
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:

Thank you for the State of Florida's application for an adjustment to the medical loss ratio ("MLR") standard for its individual market. In order for Florida's application to be complete, please provide the information listed below. Please note that the time period for the Secretary to make a determination as to whether to grant Florida's request (45 CFR §158.345) will not begin until all of this information is received.

1. In its response to 45 CFR §158.321(b) on page 4 of its petition, the Florida Office of Insurance Regulation ("FOIR") references FL ST s. 627.6424 in describing its State market withdrawal requirements but does not mention FL ST s. 624.430. FL ST s. 624.430 also appears to contain State market withdrawal requirements that, if applicable, should be described in the FOIR's petition. Please explain the applicability, if any, of this provision to the Florida health insurance market.
2. In its response to 45 CFR §158.321(d)(1) on page 5 of its petition, the FOIR indicates that the number of individual enrollees by product for each of the 21 issuers who presently offer coverage in the Florida individual market is not available to the Office from filed information, other than for HMOs. Please either ask the non-HMO issuers for this information or provide the FOIR's best estimates of the required figures. If estimates are provided, please indicate the assumptions underlying the FOIR's estimates and provide any analyses the FOIR performed to reach those assumptions.
3. In its response to 45 CFR §158.321(d)(1), with respect to HMOs, the FOIR provides data on individual enrollees by product only for Preferred Medical Plan (in the Excel

attachment labeled “Preferred Medical Plan Inc.”). However, Attachment C to the FOIR’s petition indicates that there are four other HMOs (Aetna Health, Avmed, Coventry, and Health Options) that are also currently active in the Florida individual market. Please provide the number of individual enrollees by product for these and for any other HMOs in the Florida individual market.

4. The FOIR’s response to 45 CFR §158.321(d)(1) provides premium rate data by product for nine issuers in a series of 13 attachments. However, the FOIR indicates on page 5 of its petition that there are 21 issuers presently offering coverage in the Florida individual market. We appreciate that, as explained on page 6 of the FOIR’s petition, the FOIR does not receive rate filings from out-of-state issuers. Therefore, for any of the 12 issuers for which the FOIR has not provided premium rate data that are out-of-state issuers, please ask the out-of-state issuers for this information, or provide the FOIR’s best estimates of the required figures. If estimates are provided, please indicate the assumption underlying the FOIR’s estimates and provide any analyses the FOR performed to reach those assumptions.
5. Please provide the information in “Attachment B” of the FOIR’s petition, which was submitted in response to 45 CFR §158.321(d)(1), in Excel spreadsheet format as specified in the Center for Consumer Information and Insurance Oversight (“CCIIO”) Guidance issued on December 17, 2010. This guidance is posted on the CCIIO website at http://cciio.cms.gov/programs/marketreforms/mlr/12-17-2010ociao_2010-2a_guidance.pdf.
6. In its response to 45 CFR §158.321(d)(2) on page 5 of its petition, the FOIR states that the required information has been provided “on an anonymous basis, as requested by certain issuers.” Please state, with regard to the FOIR’s attachment that appears on the CCIIO website as “Financial Information by Issuer,” the alphabetical letter identifier of each issuer that has not requested anonymity. For all 21 issuers whose information appears on that attachment, please match the information submitted in response to 45 CFR §158.321(d)(1) (e.g., the number of individual enrollees by product, premium data by product, and market share in the Florida individual market) to the appropriate issuer’s alphabetical letter identifier.
7. The FOIR’s response to 45 CFR §158.321(d)(2)(iii) through 158.321(d)(2)(vii), provided in the FOIR’s attachment appearing on the CCIIO website as “Financial Information by Issuer,” indicates that certain financial data by issuer are “Not Available,” “Not Provided,” or “Consolidated.” The required data by issuer include estimated Federal MLRs, total commissions, and estimated rebates in the Florida individual market, as well as the net underwriting profit, after-tax profit and profit margin for both the individual market business and consolidated business in Florida. For data labeled as “Not Available,” “Not Provided,” or “Consolidated,” please either ask the issuers for the requested information or provide the FOIR’s best estimates of the required figures, using data readily available to the FOIR through rate filings, NAIC filings, and any other source the FOIR deems appropriate. If estimates are provided, please indicate the assumptions underlying the FOIR’s estimates and provide any analyses the FOIR performed to reach those assumptions.

8. The FOIR's attachment appearing on the CCIIO website as "Financial Information by Issuer" provides the net underwriting profit, after-tax profit, and after-tax profit margin for the individual market business of each issuer offering coverage in the Florida individual market to more than 1,000 enrollees. Pursuant to 45 CFR §§158.321(d)(2)(vi) and 158.321(d)(2)(vii), please also provide these figures for the consolidated accident and health lines of business (including the consolidated individual, small group, and large group businesses) of each issuer offering coverage in the Florida market to more than 1,000 enrollees.
9. Based on Attachment A of the FOIR's petition, the FOIR's proposed adjustment to the Federal 80 percent MLR standard applicable to the Florida individual insurance market is to delay implementation of that standard until 2014. However, the adjustment permitted by 45 CFR §158.301 is an adjustment to the numerical MLR standard established by Federal statute, which, in contrast to Florida law, requires an issuer to pay rebates if the MLR standard is not met. Thus, as we read the FOIR's proposal, the FOIR is requesting a zero percent Federal MLR standard for the Florida individual insurance market for the reporting years 2011, 2012 and 2013. Please confirm that the FOIR is making such a request or revise the FOIR's proposal, as required by 45 CFR §158.322, accordingly. We note that neither the statute nor the regulation governing the Federal MLR standard provides for the substitution of different definitions or methods for calculating that MLR standard, the use of different MLR standards for different types of issuers within a State's individual insurance market, or the waiver of the Federal rebate requirement.

If the FOIR provides a revised proposal, please also provide an updated estimate of the total rebates that issuers offering coverage in the individual market in Florida would pay if issuers had to meet the revised Federal MLR standard to be proposed by the FOIR, as required by 45 CFR §158.322(d).

Please submit the information listed above as soon as practicable to MLRAdjustments@hhs.gov.

Please note that the time frame for the Secretary to determine whether to grant Florida's request for an adjustment to the MLR standard for its individual market begins once the complete application is received, as provided in 45 CFR §158.345.

Thank you in advance for your prompt reply. We look forward to working together to implement the Affordable Care Act. If you have any questions during this process, please contact the Office of Oversight by email at MLRQuestions@hhs.gov or by phone at (301) 492-4457.

Sincerely,

/Signed, GC, April 4, 2011/

Gary M. Cohen
Acting Director, Office of Oversight