DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C2-21-15
Baltimore, Maryland 21244-1850

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:

Thank you for the State of Kentucky's application for an adjustment to the medical loss ratio ("MLR") standard for its individual market. In order for Kentucky's application to be complete, please provide the information listed below.

Please note that 45 CFR §158.345(a) provides that the time frame for the Secretary to determine whether to grant Kentucky's request for an adjustment to the MLR standard for its individual market begins only when the complete application is received.

1. In its response to 45 CFR §158.321(d)(1), the Department of Insurance (the "DOI") provided enrollee and premium data by issuer broken down by FFS, PPO, POS, and HMO in the Excel chart attached to the application labeled "(d)(1)." Please also provide for each issuer that offers coverage in the Kentucky individual market the available enrollee and premium data by product. "By product" means that the data are delineated based on plan design (e.g., deductible, co-insurance, etc.).

2. The DOI's response to 45 CFR §158.321(c), states that for Kentucky Access, "the schedule of rates, premium rates charged to enrollees, deductible amounts, copayment amounts, coinsurance amounts, and other cost-sharing amounts shall be established by the department" (referred to on CCIIO's website as "Kentucky Access Premiums"). Please provide this schedule pursuant to §158.321(c). Please provide the actual or projected total budget and enrollment for Kentucky Access for the years 2010 through 2013. In addition, please also describe any current or anticipated future events likely to occur between now and 2013 that will affect the availability of coverage through Kentucky Access.

3. The aggregate premium amounts provided in the DOI's response to 45 CFR §158.321(d)(2)(i) (in the Excel chart attached to the application labeled "(d)(2)") do not appear to match the sums of the premium amounts by issuer provided in the DOI's response to §158.321(d)(1) (in the Excel

chart attached to the application labeled "(d)(1)"). Please explain the discrepancy in the reported premium amounts.

4. The DOI's response to 45 CFR §158.321(d)(2)(iii), in the Excel chart attached to the application labeled "(d)(2)," indicates that the estimated MLR for the individual market business in Kentucky, as determined in accordance with §158.221, is "Not Reported after request" for Golden Rule and Time. If these issuers have not reported this figure, please provide the DOI's reasonable estimate of the Federal MLR for these issuers. Please indicate the assumptions the DOI used to develop the estimates and provide any supporting analyses for those assumptions.

5. In response to 45 CFR §158.321(d)(2)(v) through 158.321(d)(2)(vii), the DOI, in the Excel chart attached to the application labeled "(d)(2)," states that the DOI believes "it would be unduly burdensome *to attempt* to collect this specific information" (emphasis added). As we read DOI's responses, it appears that the DOI is asserting that it is unduly burdensome to collect the estimates of rebates in the 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 Kentucky. It is our understanding, based on Kentucky's application, that there are four issuers in Kentucky's individual market with more than 1,000 enrollees. Please either ask the issuers for the requested information or provide the DOI's reasonable estimates of the required figures, using data available to the DOI through rate filings, NAIC filings, and any other pertinent information. Please describe the assumptions the DOI's used in developing the estimates and provide any supporting analyses for those assumptions.

6. In response to 45 CFR §158.321(d)(2)(viii), the DOI states, in an Excel chart attached to the application labeled "(d)(2)," that the risk-based capital level for each of the four issuers with more than 1,000 enrollees in the individual market is "proprietary information" and therefore "the Department is precluded by statute from releasing this information." Please provide the citation for the applicable authority which classifies such information as proprietary.

   In light of this statement, please, at the DOI's option, either (1) request from each of the four issuers permission for the DOI to release to the Secretary the issuer's risk-based capital level, or (2) provide for each such issuer the Total Adjusted Capital and the Authorized Control Level Risk Based Capital from the issuer's most recent statutory filing.

7. As required by 45 CFR §158.322(c) and (d), please provide an estimate of the total rebates that issuers offering coverage in the individual market in Kentucky would pay if issuers had to meet an 80 percent MLR standard, as well as the total rebates they would pay if they had to meet the adjusted MLR standard proposed by the DOI (65 percent, 70 percent, and 75 percent) for 2011, 2012, and 2013, respectively.

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

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, TH, March 24, 2011/

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