

July 20, 2011

The Honorable Kathleen Sebelius
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201



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Submitted Via Electronic Mail:
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Dear Secretary Sebelius:

We write on behalf of our consumer constituents in Kentucky to state our continued opposition to the application of the Kentucky Insurance Commissioner (Commissioner) for an adjustment to the 80% minimum medical loss ratio (MLR) in the non-group market required under Section 2718 of the Public Health Services Act. Because the Commissioner still has failed to demonstrate that the MLR would destabilize the Kentucky insurance markets, we respectfully request that this application be denied.

Kentucky Equal Justice Center is a civil legal services organization that works closely with legal aid organizations across Kentucky. Our advocates assist health care consumers on issues regarding enrollment, coverage, cost and continuity of care. In collaboration with other consumer groups in the state, we work to protect the rights of our constituents to high-quality, affordable health care.

The Commissioner requested to reopen Kentucky's waiver request because of Aetna's announcement that it plans to leave Kentucky's individual market. However, Aetna has provided no information that the prospect of an 80% MLR influenced its decision. Aetna has a very small percentage of the market. Even under the Commissioner's revised numbers, Aetna only has 1,090 enrollees with indemnity policies.^{1 2} There are many other reasons that Aetna might chose to leave the individual market, including the high cost of maintaining individual coverage for so small an enrollee population.

Additionally, the Commissioner has presented no information that Aetna's small group of enrollees would be unable to find coverage elsewhere. In addition to the seven private insurers present in Kentucky, consumers would also have the choice of Kentucky Access or the Kentucky Pre-Existing Condition Plan with newly lowered rates.

A stringent MLR protects all Kentucky health care consumers by requiring insurers to devote a higher percentage of premiums to health care. The Commissioner has failed to establish that an adjustment is necessary. Furthermore, granting it would cause harm to

¹ "Attachment 1;" Item 29 on CCIIO Document List for the Kentucky MLR Waiver Request.

² The Commissioner's numbers for 2009 enrollment drastically changed between March and May of 2011. Compare Item 17 on CCIIO Document List for the Kentucky MLR Waiver Request, received by HHS on 3/8/11, stating that Aetna has 87 enrollees in the individual market, with Item 29, received by HHS on 5/16/11, stating that Aetna had 1,090 enrollees for the same year.

Kentucky consumers. For these reasons, we request that this adjustment proposal be denied.

Sincerely,
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