NPAF National Patient Advocate Foundation

The Patient's Voice | *since* 1996

Submitted By E-Mail

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

Re: Request for Adjustment to the Medical Loss Ratio (MLR) for the State of Oklahoma

Dear Secretary Sebelius:

NPAF is a non-profit organization dedicated to improving patient access to healthcare services through both federal and state policy reform. Its mission is to be the voice for patients who have sought care after a diagnosis of a chronic, debilitating or life-threatening illness. NPAF has a fifteen year history of serving as the trusted patient voice. The advocacy activities of NPAF are informed and influenced by the experience of patients who receive direct, sustained case management services from our companion organization, Patient Advocate Foundation (PAF). In 2010, PAF resolved 82,963 cases nationally and provided information to almost 4 million online contacts.

Patients suffering from a chronic, debilitating or life-threatening illness understand that health insurance coverage too often determines whether they will have access to necessary health care services. The challenges they face in trying to maintain the cost of coverage while battling illness escalates their need to assure value of premium expenses. NPAF recommends HHS review the State of Oklahoma's request for MLR adjustment from a patient-centric perspective. NPAF is concerned that granting the MLR adjustment will likely have a deleterious effect on consumers which will be exacerbated when those consumers become patients.

The medical-loss ratio (MLR) was designed to ensure that Americans receive value for their premium dollars. It provides consumers with an ability to calculate how their premium dollars are spent by identifying the total premium revenue that health plans devote to clinical services, as distinct from administration and profit. The Affordable Care Act (ACA) sets a minimum level of spending on medical benefits and quality improvement at 80% of premium revenue in the individual and small-group markets.[1] The Congressional Budget Office (CBO) determined the 80% minimum MLR in the individual and small-group markets was attainable by efficiently-operated insurers. NPAF encourages HHS to consider the CBO report as well as the intent of the MLR when considering requests for MLR adjustments.

[1] Pub. L. No. 111-148 ss1001(5), 1010(f), 124 Stat. 119, 130, 885 (2010) (inserting and amending a new section 2718 in the Public Health Service Act (PHSA)

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NPAF recognizes that HHS must consider market forces if it is to assure consume access to health insurance products. The ACA allows adjustments to the MLR to be granted only if "the Secretary determines that the application of such 80 percent may destabilize the individual market" in a state. HHS regulations[2] allow state adjustment of the MLR standard only if there is a "reasonable likelihood" that the requirement will cause market disruption.

The Oklahoma Insurance Department (OID) asserts there is reasonable likelihood the insurance market will be disrupted. Its letter requesting MLR adjustments states:

> "A number of small carriers operate in the Oklahoma market. Consideration of their requests for a phase-in period, a careful review of all carrier responses to an OID questionnaire, and input from the producer community, show that immediate implementation of the MLR requirement will disrupt the individual health insurance market in Oklahoma."

NPAF notes with dismay that it does not appear the OID included consumer perspectives of market disruption considerations. While NPAF recognizes the importance of the insurance business community in such considerations, consumer value indicators of extant health insurance products are likewise an important market disruption factor. PAF case managers collect data on the patients they serve and compile an annual Patient Data Analysis Report (PDAR). The 2010 PDAR data on top insurance issues for patients served by PAF from Oklahoma reveal important consumer value indicators of health insurance products:

Out- of- pocket cost - Pharmaceutical	39.31%
Out -of-pocket cost - Facility/doctor visits	30.06%
Premium assistance	5.20%
General benefit/coverage questions	5.20%
Out- of- pocket cost - Inability to afford Medicare Part D cost share	4.62%
Deductible assistance	2.89%
Out-of-pocket cost - Radiation	2.89%
Requested assistance with facilitating a second opinion	2.31%
Unable to afford out-of-network UCR issues	2.31%
COBRA/Questions on eligibility enrollment	1.73%
Benefit exclusion	1.73%
Out of pocket cost – Medical (i.e., DME, wigs)	1.73%

Market destabilization considerations must include consumer impact informed by patient data if they are to be informed considerations. For example, HHS should consider whether granting an MLR adjustment sends a message to insurers that insurance oversight will not be as consumer-centric as indicated in relevant ACA language. The NPAF invites HHS policymakers to submit requests for PAF patient data to ensure its MLR adjustment request deliberations are well informed of potential consumer impact.

The information submitted by OID for Oklahoma's MLR adjustment also verifies the assertion that consumer considerations of such adjustments must be paramount. The ACA requires that insurers that do not meet minimum MLR requirements must pay rebates to enrollees. Title 45 CFR s158.322(c)

[2] 42 C.F.R. § 158.301

requires an estimate of the rebates that would be paid by each issuer for the 2011, 2012, and 2013 MLR reporting years if issuers in the individual market must meet an 80 percent MLR standard in each of those years. The table below represents consumer rebates that will be jeopardized should the MLR adjustment is approved.

Table 3: Estimated Rebates for 2011-2013			
Issuer	**2011**	**2012**	**2013**
Health Care Service Corp (includes BCBS)	$ 3,800,000	$ -	$ -
Time IC fka Fortis IC	$ 1,800,000 - 2,000,000	$ -	$ -
Golden Rule Ins. Co.	$ 4,498,797	$ 2,486,078	$ -
American Medical Security Life Ins Co	$ 1,230,000	$ 561,000	$ -
Mega Life and Health Ins Co	$ 98,741	$ 31,468	$ -
Coventry Health and LIC	$ 414,056	$ 370,028	$ -
Aetna Life Insurance Co.	$ 33,098	$ 373,404	$ 368,174
World Ins. Co.	$ 211,593	$ 42,125	$ 5,443
Humana Ins Co.	$ 66,000	$ 40,000	$ -

In summary, NPAF encourages HHS to consider the legislative intent of the *Patient Protection* and Affordable Care Act when considering MLR adjustment requests. Rather than consider the impact of the adjustment on consumers, NPAF believes HHS should consider that impact when it is most crucial-when the consumer becomes a patient.

Sincerely,

Nancy Davenport-Ennis
Chief Executive Officer