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April 4, 2011

**By Email and Regular Mail**

Mary Beth Senkewicz  
Deputy Insurance Commissioner  
Life and Health  
Florida Office of Insurance Regulation  
200 East Gaines Street, Suite 121B  
Tallahassee, Florida 32399-0326

Re: Florida Request for Adjustment to the Medical Loss Ratio Standard

Dear Deputy Commissioner Senkewicz:

On April 4, 2011, the Center for Consumer Information and Insurance Oversight (“CCIIO”) emailed you a letter regarding information the Florida Office of Insurance Regulation (“FOIR”) must submit in order to complete its application for an adjustment to the medical loss ratio (“MLR”) standard for the Florida individual health insurance market. Although the FOIR’s application is not yet complete, we have some follow-up questions based on our preliminary review of the information the FOIR has thus far submitted. We are sending you these questions now in the interest of expediting the process.

The follow-up questions in this letter are separate and distinct from the information that our April 4, 2011 letter indicates the FOIR must submit before its application is deemed complete. Application completeness, and hence commencement of CCIIO’s 30-day application processing period, will not be impacted by the timing of the FOIR’s response to the follow-up questions listed below. Nevertheless, prompt responses to the questions in this letter will greatly assist the Secretary in making a prompt determination as to whether to grant the FOIR’s request for an adjustment to the MLR standard. Thus, we would appreciate receiving the FOIR’s responses within seven (7) calendar days from the date of this letter. The responses should be submitted to [MLRAdjustments@hhs.gov](mailto:MLRAdjustments@hhs.gov). Please understand that once the FOIR’s application is complete, we may have some additional questions.

Please provide the following information:

1. Page 5 of the FOIR's petition states that "there are 21 issuers who presently offer coverage in the individual market," but Attachment C to the Office's petition lists 22 companies as active carriers in Florida's individual market. Please confirm that 21, not 22, issuers currently offer coverage in the Florida individual market and identify which issuer listed in Attachment C is not presently offering coverage in that market.
2. Page 2 of the FOIR's petition states that one impact of the implementation of the 80 percent MLR standard is that "issuers will exit or stop selling new business in the individual market." As we read the petition, the FOIR suggests that "106 ... companies totaling almost 52,000 insureds" may exit the individual market, and that four issuers have already provided notice of their impending withdrawal. Attachment D to the petition indicates that each of the four issuers specifically identified as having recently withdrawn from the Florida individual insurance market (Citrus Health, Guarantee Trust, Guardian Life, and National Health) cover fewer than 300 enrollees. Although the number of insureds at each of the 106 companies mentioned is unknown, a simple average suggests that each company covers 490 enrollees, although in reality some companies may cover more and others may cover far fewer enrollees.

Under 45 CFR §158.230(c)(3) and (d), any issuer that covers fewer than 1,000 enrollees will not be subject to MLR rebate requirements in 2011. Depending on future enrollment, these issuers may not be subject to rebate requirements in 2012 or 2013 as well, or would otherwise likely qualify for sizeable credibility adjustments. In light of the impact of credibility adjustments, please provide any additional information supporting the expectation that implementation of an 80 percent MLR standard will cause or has caused the identified issuers to withdraw from Florida's individual market.

3. Page 2 of the FOIR's petition suggests that issuers may cancel or nonrenew policies as a result of the 80 percent MLR standard due to solvency concerns. However, 45 CFR §158.270 allows a State's insurance commissioner or comparable authority to request the deferral of all or a portion of an issuer's rebate requirement if payment of such rebate may threaten the issuer's solvency. In light of this provision, please provide any additional information supporting the expectation that implementation of an 80 percent MLR standard will cause issuers to cancel or nonrenew policies.
4. Page 2 of the FOIR's petition suggests that "the MLR requirements will erect barriers to entry in the individual market." In order to better understand the ease of entry into the Florida individual market, please provide for the past five years any new entrants into the Florida individual market, their year of entry, and their annual enrollment from year of entry through 2010.
5. Page 5 of the FOIR's petition states that Florida's high risk pool has been closed to new enrollees since 1991. Please explain the circumstances behind the closing of the high risk pool to new enrollment and describe how funds for the pool are generated.
6. Attachment A of the FOIR's petition requests that implementation of the 80 percent standard be delayed until 2014. However, many of the issuers featured in the FOIR's September 24 hearing testimony and associated affidavits were supportive of a phase-in

approach to the 80 percent MLR standard. Please explain whether the FOIR considered requesting an adjustment that would incrementally phase in the 80 percent MLR standard, rather than providing a single year transition to the statutorily-required 80 percent standard between 2013 and 2014.

7. Attachment D of the FOIR's petition lists instances of discontinuance of product forms and market withdrawals in the Florida health insurance market over the past few months. Please also provide for the entire years 2008, 2009, and 2010, any instances of discontinuance of product forms or market withdrawals specific to the Florida individual market.
8. The FOIR's attachment to its petition that appears on the CCIIO website as "Financial Information by Issuer" provides the estimated Federal MLR and estimated individual market rebate under the 80 percent MLR standard for each issuer in the Florida individual market that provides coverage to over 1,000 enrollees. Please explain the assumptions and calculations used to estimate these figures. Please also indicate whether the MLR estimates provided are based on 2009 data, and provide any available data on each issuer's 2008 and 2007 MLRs.
9. Please provide a summary chart comparing the plan benefits across plans for which premium rates are provided in the FOIR petition's 13 rate information attachments. Please also include benefit comparisons for any other issuer for which the FOIR submits supplemental rate or financial data.
10. The FOIR states on page 3 of its petition that "existing products have been changed to comply with the MLR requirements and the other changes in the Act." Please identify the existing products that have been changed to comply with the MLR requirements and what those changes were.

We look forward to receiving the requested information so that the Secretary can make a fully informed assessment and determination. As noted above, this information is separate and apart from whether the FOIR's application for an adjustment to the MLR applicable to the Florida individual market is complete.

We appreciate the FOIR's cooperation in working together to implement the Affordable Care Act in the best interests of all stakeholders. Please feel free to contact the Office of Oversight by email at [MLRQuestions@hhs.gov](mailto:MLRQuestions@hhs.gov) or by phone at (301) 492-4457 if you have any questions or concerns.

Sincerely,

/Signed, GC, April 4, 2011/

Gary M. Cohen  
Acting Director, Office of Oversight