Karen Weldin Stewart, CIR-ML
Commissioner

Delaware Department of Insurance

May 12, 2011

The Honorable Kathleen Sebelius
Secretary of Health and Human Services
200 Independence Avenue, S.W.
Washington D.C. 29201

Dear Secretary Sebelius:

I have reviewed the regulations for the new medical loss ratio standards and concluded that an adjustment request pursuant to Section 2718 of the Public Health Service Act is necessary until 2014. When all of the reforms are fully implemented under the Affordable Care Act, consumers in Delaware will have new, affordable options for health insurance coverage and the adjustment will no longer be necessary.

This is a request for an adjustment to the medical loss ratio (MLR) standard for Delaware's individual health insurance market pursuant to Subpart C of the interim final regulation. The adjustment would "phase-in" the MLR as follows: 65% for 2011, 70% for 2012 and 75% for 2013. The detailed information required by Subpart C is included on the following pages and attachments. I am also attaching letters of support from agents and brokers for these adjustments.

Thank you for your attention to this matter. I look forward to working with you to ensure that federal health care reforms are fully implemented.

Respectfully,

Karen Weldin Stewart, CIR-ML
Delaware Insurance Commissioner

Current Delaware MLR Standard

Delaware's current standard is set forth in Title 18 Regulation 1305. Section 8.1:

> With respect to new rate filings and rate revision filings, benefits shall be deemed reasonable in relation to premiums provided the anticipated loss ratio or the end of the third year is at least as great as shown in the following table:

	Renewal Clause			
Type of Coverage	**OR**	**CR**	**GR**	**NC**
Medical Expense	65%	60%	60%	50%
Loss of Income and Other	60%	60%	55%	45%

Most of the individual products in Delaware are medical expense and fall under the GR (guaranteed renewable) category so the minimum loss ratio is 60%. The other categories are optionally renewable (OR), conditionally renewable (CR) and non-cancellable (NC). Anticipated loss ratio means the ratio of incurred claims to earned premiums for a given period, as determined in accordance with accepted actuarial principles and practices.

State Requirements for Withdrawal from the Individual Market

Delaware's requirements are found in Title 18 Chapter 36, Section 8 of the Delaware Insurance Laws:

The carrier elects to discontinue offering and to non-renew all its individual health benefit plans delivered or issued for delivery in Delaware. In that case, the carrier shall provide notice of its decision not to renew coverage to all enrollees and to the Commissioner in each state in which an enrollee is known to reside at least 180 days prior to the non-renewal of the health benefit plan by the carrier. Notice to the Commissioner under this paragraph shall be provided at least 3 working days prior to notice of the enrollees.

An individual carrier that elects not to renew all its health benefit plans shall be prohibited from writing new business in the individual market in Delaware for a period of five years from the date of the discontinuation of the last health benefit plan not so renewed.

Mechanisms to Provide Options to Consumers in the Event of Carrier Withdrawal

Delaware does not have mechanisms in place to provide consumers with options in the event issuers withdraw from the individual market. There is no issuer of last resort or Delaware operated high risk pool. The three major issuers listed below have an overwhelming majority of the market share in the Individual Market in Delaware and are actively offering insurance coverage in Delaware's individual market.

- Blue Cross Blue Shield of Delaware
- Aetna Life Insurance Company
- Golden Rule Insurance Company

Delaware is very concerned that at least two of the three companies may exit the market without some form of relief via the "phase-in" of the MLR.

Below is a brief description of products offered in Delaware by two of the three major issuers. Blue Cross Blue Shield of Delaware did not provide information for this letter.

Aetna Life Insurance Company

Aetna offers a diverse portfolio of individual products offering in and out of network benefits in order to meet the needs of a wide range of customers. Plans range in coverage, deductibles,(including high deductible plan(s) that can be paired with a health savings account, coinsurance, and price allowing the consumer to select a mix of price and benefit that best fits their healthcare needs and budget. Additionally there is a limited health benefit plan available for AARP members whose ages range from 50 – 643/4.

Golden Rule Insurance Company

Golden Rule has major medical expense policies and basic medical-surgical policies which they sell to individuals and families in Delaware. The policies cover 50% to 100% of the covered expenses in excess of a selected deductible, up to the coinsurance limit, and then cover 100% of covered expenses thereafter.

The deductible is on a calendar year basis. The available deductibles range from $250 to $10,000. Some plans have office visit copays with copays ranging from $15 - $35 per visit. Some plans have prescription drug copays and/or separate prescription drug deductibles. There are additional limitations for some specific services.

Optional benefits are available which affect coverage under the base policy.

Consolidated Data

The following information is contained in Exhibit A on page 5. The information was aggregated because the companies involved wanted to keep all the information provided to the Delaware Insurance Department for this matter confidential. Blue Cross Blue Shield did not provide information for this letter.

- Total earned premium on individual market products in the state
- Reported MLR under state law for individual market business in the state
- Estimated Federal MLR for individual market business in the state
- Total agent and broker commissions for individual market business in the state
- Estimated Federal MLR rebate for individual market business in the state
- Net underwriting profit and profit margin for individual market business in the state
- RBC level
- Whether the issuer has provided notice of exit to the insurance commissioner

Proposal for Adjusted Medical Loss Ratio

Delaware proposes a "phase-in" for the 80% federal MLR. The "phase-in" would be 65% for 2011, 70% for 2012 and 75% for 2013.

Justification of the Proposed Adjustment to the MLR

Delaware has a minimum loss ratio requirement of 60% in the individual market. Premium rates are subject to prior approval by the Superintendent and the burden is on the insurer to demonstrate that it will meet the minimum loss ratio requirement.

The major health insurance carriers in Delaware's individual market support the proposed request for a "phase-in" of the MLR requirement It is the believe of the Delaware Department that the major carriers in the individual market will be forced to reduce the level of agent compensation resulting in a huge decrease in the number of active agents selling individual health insurance products. Agents perform a valuable service in assisting and advising individuals who are seeking to purchase individual health insurance products. Although not specifically stated by the insurance carriers it is the Delaware Department's fear that at least two of the three major health insurers in Delaware will exit the market and another insurer that was planning to come into the Delaware market will cancel its' plans and therefore reduce competition in an otherwise competitive market.

An explanation of how an adjustment to the MLR standard for the State's individual market will permit issuers to adjust current business models and practices in order to meet an 80 percent MLR as soon as is practicable.

The Delaware Departments believes it is of great importance to avoid disruption in their individual insurance market. This would be accomplished through the proposed three-year "phase-in" of the MLR requirement which would allow time for Delaware's major health insurers carriers (and the one carrier planning to increase its' presence in the market) to revise their business models. The agents would also be given time to adjust to the resulting lower commissions and reduced income. The proposed phase-in will allow the time needed for agents to revise their own "personal business models" and continue to provide valuable services to the consumers of Delaware.

State Contact Person

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Exhibit A – Consolidated Data

Earned Premium	$14,890,873
State MLR	63.3%
Federal MLR	69.0%
Commissions	$781,899
Estimated MLR Rebate	$1,637,996
Profit	$1,953,074
RBC Level	570%
Notice of Exit	No