

Attachment #1

Please find below OCI's responses to HHS items requested in the January 9, 2012 letter.

HHS Requested Item #1:

Please provide the 2010 Supplemental Health Care Exhibit ("SHCE") for each of the 18 issuers included in the OCI's response to 45 CFR 158.321(d)(2), which is contained in Appendix II to the OCI's application.

OCI Response:

Please see attachment #2.

HHS Requested Item #2:

For the six issuers listed in the OCI's application as having an estimated MLR of less than 80 percent, please identify those that have indicated to the OCI that they have begun pricing or plan to price their products to reach an 80 percent MLR.

OCI Response:

We have no indication from the six issuers listed in the OCI application regarding whether they are pricing to reflect an 80% medical loss ratio. To be clear, OCI has not asked these companies to provide such information. However, we did ask issuers to provide rebate estimates for 2011 and included the total reported figure of \$4.4 million in our initial application.

HHS Requested Item #3 (part 1):

On page 5 of the OCI's application, the OCI states that "some companies target lower-income populations by offering low-cost coverage and rate guarantees;" "some are focused on temporary insurance markets;" "some compete as Health Maintenance Organization ("HMO") plans in more localized markets;" and one not for profit company "provides a unique individual health insurance product aimed at early retirees before they qualify for Medicare." For each of these categories, please identify the issuers by name.

OCI Response Item #3 (part 1):

Due to the short timeframe you provided for responses, OCI has limited information readily available to respond to item #3. Significant time and resources are necessary to review all product filings and create a comprehensive list detailing each company with a product in the buckets identified above.

A review of issuer website information indicates the following:

- WPS, Golden Rule, Time, Humana, Group Health Cooperative, Physicians Plus, Unity and Celtic offer low cost coverage (plans priced under \$80 per month).
- WPS and Golden Rule offer products with rate guarantees.
- WPS, Golden Rule, Time, Humana and Celtic have products offering temporary coverage.
- WPS offers a product aimed at early retirees before they qualify for Medicare.

HHS requested Item #3 (part 2):

Additionally, the OCI states that “in many Wisconsin rural communities there are limited health insurers offering comparable access to affordable, local health care coverage, than on a statewide basis.” For each local market that the OCI believes to be underserved and more concentrated, please identify such local market, and for each such local market please provide its total number of enrollees as well as the number of enrollees covered in such market by each of the 18 issuers included in the OCI’s application.

OCI Response Item #3 (part 2):

As stated throughout the OCI application, Wisconsin has a competitive health insurance market on a statewide and regional basis. That said, based on preliminary market concentration analysis, it appears there are several pockets of the state with concentration levels indicating that though a competitive individual health insurance market exists, it may not be as robust as in other areas of the state; potentially leaving the stability of the market vulnerable to changing market conditions. We are particularly concerned with eleven rural counties that may have highly concentrated markets. These rural markets are believed to be concentrated based on the Herfindahl-Hirschman Index (HHI) measurements applied by the U.S. Department of Justice and Federal Trade Commission. Highly concentrated markets have an HHI above 2500. Attachment #3 lists the eleven counties.

In addition to having highly concentrated individual health insurance markets, the eleven rural counties listed in attachment #3 are also either considered “medically underserved” or contain “medically underserved areas” according to the measure used by the U.S. Department of Health and Human Services’ Health Resources and Services Administration (HRSA). Consumers in these areas are more susceptible to the negative impacts that can result when insurers leave a market, namely consumers paying more for coverage in a market with fewer product offerings. Loss of products and insurers is likely to result in further market concentration in these already highly concentrated local markets. Denying our application could put these counties at undue risk for becoming even more concentrated and potentially leading some providers to consider exiting the already underserved area.

At this point, we would also urge the Secretary to recognize the validity of the Wisconsin approach on health insurance rates, acknowledge the state’s expertise in understanding the nuances of Wisconsin’s competitive market, and support our efforts to mitigate any potential market destabilization. This state cannot properly manage our market if the federal government is determined to make state based decisions. Our success in managing our market through competition has afforded the state with some of the lowest uninsured rates for decades. Specifically,

- Wisconsin has demonstrated success in creating one of the nation’s most competitive insurance markets.

- Where markets are competitive, issuers are well incentivized to provide quality products and services at a competitive price.
- Where markets are competitive, Federal regulatory pricing controls present an inherent destabilization risk, superfluous insurer incentives and a *De minimus* rebate to the individual consumer.

Finally, the McCarran-Ferguson Act, 15 U.S.C. §§ 1011 *et. seq.*, provides in the first clause that “No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business, unless such Act specifically relates to the business of insurance.” “The primary purpose of the McCarran-Ferguson Act was to preserve state regulation of the activities of insurance companies.” *United States Department of Treasury v. Fabe*, 508 U.S. 491, 504(1993); *Group Life & Health Insurance Company v. Royal Drug Co*, 440 U.S. 205, 218 n. 18 (1979).

The Wisconsin Office of the Insurance Commissioner, in performing our role in regulating the business of insurance, has determined that anticipated changes in Wisconsin’s highly concentrated local insurance markets are “warning signs of market destabilization.” Given the preceding authority, this OCI determination is sufficient to warrant a Secretarial MLR adjustment.

Attachment #4 details statewide enrollment by region and enrollment figures for the issuers providing coverage in each region.

HHS Requested Item #4 (part 1):

It appears that OCI calculated the credibility adjustments without interpolating the base credibility factor values, as required by 45 CFR 158.232(b)(2). Additionally, while Appendix II of the OCI’s application states that the OCI’s rebate estimates are based on the 2010 SHCE data, we were unable to match OCI’s rebate estimates using these data. Based on our assessment of select SHCE data, we calculate 2010 MLRs (using the Federal definition of MLR) and rebates for the 18 issuers included in the OCI’s application in the following table. Please ascertain, using the Federal MLR definition and the 2010 SHCE data, whether you obtain the same estimates as the CCIIO estimates shown below. If you do not please provide a description of your methodology.

OCI Response Item #4 (part 1):

The most significant issue appears to be a data entry error with the Mega Life rebate, where the premium was mistakenly entered as the rebate. The original OCI calculation did not interpolate the credibility factors which resulted in relatively insignificant differences on the whole, aside from the Mega error. The HHS table had errors in it as well which have been corrected in the table attached. One obvious error in the HHS table is the assignment of incorrect data to the listed companies. For example, WPS figures were attached to American Family and Mega data was attached to Group Health Cooperative; and so on down the list. Please see Attachment #5.

While we have attached a response reflecting your data, we disagree with your methodology. Our data for the 2011 rebate estimate was NOT based on interpreting data from 2010 when an 80% loss ratio did not apply. Instead, we surveyed insurers asking for estimated possible rebates. We believe this number will be more accurate.

HHS Requested Item #4 (part 2):

Please also update the total rebate estimate figures for 2011-2013 under both the statutory 80 percent MLR standard and the OCI's proposed adjustment, provided by the OCI in response to 45 CFR 158.322 (c) and (d). Please note that the OCI's estimate of the total amount of rebates for 2011 of \$4.4 million is significantly lower than the sum of projected rebates for each issuer listed in the table above under both OCI's and CCIIO's estimates.

OCI Response Item #4 (part 2):

As stated before, the information OCI has available to support the \$4.4 million figure comes directly from issuers. Adding the rebate estimates for 2010 does not provide a reliable indicator of the total rebates anticipated for 2011-2013. The total rebate estimate figures under the OCI's proposed adjustment remain unchanged from those listed in the initial application.

HHS Requested Item #5:

CCIIO has recently been informed that American Republic and World, which are part of the American Enterprise Group, are withdrawing from the individual health insurance market in all States in which they have individual health insurance business. Please confirm that these two issuers are leaving the Wisconsin Individual market, and please provide a copy of these issuers' notice of withdrawal.

OCI Response:

We are disappointed that the loss ratio rule has already led to an issuer leaving the Wisconsin market. Given that numerous issuers lost money in the Wisconsin market, we remain concerned about more market exits. Please see Attachment #6 to view the requested withdrawal notices.

HHS Requested Item #6:

Please also provide a copy of withdrawal notices for Consumers Life Ins. Co. and American Community Mutual.

OCI Response:

Please see Attachment #7.