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Oklahoma Policy Institute

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

Submitted Via Electronic Mail:
MLRAdjustments@hhs.gov
RE: Oklahoma adjustment request

Dear Secretary Sebelius:

We are writing on behalf of Oklahoma consumers to oppose the request by the Oklahoma Insurance Commissioner for an adjustment to the 80 percent minimum medical loss ratio in the non-group market. Oklahoma Policy Institute is a non-profit think tank committed to providing independent, data-driven information, analysis and ideas on policy issues affecting Oklahomans. Our core commitments are to the adequate, fair, and fiscally responsible funding of public services, and to an economy that provides shared prosperity through increased economic opportunity and financial security for all.

The Oklahoma Insurance Commissioner asks CCIIO to reduce the minimum medical loss ratio to 65 percent for calendar year 2011, 70 percent for 2012, and 75 percent for 2013.[1] However, the GAO reported in October that the average PPACA MLR in the individual market was 79 percent; hence the 80 percent benchmark is appropriate and attainable.[2] We support the requirement that at least 80 percent of premium dollars in Oklahoma's individual and small group markets be spent on medical benefits and quality improvement and we believe the medical loss ratio (MLR) gives consumers a straightforward calculation of how their health insurance premiums are spent.

HHS regulations provide that the Secretary may adjust the MLR standard in a state only if there is a reasonable likelihood that application of the requirement will destabilize the individual market.[3] The Oklahoma Insurance Department (OID) has failed to make the case that its individual insurance market will be destabilized if HHS fails to grant an adjustment. Oklahoma has a competitive individual insurance market, with nine participating insurers, and none have given notice that they intend to cease providing coverage in the individual market.

According to the Insurance Department, seven of nine insurers are already pricing for an 80 percent MLR for 2012 and will not need to pay rebates by 2013 if held to that benchmark. If the

[1] Oklahoma Insurance Department. 2011. Request for Adjustment to the Medical Loss Ratio (MLR) for the State of Oklahoma. August 30. [http://cciio.cms.gov/programs/marketreforms/mlr/states/Oklahoma/ok_mlr_request_083011.pdf]

[2] Government Accountability Office. 2011. *Private Health Insurance: Early Indicators Show That Most Insurers Would Have Met or Exceeded New Medical Loss Ratio Standards [pg. 6]*. October 31. [http://www.gao.gov/products/GAO-12-90R.]

[3] 42 C.F.R. ' 158.301 and PHSA ' 2718(b)(1)(A)(ii).

Better Information, Better Policy

Oklahoma Policy Institute ■ P.O. Box 14347 ■ Tulsa, OK 74159-1347 ■ Phone: 918-794-3944

Section 2718 MLR 80 percent rule is allowed to go into effect in Oklahoma, our Insurance Department estimates that $12.2 - $12.4 million would be returned to Oklahoma consumers during 2011, $3.9 million in 2012, and $0.4 million in 2013.[4] If HHS adjusts the MLR thresholds as requested by Oklahoma's Insurance Commissioner, these millions of dollars will remain with insurers rather than going back to consumers struggling with steadily rising health insurance premiums.

The Oklahoma Insurance Department provides no rationale for the adjustments it requests. The proposed starting loss ratio of 65 percent is extremely low. Only one insurer in the Oklahoma individual market would fall short of this target for 2011. Regulations set out criteria that HHS must apply in determining whether or not to grant a state an adjustment.[5] Oklahoma's request cannot be justified under any of these criteria:

- There is no evidence that any insurers have exited the state or will exit the state or cease offering coverage absent an adjustment.
- There is no evidence that any enrollee will lose coverage because of insurers exiting the state.
- The adjustment request makes no claims that Oklahoma health insurance consumers will lose access to agents and brokers if an adjustment is not granted. While two letters from agent and underwriter associations support the request, neither offers evidence that agents and brokers are abandoning the individual health insurance market.
- Alternative coverage is available to Oklahoma insurance consumers if an insurer exits the state. Furthermore, Oklahoma operates a temporary high-risk pool for Oklahomans who lose coverage if an insurer withdrew from the market and could not find substitute coverage because of pre-existing conditions.

The loss to Oklahoma consumers of granting this adjustment request would be substantial. Oklahoma consumers stand to lose around $12 million in rebates for 2011 alone if this request is granted, and more in future years. They will also lose any effect that the rebate requirement would have on driving down premiums for the next three years. There is no evidence that premiums or cost sharing would increase, or that benefits would be reduced, if the adjustment were not granted.

We believe this adjustment request is unnecessary and that granting it would cause harm to Oklahoma consumers. We respectfully request that this adjustment proposal be denied.

Sincerely,

David Blatt

David Blatt
Director, Oklahoma Policy Institute
(918) 794-3994; dblatt@okpolicy.org

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[4] Oklahoma Insurance Department. 2011. Oklahoma Response to HHS Follow-up Letter [pg 3]. October 18. [http://cciio.cms.gov/programs/marketreforms/mlr/states/Oklahoma/ok_follow_up_response_10182011.pdf].

[5] 42 C.F.R. " 158.321, 158.330