



May 31, 2011

By Email and Regular Mail

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

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

Dear Commissioner Clark:

Thank you for the additional information you provided in your May 16, 2011 letter. This letter was sent in response to the Center for Consumer Information and Insurance Oversight's (CCIIO) March 24, 2011 letter, which requested information necessary to complete Kentucky's application for an adjustment to the MLR standard in Kentucky's individual health insurance market. We also thank you for the supplemental information provided in your April 7, 2011 letter. Your April letter was sent in response to CCIIO's second March 24, 2011 letter, which requested information that was separate and distinct from the information necessary to complete Kentucky's request for an adjustment to the MLR standard.

As of the date of this letter, we deem Kentucky's application complete. We will make a decision regarding Kentucky's application within 30 days. The Secretary may, in her discretion, extend the 30 day review period for as long a time as necessary not to exceed an additional 30 days. Should the application review period be extended, we will alert you as soon as practicable.

Although we deem Kentucky's application complete, we have reviewed the information provided to us in recent correspondence, and request further information regarding the items listed below. This information will aid the Secretary in her assessment of the application. We would appreciate receiving Kentucky's responses within seven (7) calendar days from the date of this letter. The responses should be submitted to MLRAdjustment@hhs.gov.

The items for which we request further information are:

1. Item 1 in our letter dated March 24, 2011, requesting information necessary to deem Kentucky's application complete, asked the Department of Insurance (DOI) to provide

enrollee and premium data by product for each issuer that offers coverage in the Kentucky individual market, and explained that “by product” means that the data must be delineated by plan design (e.g. deductible, co-insurance, etc.). In correspondence dated May 16, 2011, the DOI responded that it believes “further breakdown of information regarding premium and enrollment under 45 CFR 158.321(d)(1) is not material to the Commonwealth of Kentucky’s application.”

Based upon this statement, we are under the impression that the products offered in Kentucky’s individual market are comparable in product design and cost. As such, we will complete our assessment of Kentucky’s application for an adjustment without the requested information. However, if our understanding of Kentucky’s individual market is not correct and there are unique products offered for which there are no comparable products offered by other issuers, the DOI must provide any pertinent information it wants CCIIO to consider within the next seven (7) calendar days.

2. Please provide the 2010 Supplemental Health Care Exhibit (SHCE), which issuers have submitted to the National Association of Insurance Commissioners (NAIC), for the Kentucky business of the following issuers: (1) Anthem; (2) Humana; (3) Golden Rule; (4) Time; and (5) Aetna.
3. Item 5 of our letter dated March 24, 2011, requesting information necessary to deem Kentucky’s application complete, asked the DOI to provide an estimate of the rebates issuers in the individual market would have to pay if issuers had to meet an 80 percent MLR standard, pursuant to 45 CFR 158.321(d)(2)(v). The DOI did not provide this information in its response letter dated May 16, 2011, and stated that “companies have cited confidentiality concerns and alleged trade secret protection.”

In lieu of the rebate estimates provided to the DOI from the DOI’s data call, please estimate the rebate for each issuer using the 2010 MLR data and other data available from the 2010 SHCEs. We note that such calculation would be based off of publicly available data. CCIIO fully acknowledges the limitations of using 2010 MLR data to estimate rebate payments, and will take such limitations into account in its deliberations.

4. Item 7 of our letter dated March 24, 2011, requesting information necessary to deem Kentucky’s application complete, asked the DOI to provide an estimate of the total rebates issuers in the individual market would have to pay if issuers had to meet an 80 percent MLR standard, as well as the total rebates issuers would have to pay if they had to meet the adjusted MLR standard proposed by the DOI, for each year for which the DOI is requesting an adjustment, pursuant to 45 CFR 158.322(c) and 158.322(d). The DOI’s response letter dated May 16, 2011 stated that “the Department queried issuers with regard to MLR rebate projections. In reviewing their responses, it is clear that the data is extremely speculative and fluid” and that “many carriers did not disclose data on potential refunds owed in the future.”

In lieu of the rebate estimates provided to the DOI from the DOI’s data call, please estimate the rebate for each issuer using the 2010 MLR data and other data available from the 2010 SHCEs. CCIIO fully acknowledges the limitations of using 2010 MLR

data to estimate rebate payments, and will take such limitations into account in its deliberations.

5. Page 3 of the DOI’s May 16, 2011 letter states that “other carriers simply explained that regardless of the MLR standard, through either [credibility] adjustments or adjustments to their models, they would not foresee paying refunds under either MLR standard (the federal standard or Kentucky’s proposed standards).” Please identify the issuers that do not anticipate paying rebates under either standard.
6. In the attachment labeled “(d)(2)” to the DOI’s May 16, 2011 letter, the DOI provides the “Estimate of PPACA MLR” for five issuers in the Kentucky market using updated data from the issuers’ SHCEs. It appears that the “Preliminary PPACA MLR” estimates provided in your May 16 letter do not account for credibility adjustments. For each issuer included in the attachment labeled “(d)(2)”, we have provided CCIIO’s estimate for credibility and the total MLR including credibility in the chart below. Based on your analyses of the SHCE data, please confirm or revise the CCIIO estimates shown below.

Company Name	2010 MLR Estimates		
	Kentucky Estimates	CCIIO Estimate for Credibility	MLR Including Credibility
Anthem	78.2%	0.0%	78.2%
Humana	69.0%	2.1%	71.1%
Golden Rule	66.3%	4.8%	71.1%
Time	69.9%	6.4%	76.3%
Aetna	67.8%	8.1%	75.9%

Once again, we appreciate Kentucky’s cooperation in working together to implement the Patient Protection and Affordable Care Act. 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, GC, May 31, 2011/

Gary M. Cohen
Acting Director, Office of Oversight