want to
9 follow up if only briefly on what Rep. Smith threw out
10 about looking at a June deadline really to have pretty much
11 a pretty massive overhaul to have Pennsylvania ready and
12 passed.

13 Do you think at that point that is even possible
14 considering the lack of a bill being proposed by the
15 Governor?

16 MR. CONSEDINE: Yes, we think it's still possible
17 to have legislation passed. But it certainly would require
18 a collective effort between the Administration and the
19 Legislature and a number of stakeholders.

20 We are hearing from the stakeholders, the
21 hospitals, the doctors, the insurance companies, the
22 consumer groups, small businesses, large businesses, that
23 that's what they would like to see done.

24 And again, we are ready, willing, and able to
25 work with all of you in giving it a shot if there is an

1 opportunity to get it done by June.

2 I would say the more we can get done sooner, the
3 better equipped we will be in the event we have to move
4 forward with a State-based Exchange. I think the concern
5 is, the longer you wait, the less prepared, the less you
6 are going to be able to say to HHS, no, stay out of our
7 market because we will be ready.

8 REP. BRADFORD: My concern is that I'm looking
9 quickly at our session schedule. I think we have maybe 15
10 session days scheduled between now and then to get this
11 over the finish line before the end of the fiscal year.

12 I guess a lot of us are concerned about the
13 inaction of the Administration in that regard in terms of
14 putting legislation forward on a State Exchange.

15 One of the pieces of legislation that has been
16 proposed at this point is Senate Bill 3 authored by Senator
17 White in the Senate. I believe that's passed out of the
18 Senate and is now awaiting action in the House.

19 Does the Administration have a position on Senate
20 Bill 3?

21 MR. CONSEDINE: To be honest with you,
22 Representative, I'm not sure if I'm aware of the
23 Administration's position. We are more focused on the
24 fundamental question of whether or not we even have a
25 State-based Exchange, at which point that becomes more of

1 an issue. I can look into that and certainly get back to
2 you if you want me to. I know the Insurance Department, we
3 have not, because we have not focused on that as an issue
4 yet.

5 REP. BRADFORD: Looking at that piece of
6 legislation and following up on Rep. Parker's question in
7 terms of how any future coverage will affect family
8 planning, obviously, I think there's a lot of interest in
9 that as well. And obviously that's a major policy issue
10 that would have to be dealt with in the next two or three
11 months.

12 On Senate Bill 3, just a quick question. Is it
13 the Department's view that Senate Bill 3 merely restates
14 Federal law or makes a subjective change to Federal law?
15 My understanding is that Senator White -- there's an
16 argument even with the stakeholders. I'm wondering what
17 the Department's position is. Is it a narrowing of what is
18 in the Affordable Care or is it merely a restating of
19 what's in the Affordable Care?

20 MR. CONSEDINE: Again, it's not something that
21 I've looked at closely enough to give you any informed
22 opinion on that issue. I'd be happy to have our legal
23 staff take a look at it. Off the cuff, I couldn't give it
24 to you.

25 REP. BRADFORD: That would be great if you could

1 provide that. One of the things, kind of backing up,
2 regarding the Administration's position on the Affordable
3 Care Act and I guess the constitutionality of a Federal
4 mandate is, in Pennsylvania -- I guess we have
5 approximately about a million folks that are uninsured. Is
6 that fair?

7 MR. CONSEDINE: It's in excess of that. It's
8 probably closer to 1.4.

9 REP. BRADFORD: My understanding, that, on the
10 grant application, we say that the marketplace would be
11 about 2 million, 2 million plus. I see that number. And
12 I'm extrapolating, I think, from an '08 number that puts us
13 north of a million.

14 If the Governor gets the remedy that he's looking
15 for, the remedy he was looking for as Attorney General,
16 what is the State fallback plan? Let's say we win. If we
17 win, I don't know if it's a win for those 2 million folks
18 who are looking for insurance. But let's say the Governor
19 prevails in Court. What is then our plan to insure those
20 folks?

21 MR. CONSEDINE: Well, I think at that point we're
22 all back to square one. In the event that happens, it's
23 not -- the issue itself doesn't go away. Congress will
24 again move forward with some type of Federal health care
25 reform.

1 So I think we all are, again, looking at what
2 that might be and what form it will take and what potential
3 State options there could be. It's an issue that plays not
4 only in Pennsylvania but every state in terms of an
5 uninsured population.

6 And to date, nobody has been able to say, here is
7 the silver bullet that makes it all go away. I wish there
8 was one but it hasn't been identified thus far.

9 REP. BRADFORD: Is the legal remedy that we're
10 looking for a complete knocking down of the Affordable Care
11 Act or are we just looking to knock off the mandate? I
12 assume you have Exchanges in Massachusetts. We've got an
13 Exchange without a Federal mandate.

14 MR. CONSEDINE: Sure.

15 REP. BRADFORD: Is that something that the
16 Administration and/or Department thinks is appropriate?

17 MR. CONSEDINE: I don't think we've gotten to
18 that point yet in looking at what those options are. I
19 know what the Governor is concerned about is the
20 constitutionality of the mandate, not so much the issue of
21 Exchanges.

22 REP. BRADFORD: Knowing the Governor's position
23 on the mandate, is he opposed to a Federal mandate or a
24 State mandate?

25 MR. CONSEDINE: I would assume both, but I don't

1 know. You'd have to ask the Governor that. I think in
2 this case it was a Federal mandate.

3 REP. BRADFORD: Can you have an Exchange without
4 a mandate?

5 MR. CONSEDINE: Yes, you absolutely can. Utah
6 has one. Again, the whole purpose of an Exchange
7 fundamentally is just to increase access to the commercial
8 health insurance market. You don't need a mandate to do
9 that.

10 REP. BRADFORD: Can you deal with pre-existing
11 conditions though if you can choose to go get insurance the
12 day after you're diagnosed, God forbid, with some dreadful
13 disease?

14 MR. CONSEDINE: It makes the financial modeling
15 of it much more challenging where you don't have the
16 mandate. And that's the concern with the Affordable Care
17 Act. If you don't have the individual mandate, then you
18 get the adverse selection issue with the Exchange, and the
19 products within the Exchange would become inherently
20 unaffordable because of the selection issues.

21 REP. BRADFORD: I guess I'll just end with one
22 last thought, which is recently the Legislature has backed
23 up the State Supreme Court with the late legislative
24 reapportionment. And that decision didn't necessarily go
25 the way some in the Legislature would want it. And they

1 all were feeling the repercussions of that.

2 And I think it may be unwise to wait for a Judge
3 in Washington, D.C., or a panel of Judges to rule while we
4 continue to just kind of sit on the sidelines.

5 Thank you.

6 Thank you, Mr. Chairman.

7 MR. CONSEDINE: Thank you.

8 MAJORITY CHAIRMAN ADOLPH: Thank you,
9 Representative.

10 Rep. Scott Petri.

11 REP. PETRI: Thank you, Mr. Chairman.

12 I have a very simple question. What is the
13 current unfunded liability for MCARE? And what's the
14 balance of the fund?

15 MR. CONSEDINE: From memory, the current unfunded
16 liability is \$1.23 billion. And assets right now in terms
17 of the MCARE balance in the fund is 131.

18 REP. PETRI: You testified earlier that we need
19 to do something about this. What would be your plan, or
20 does the Department have a plan at this moment?

21 MR. CONSEDINE: Well, the Governor's policy
22 position is that he would like to see MCARE phased out.
23 How we achieve that is again going to have to be an issue
24 that is going to have to be resolved by both the
25 Legislature and the Governor.

1 REP. PETRI: Right. I agree it is a joint
2 obligation. But I didn't know if you had a proposal like a
3 10-year period, a 15-year period, a 20-year period.

4 MR. CONSEDINE: No. It's something that again we
5 have been working with the stakeholders involved to get a
6 sense of where they are on these issues because it's
7 something that's going to impact our hospital community,
8 our provider community. So we've been talking with them as
9 we've been talking with the Legislature.

10 But to date we don't have a particular plan
11 proposal.

12 REP. PETRI: I guess I'll state the obvious. But
13 if we still had that 800 million, it would make it a lot
14 easier, wouldn't it? You don't have to answer that.

15 Thank you.

16 MAJORITY CHAIRMAN ADOLPH: Thank you,
17 Representative.

18 Rep. Gary Day.

19 REP. DAY: Thank you, Mr. Chairman.

20 Thank you for your answers today. I'm going to
21 just ask you a question about a number of employees in your
22 budget and under your responsibility. How many are there?

23 MR. CONSEDINE: Under the current budget, we have
24 a complement of -- GGO complement of 191. Beyond that, we
25 have 23 CHIP employees. We have about 66 employees in our

1 MCARE area. In the underground storage tank, there are
2 about 8 employees. And we have one employee in our CAT
3 fund.

4 REP. DAY: Are they separated out because the
5 employees in CHIP are paid for out of there?

6 MR. CONSEDINE: Correct.

7 REP. DAY: So the 191 is what's in your budget?

8 MR. CONSEDINE: The GGO budget, yes. That's
9 funded out of our General Fund.

10 REP. DAY: Back to the health Exchange. We
11 talked about a \$33 million grant, 27 million toward IT.
12 First, how would you characterize, and I should say just
13 generally, that health Exchange? How would you
14 characterize the health Exchange? Would we be creating --
15 I think of an insurance company as exactly what you talked
16 about, IT infrastructure, procuring, purchasing, health
17 services, and purchasing it in bundles, groups of people.

18 So how would you characterize it? I would
19 probably characterize it like we're creating a government
20 agency or entity that would be exactly like an insurance
21 company. Would you characterize it that way or a different
22 way?

23 MR. CONSEDINE: Some had said it's going to be
24 more of a State-organized clearinghouse for insurance
25 shopping. Everybody talks about the Massachusetts and the

1 Utah models. But essentially they both provide a place
2 where consumers can go.

3 In those cases, it would be a website where you
4 put in your individual information. You then are provided
5 with a list of options in terms of health insurance
6 products at various levels, various benefits. And then
7 depending on the model, you can go forward and purchase
8 that policy directly or indirectly with the insurance
9 company.

10 The other analogy is much like travel, the
11 Internet travel models. It's a place -- it's a
12 clearinghouse for, in this case, purchasing insurance
13 policies.

14 REP. DAY: Would it be fair to say then we're
15 creating priceline.com for health insurance?

16 MR. CONSEDINE: Yeah. I mean, that's what the
17 analogy has been. It's a lot more complex with health
18 insurance versus plane tickets and, therefore, the IT
19 issues associated with it especially, because you're
20 required to also do eligibility for State programs such as
21 Medicaid and CHIP much more extensively. There's a lot
22 more complication involved there that I wish wasn't.

23 REP. DAY: Who will oversee the Exchange if it's
24 created? Would it be, like, the Office of Market
25 Regulation? Who will oversee and have responsibility for

1 it?

2 MR. CONSEDINE: I think the Governor's vision is
3 that you don't duplicate bureaucracy. So since we are
4 talking about essentially a clearinghouse for insurance
5 products, having it housed within the Insurance Department,
6 much as CHIP, which is a clearinghouse for the health
7 insurance products sold by the companies, is housed within
8 our Department, is probably the most efficient way.

9 REP. DAY: How many employees do you think will
10 be dedicated just to the creation of the Exchange in year
11 one, five, and ten, or whatever period you want to use?

12 MR. CONSEDINE: Some of that is in our grant
13 application. Most of the initial formation IT work will be
14 outsourced to groups that specialize in that, because,
15 again, we're talking about creating an Internet portal for
16 purchasing health insurance products.

17 There is also a requirement for calling a toll
18 free number. So much of that can be outsourced. We don't
19 have the resources in the Insurance Department frankly to
20 do that. And that, in large part, is what the grant funds
21 are there to do.

22 REP. DAY: Responsibility to oversee the Exchange
23 will create zero more jobs?

24 MR. CONSEDINE: No. I'm not suggesting that. I
25 mean, once you have an up-and-running Exchange going, you

1 would have some personnel within the Department or wherever
2 it's ultimately housed probably overseeing that.

3 But again, our hope is that that will be a
4 limited number of people. And you are not going to create
5 an extensive government bureaucracy because you're not
6 doing much more than providing options that exist already
7 out in the commercial insurance marketplace.

8 REP. DAY: You currently have 191 in your general
9 budget. What's a limited number? Is it 8 or 80? Give me
10 a ballpark.

11 MR. CONSEDINE: I would say it's too early to
12 tell. But it's much closer to the 8 than it is the 80.

13 REP. DAY: Thank you.

14 Do you believe that the Exchange and the
15 operation of the Exchange will be self-sufficient?

16 MR. CONSEDINE: It has to be.

17 REP. DAY: And what would happen to the Exchange
18 if the Patient Protection and Affordable Care Act is found
19 unconstitutional? Would it -- let's say the Legislature
20 and the Governor decide, let's shut it down. What do you
21 think should happen to it if it's found unconstitutional?

22 MR. CONSEDINE: Well, I think what a number of
23 Legislatures have done and what we have included in this
24 conceptual draft that we've included is basically you
25 sunset the law on Pennsylvania-based Exchanges unless the

1 General Assembly reauthorizes it in the event that the
2 Affordable Care Act is deemed unconstitutional.

3 The thought is at that point, you pretty much
4 have a complete reset of health care reform to this
5 country. So you almost need to go back to square one at
6 both the State and Federal level because you don't want to
7 have in place a State-based Exchange that may not have at
8 that point any source of Federal funding or Federal basis.

9 REP. DAY: And then if that happens, we have a
10 grant that we received from the Federal Government. Did
11 you or can you secure a provision if it's found
12 unconstitutional that we would not have to repay the money
13 to the Federal Government?

14 MR. CONSEDINE: You're probably talking about a
15 Court decision that is going to occur June or July of this
16 year. Our expectation is by that point, we will have spent
17 very little of that on what we do have at that point. I
18 think we're involved in discussion with HHS as well as the
19 General Assembly as to what we do going forward.

20 REP. DAY: Do you think what we do in the
21 Legislature, what we do, and the Governor, all of us,
22 separately or together, what we do would have an impact on
23 that decision? If we would pass, yes, we want to have an
24 Exchange in Pennsylvania and the Governor puts that into
25 law, do you think that affects the Federal decision at all?

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MR. CONSEDINE: No.

REP. DAY: Thank you for your answers. I appreciate them.

Thank you, Mr. Chairman.

MAJORITY CHAIRMAN ADOLPH: Thank you, Representative.

It's my understanding that Chairman Micozzi wanted to be here today but was unable to be here. The Chair had been asked if Rep. Watson, who is a longtime member of the Insurance Committee, could make some comments and ask some questions that Chairman Micozzi had asked her to bring to us today.

Thank you.

REP. WATSON: Thank you, Mr. Chairman.

Good afternoon. I know by now you must think it's a really long afternoon. I'll try to be brief but it could get longer.

Welcome.

MR. CONSEDINE: Thank you.

REP. WATSON: First of all, yes, I have the opportunity to be a member of the House Insurance Committee. And I think we have been talking about -- and you certainly expounded on the concept of Exchanges, what it would mean, what's the Federal law really saying what would happen.

1 I do think we need to clear something up as a
2 member. There were four informational meetings this
3 summer. The House Insurance Committee is not just kind of
4 sitting there twiddling their thumbs or just watching.

5 And I actually have, when I arrived this morning,
6 a memo, I guess, based on a discussion. Am I not correct
7 that the end of January, you met and the Governor's Office
8 to kind of finalize or look and say, what is the landscape?
9 What do insurance Exchanges look like right now? Am I not
10 correct?

11 You have been meeting with the stakeholders; I
12 think you alluded to that. And I know that we have just
13 been called to a meeting for March the 14th. Again, I
14 believe you're going to be the guest of honor.

15 But the House Insurance Committee will look and
16 go over, where are we now? What are the ideas? What is
17 this draft? Am I not correct there is draft language?

18 MR. CONSEDINE: We have a conceptual draft out
19 there.

20 REP. WATSON: And you have been reviewing that
21 with stakeholders?

22 MR. CONSEDINE: Correct.

23 REP. WATSON: So while I think that our timeline
24 is tight, to be sure, I do think that obviously we think
25 it's doable. And we are moving the best we can. And I

1 look at this like something out of the fifth grade math
2 problems, when I think the trains were coming together at
3 me. I look at it as the trains running on parallel tracks
4 at this time.

5 We're working on the Exchange. But there is a
6 Court case going on. But the importance, at least from the
7 Insurance Committee, and the Chairman has always said, we
8 have to be ready to go. And I believe that's because
9 that's the direction that you have suggested. Am I not
10 correct?

11 MR. CONSEDINE: And that is the direction the
12 Governor has suggested. I have suggested that as well,
13 yes.

14 REP. WATSON: Well, that's three out of three,
15 sir. I think that's the direction indeed we are going. I
16 just thought I wanted to clear that up, first of all.

17 If I may, Mr. Chairman, with your kind
18 indulgence, ask one more question.

19 MAJORITY CHAIRMAN ADOLPH: Sure.

20 REP. WATSON: I was struck by some of the
21 comments earlier. I believe Rep. Pickett asked you about
22 the climate of the insurance market in Pennsylvania. You
23 were excited about it.

24 However, I believe that it was you, sir,
25 Mr. Commissioner, who did say when we talk about long-term

1 care, we talk about the most difficult of markets.

2 I come with a bias. I'm free to tell you,
3 sitting here, that in my Legislative District, I have 11
4 over-55, age-restricted communities. There are those that
5 say I actually have the highest number of age restricted in
6 all of the House Legislative Districts. There are three
7 more currently under construction or in the works in my
8 district.

9 They have been heavily marketed. And many of the
10 folks are lucky enough that one might still be working.
11 They have perhaps a little bit of income. And so they were
12 heavily marketed for long-term care insurance.

13 I have been in office -- the first time I had to
14 go around with people in my district having exorbitant
15 rates of increase to long-term care, I believe it was
16 2002-2003. Now we're going through a different carrier but
17 a second cycle. When I say exorbitant, sir, I'm suggesting
18 they've gone from a 50 to 80 percent increase.

19 Listen, if you can't pay that kind of an
20 increase -- I'm not sure, especially in this economic, who
21 can do that regardless of what the product -- the carriers
22 would say, well, we'll just give you something. It's not
23 quite what you had. You won't have the coverage you had
24 but you can keep the same premium.

25 So most of the people that I now have sent --

1 please know they've already been to you, done the research,
2 and sent the letters. And I have copies. I'm suggesting
3 that I don't think we've really helped these people.

4 And my question then gets to, I'm now in a second
5 cycle in the years that I've been here. If I were to
6 characterize it in my personal terms, I look at the
7 carriers as kind of bait and switch. But I have trouble
8 understanding. While I understand you will tell me it's a
9 new market, I read the letters. I know them word by word
10 and heart by heart.

11 At the same time, it's not that new. So now it's
12 within ten years. We've had two of these. Oh, I have to
13 change the price point. I'm suggesting we collectively are
14 not doing a very good job when we rate these carriers to
15 come in and offer this.

16 The first time I really was new. So I asked for
17 the filing and got a copy. Oh, yeah. It was interesting
18 for that many pages.

19 What I'm suggesting is somewhere something is not
20 right, because constituents are the ones who are suffering.
21 They paid ten to eleven years into a policy. We know we
22 couldn't possibly have them all end up as Medicaid patients
23 because we all live longer and there will be illnesses.

24 And after ten or 11 years, it's like they bought
25 a house for ten or eleven years and they upped the

1 mortgage. But now suddenly we're going to take three rooms
2 out of the house and they can keep the same mortgage
3 payment. Something is wrong.

4 Do you care to comment or are we starting to do a
5 study? How do we plan to rectify this? And I will suggest
6 to you too that I'm familiar with what happened with the
7 same carrier in Maryland. I have other states where they
8 were not allowed to have that large an increase.

9 MR. CONSEDINE: Thank you for your comments,
10 Representative.

11 It's an area where we share your frustration. As
12 a regulator, we wear a couple different hats. And on the
13 rate side, we have not been pleased with what we've been
14 seeing from the long-term carriers over the last few years.
15 To some extent, they will admit that.

16 They come in to us with independently actuarially
17 verified rate filings. This is what we need in order to
18 offer these products. I can assure you when they come in
19 with a filing, especially with the increases that you're
20 talking about, that we scrutinize those a great deal. And
21 there's a good deal of pushback that goes on the rate side
22 between the Department and the carriers.

23 Some of the options that you talked about that
24 consumers are getting, instead of having, you know, 20
25 percent or 30 percent rate increases, you can decrease it

1 if you choose some of these other ways. Those were in
2 large part -- and they're being utilized in other states --
3 because of the efforts that were done at the Pennsylvania
4 Department.

5 At the end of the day though, we realize that
6 anytime people get a 20-, 30-plus rate increase, that's not
7 something that they enjoy getting and we hear about it.

8 But the other hat that we wear as a regulator is
9 a financial solvency hat where companies who consistently
10 don't get the rates they need to write these products, they
11 get themselves into significant financial problems to the
12 point where they may go out of business.

13 We have perhaps one of the largest pending
14 long-term-care liquidations right here in our backyard with
15 a company called Penn Tree because they could not make
16 those rate increases that you're talking about across the
17 country.

18 So we understand the issue. We understand the
19 tension. And as I said, we do the best we can in order to
20 try to make sure that those interests are being balanced.
21 And we continue to meet with Legislatures on this issue.
22 And we look for ways to address it.

23 But we are entrusted as a regulator with
24 maintaining the financial solvency of these companies first
25 and foremost so that they are there for consumers at the

1 end of the day when those policy benefits need to be paid.

2 REP. WATSON: Thank you for your answer. I
3 sincerely thank you.

4 There are things I've heard before. And I still
5 feel very sorry that it's the consumer who sits in the
6 middle going, well, if we don't let them do it, then they
7 just go out of business.

8 I still suggest that there are many other
9 businesses that would not be allowed this kind of
10 flexibility over time. And then if one is offering a
11 product, one should do a better job than within ten years
12 to go, oops, I made a mistake. You are living too long.
13 Therefore, I can't afford to keep paying this. That's what
14 it is , plain and simple, or at least in layman's terms
15 such as I would understand.

16 May I suggest then that there needs to be
17 something in the way -- I've never been a proponent of
18 commissions and studies, because I think that's usually
19 what people do to mark time when they don't want to do
20 anything.

21 But I would suggest to you that there needs to be
22 some kind of very in-depth study or some rule changes here
23 in terms of if you are permitted to offer this as a carrier
24 in Pennsylvania, that this can't go on. Within the ten
25 years I've been here, this is the second go-round. New

1 group of people. And it's actually worse. The numbers are
2 even higher.

3 So somewhere somebody didn't learn a lesson. You
4 can say to me, but that was Carrier A in 2002-2003. Well,
5 in 2010-2011, this is Carrier B. I'm still suggesting that
6 they all should have learned the Pennsylvania market.

7 Yes, we have one of the oldest populations. And
8 we try to keep our seniors living in their home. We don't
9 want them all. We couldn't afford for them all to be
10 Medicaid patients. These are folks who try to do the right
11 thing, scrimped and saved to get a policy to take care of
12 themselves, planning for their own retirement, and not
13 depending on somebody. Somewhere this system is not
14 working and failing. We need to figure out what's going on
15 and fix it.

16 Thank you.

17 MAJORITY CHAIRMAN ADOLPH: Thank you,
18 Representative. I will tell Chairman Micozzi you did a
19 very good job here today in his absence.

20 REP. WATSON: Thanks.

21 MAJORITY CHAIRMAN ADOLPH: It's my understanding
22 that's the last question on the first round. We do have
23 one other question in the second round by Rep. Matt Smith.

24 REP. SMITH: Thank you, Mr. Chairman.

25 Just a real quick followup. And I appreciate the

1 Chairman indulging me on the second round.

2 Has the Department looked at any of the bills in
3 the Legislature, received consumer feedback on any of the
4 bills, the model legislation with the National Association
5 of Insurance Commissioners? Do you have any thoughts on
6 that model legislation?

7 MR. CONSEDINE: We certainly have gotten feedback
8 from stakeholders on various models. I will tell you the
9 conceptual draft that we have that we're looking at and
10 exploring, the stakeholders borrowed of lot of that
11 material. But again, you know, those are to some extent
12 one-size-fits-all proposals. And we would like at the end
13 of the day to work with the General Assembly to tailor some
14 of those models to more fit the Pennsylvania market and the
15 Pennsylvania situation.

16 REP. SMITH: Thank you.

17 And I, Chairman Micozzi, and Chairman DeLuca have
18 done a great job through the Insurance Committee getting
19 information out to the public and to Pennsylvanians.

20 And I think to some extent that their hands are a
21 little tied by the relative inaction on the Governor's end
22 in not coming out and saying here is the framework in which
23 he would support legislation.

24 On that note, the hearing on March 14th, will we
25 have legislation to review or will that just be discussion

1 of general concepts?

2 MR. CONSEDINE: We are certainly working in that
3 direction. At the end of the day, I think the collective
4 goal is to come up with the right solution, not necessarily
5 the fastest and most expedient. That's what we're trying
6 to do.

7 REP. SMITH: And do you know whether we'll have
8 draft legislation at that March 14th hearing?

9 MR. CONSEDINE: Our approach to date has been to
10 collaborate the transparent work with people and coming up
11 with a model, not necessarily delivering something that
12 says, here it is.

13 I can tell you we are actively engaged in that
14 process with stakeholders, including House and Senate
15 leadership on both sides on this issue.

16 Again, we at the Department are certainly working
17 towards that goal. And I think most of the other
18 stakeholders involved in this process are as well.

19 REP. SMITH: Thank you.

20 And I note, just with the June deadline, you have
21 a lot of willing participants on the Committee to work with
22 the Administration and come to some legislation so that we
23 can make those decisions at the State level rather than
24 having a Federal Exchange put into Pennsylvania that may
25 not make sense and may not fit the needs of consumers in

1 Pennsylvania as well as something that we can craft at the
2 State level.

3 I look forward to working with you.

4 Thank you, Mr. Chairman.

5 MAJORITY CHAIRMAN ADOLPH: Thank you,
6 Representative.

7 First of all, I want to thank the Commissioner
8 and his staff for an outstanding conversation we had today.
9 And your testimony was very informational.

10 I know that Chairman DeLuca and Chairman Micozzi
11 are working very hard. We all realize that this
12 Administration is probably not as vocal on issues as the
13 previous Administration.

14 Thank you very much. And we're looking forward
15 to working with you.

16 MR. CONSEDINE: Thank you very much.

17 (The hearing concluded at 4:45 p.m.)
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I hereby certify that the proceedings and
evidence are contained fully and accurately in the notes
taken by me on the within proceedings and that this is a
correct transcript of the same.

Jean M. Davis
Notary Public