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TO: CIAB

FROM: Scott Sinder
Kate Jensen
Chelsea Gold

RE: Healthcare Market Certainty and Mandate Relief Act of 2017

On November 1, 2017, Representative Kevin Brady (R-TX) and Senator Orrin Hatch (R-UT) introduced their individual market stabilization bill—the Healthcare Market Certainty and Mandate Relief Act of 2017 (H.R. 4200/S. 2052). The bill offers a more conservative option to the bipartisan deal struck last month by Senators Lamar Alexander (R-TN) and Patty Murray (D-WA). Specifically, the bill would:

- Temporarily fund the Affordable Care Act's (ACA) cost-sharing reduction (CSR) payments for the next two years, subject to certain conditions;
- Retroactively delay enforcement of the ACA's individual and employer mandates; and
- Increase the maximum contribution limit to health savings accounts (HSAs).

CSR Payment Appropriations

The bill appropriates funds for CSR payments under section 1402 of the ACA for the remainder of 2017 and for plan years 2018 and 2019. Such funds, however, will not include payments to issuers of qualified health plans (QHP) that cover abortions.

The bill would also implement certain conditions for issuers to receive CSR payments for the 2018 plan year. For example, an issuer would only be eligible to receive CSR payments if the Department of Health and Human Services (HHS) determines (based on certification and documentation from the issuer and state regulators) that the issuer's premium rates were based

on their assumption of receiving such payments. If, however, HHS made CSR payments to an issuer and later determined that the issuer increased premium rates for the 2018 plan year because the issuer expected not to receive such payments, then HHS could reduce the payments made to the issuer in a subsequent plan year.

In addition, the bill would allow HHS to make CSR payments to an issuer otherwise ineligible to receive such payments, if the following conditions are met:

- The QHP is offered in a state that has implemented a two-pronged, premium adjustment process under which (1) issuers are required to reduce premium rates for the 2018 plan year to the rates that would have been applied had the issuers assumed CSR payments would be received, and (2) states are required to submit information verifying the reduction of the premium rate (i.e., that it satisfies the first prong); and
- The issuer of the QHP chooses to participate in the process.

The bill also gives the HHS and the Department of Treasury the authority to adjust the methodologies used to determine CSR payments and correct for any overpayments or underpayments.

Individual and Employer Mandate Reform

The bill would retroactively delay enforcement of the ACA's individual and employers mandates. In particular, the bill provides relief from the individual mandate from 2017 through 2021 and from the employer mandate from 2015 through 2017.

Contribution Limits to HSAs

The bill would increase the maximum contribution limit to match the sum of the annual deductible and out-of-pocket expenses under a high deductible health plan (i.e., $5,000 for self-only coverage and $10,000 for family coverage). These increased limits would be in effect from 2018 through 2022.