35828 Smithfield Court
Farmington Hills, MI 48335

August 19, 2011

Secretary Kathleen Sebelius
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, D.C. 20201

RE: Michigan's Request for Adjustment of Individual Market Medical Loss Ratio

Dear Secretary Sebelius:

On behalf of the Michigan Universal Health Care Access Network (MichUHCAN), I urge you to deny Michigan's request for loosening the standards for the individual market medical loss ratio (MLR) through 2014. MichUHCAN is a state-wide network of health providers, consumers, and administrators that is dedicated to securing accessible, equitable, comprehensive, and affordable health care for all Michigan residents. MichUHCAN is concerned that granting this request will negatively impact access to health insurance in Michigan, especially as the Office of Financial and Insurance Regulation (OFIR) fails to satisfy its burden in justifying why granting its request is both prudent and necessary.

In its request, OFIR first argues that the current requirement might cause insurers to leave the state and thus compromise the vibrancy and viability of Michigan's individual insurance market. Instead of offering concrete evidence to substantiate that point, OFIR instead relies on the examples of MEGA Life and Health and American Community, two insurers that left the Michigan market **before** the MLR rules came into effect. It is a possibility that some poor performers may leave Michigan, but the risk of poor performers leaving the state will exist as long as there is an insurance market. The small risk of insurers leaving the market is outweighed by the definite benefits to consumers that come with this MLR requirement, especially as Michigan residents continue to get hit hard by this difficult economy.

Another point to consider is whether the MLR itself has enough of an impact on any of these companies to actually make them leave Michigan. First, this requirement is federal, so all fifty states (and relevant territories) will be dealing with the same rule unless given a waiver. Second, even if the companies wanted to leave, they may decide that investing the resources to relocate is not worth it, especially given the fact that they would have to compete in any other state that they decide to move. A small risk of some companies leaving should not prevent us from making the individual insurance market, a market that is especially skewed against consumers, more of a level playing field.

OFIR then argues that this requirement will endanger the profitability of affected insurance companies. OFIR is concerned that this requirement will make companies "lower premiums, increase claims costs, increase expenditures on quality improvement activities, or reduce non-claim related expenses in order to reduce their potential for rebates,"[1] and that these changes may make profits fall below an "acceptable level."[2]

There are several problems with OFIR's use of this argument as a rationale for loosening the MLR requirement. First, these changes are the intended effects of instituting a meaningful MLR requirement, so allowing these insurance companies to avoid implementing these changes renders the requirement basically meaningless. Second, the point of both the MLR requirement and OFIR's oversight activities is not to ensure the profitability of insurance companies. Rather, OFIR has a dual responsibility to protect consumer interests and maintain the viability of Michigan's insurance market. OFIR offers no solid evidence that the affected insurers will lose their viability in the market as a result of this requirement. On the other hand, **not** enforcing this requirement directly harms consumers because they will lose their share of the millions in rebates that they are currently scheduled to receive. Consumers are in much more need of economic help in order to maintain their viability than are insurance companies, especially as the economic forecast remains bleak.

Additionally, granting OFIR's request actually undermines OFIR's fundamental mission. OFIR's charge is to "protect Michigan consumers by ensuring that the companies that it regulates are financially solvent, follow state and federal law, and are entitled to the public confidence."[3] Wiggling out of the MLR does the exact opposite of protecting Michigan consumers – it allows insurance companies to continue the wasteful behavior that has contributed to unnecessary increases in premiums for years.

Granting this request also undermines the fundamental goals of the Patient Protection and Affordable Care Act (PPACA). The insurance reforms included in PPACA, especially the new MLR requirement, are designed to restructure the insurance market by making care more accessible and affordable for consumers and to reign in wasteful practices in the private insurance market. Granting this request does nothing more than allow insurance companies to stick to their old ways for a few more years and to avoid making tough business decisions, all at the expense of struggling consumers.

Thank you very much for considering our comments as you evaluate the Office of Financial and Insurance Regulation's request for adjusting the medical loss ratio requirement for Michigan's individual market. We sincerely hope that you deny this request. If you have any questions or feedback, you may reach me at 248-880-2526 or mjmitchell@ameritech.net.

Sincerely,

Marjorie J. Mitchell

Marjorie J. Mitchell
Executive Director, MichUHCAN

cc: Commissioner R. Kevin Clinton, Michigan Office of Financial and Insurance Regulation

[1] R. Kevin Clinton, Request for Adjustment of Individual Market Medical Loss Ratio for Michigan 4 (2011).
[2] *Id.*
[3] Office of Financial and Insurance Regulation, State of Michigan, http://www.michigan.gov/lara/0,1607,7-154-10555---,00.html (last visited Aug. 19, 2011).