



March 24, 2011

By Email and Regular Mail

Sharon P. Clark
Commissioner of Insurance
Public Protection Cabinet
State of Kentucky Department of Insurance
P.O. Box 517
Frankfort, Kentucky 40602-0517

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

Dear Commissioner Clark:

On March 24, 2011 the Center for Consumer Information and Insurance Oversight (CCIIO) emailed you a letter regarding information the State of Kentucky must submit in order to complete its application for an adjustment to the medical loss ratio ("MLR") standard for its individual health insurance market. Although Kentucky's application is not yet complete, we have done a preliminary review of the information Kentucky has submitted, and have some follow-up questions. We are sending you these follow-up 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 March 24, 2011 letter indicates Kentucky 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 Kentucky'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 Kentucky's request for an adjustment to the MLR standard. Thus, we would appreciate receiving Kentucky's responses within seven (7) calendar days from the date of this letter. The responses should be submitted to MLRAdjustments@hhs.gov. Please understand that once Kentucky's application is complete, we may have some additional questions.

Please provide the following information:

1. Page 2 of Kentucky's application states that since the passage of the Affordable Care Act, two issuers have notified the Commissioner of their withdrawal from the Kentucky individual market. Please identify the two issuers that submitted such notice, as well as any reason(s) cited by the issuers as to why they are ceasing to offer coverage in the Kentucky individual market. Please also provide for each issuer the date the notice was provided to the Commissioner, the proposed date of discontinuation of coverage, the number of impacted

enrollees of each issuer, and, if available, a copy of the written notification provided to the DOI.

2. Page 2 of Kentucky's application explains that any issuer exiting the Kentucky individual market completely must seek approval from the Kentucky Insurance Commissioner, pursuant to KRS 304.17A-240(3)(a). Please indicate what guidelines or requirements the Commissioner uses in determining whether to approve or deny market withdrawals.
3. Page 7 of Kentucky's application notes that Time (Assurant) stated that "they would have to consider discontinuation or exiting some markets in light of the MLR requirement." Please provide a detailed account of Time's statement and describe what, if any, discussions Time has held with Kentucky regarding the discontinuation of products or market exits specific to the Kentucky individual market, including any written correspondence provided to the DOI by Time in which it suggests that it may discontinue offering health coverage in the individual market.
4. The Excel chart attached to Kentucky's application labeled "(d)(2)" indicates that none of the four largest carriers have provided notice of exit to the DOI. Please identify any issuers you believe are reasonably likely to exit the Kentucky individual market if no adjustment is made to the MLR standard and the basis for that conclusion.
5. As we read KRS 304.17A-240(3)(b)(2), which was included in an attachment to Kentucky's application (referred to on CCIIO's website as "Renewal or Continuation Requirements" for Kentucky), an issuer that discontinues offering all health benefit plans in Kentucky may not issue new health benefit plans in Kentucky for a period of five years, commencing on the date of the discontinuation of the last health benefit plan not renewed. However, the attachment provided by Kentucky (listed on CCIIO's website as the "History of Kentucky Health Insurance Market") detailing the history of issuer entry and exit from the Kentucky health insurance market indicates that issuers have re-entered the Kentucky market in a time period less than five years from the date of exit. For example, Principal Mutual Life Insurance is listed as exiting the Kentucky market in 1996 and re-entering in 1999. Please explain under what circumstances, if any, the Commissioner may waive the five year prohibition on market re-entry to the Kentucky health insurance market.
6. KRS 304.17B-013(1), which was included in an attachment to Kentucky's application (listed on CCIIO's website as "Kentucky Access Premiums"), states that "premium rates charged to enrollees are not intended to fully cover the cost of providing health care coverage to Kentucky Access enrollees, and any claims in excess of premium rates shall be covered by the Kentucky Access fund." Please provide the current amount of funding in the Kentucky Access fund and describe how these funds are generated. Please also provide the level of funding and enrollment in Kentucky Access over the past three years.
7. As we read KRS 304.17B-015(2)(a), which was included in an attachment to Kentucky's application (referred to on CCIIO's website as "Kentucky Access Eligibility requirements"), one of the eligibility requirements for coverage under Kentucky Access is that the individual be rejected "by at least one issuer for coverage of a health benefit plan that is "substantially similar" to Kentucky Access coverage." Please define or otherwise describe the Department's use of "substantially similar." Of the eight issuers that provide health care coverage in the Kentucky individual market, please identify the issuers that provide "substantially similar" coverage to that provided by Kentucky Access, as well as the number of enrollees in these "substantially similar" coverage options by issuer.
8. Page 2 of the Application notes that "Anthem controls 85% of the market." Please state separately for each of the last four years for which you have the data, Anthem's percentage of the Kentucky individual market health insurance market. Please also state separately for each

of those years, the name and market share of the three next largest Kentucky individual health insurance market issuers.

9. The Excel chart attached to Kentucky's application labeled "(d)(2)" reports Anthem Blue Cross Blue Shield's ("Anthem") commissions to agents and brokers as \$10,000,000. However, page v of the Overview to the Kentucky April 1997 Market Report on Health Insurance notes that Anthem "no longer pays commissions for [the individual] business." Please indicate when Anthem reinstated a commission structure in its individual market business or reconcile the information provided in Kentucky's application.
10. The Excel chart attached to Kentucky's application labeled "(d)(2)" also states that Anthem has a Reported State MLR of 81.4% and an Estimate of PPACA MLR of 77-82%. Please explain the process, calculations, and assumptions used that led to an Anthem Estimated PPACA MLR of 77-82%.
11. Page 7 of Kentucky's application argues that "carriers will have limited incentive to grow beyond the credibility standards" and that "discouraging growth in the newer carriers will result in a stagnant market, which harms consumers." Please identify the "newer carriers" and, in order to better assess the growth at risk, please provide for each "newer carrier" the year of market entry or re-entry and the annual enrollment from the year of entry until 2010. Please also provide any data on the impact of recent entrants into the Kentucky individual market on the number of insured individuals or premium levels.
12. Please state separately for each of the four issuers currently in the Kentucky individual market with less than 1,000 enrollees your best estimate of when that carrier would have more than 1,000 enrollees (1) absent the requested adjustment to the Kentucky individual market MLR standard, and (2) with the requested adjustment.

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 Kentucky's application for an adjustment to the MLR in its individual market is complete.

We appreciate Kentucky'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 or by phone at (301) 492-4457 if you have any questions or concerns.

Sincerely,

/Signed, TH, March 24, 2011/

Timothy B. Hill
Acting Deputy Director
Center for Consumer Information and
Insurance Oversight