

April 18, 2011

**By Email and Regular Mail**

Trey Sivley, Esq.  
Assistant Director  
Regulatory Services Division  
Georgia Office of Insurance and Safety Fire Commissioner  
Two Martin Luther King, Jr. Drive  
Suite 602, West Tower  
Atlanta, GA 30334

Re: Georgia's Request for Adjustment to Medical Loss Ratio Standard

Dear Mr. Sivley:

On April 4, 2011, the Center for Consumer Information and Insurance Oversight (“CCIIO”) emailed you a letter regarding information the Georgia Office of Insurance and Safety Fire Commissioner (“GOI”) must submit in order to complete its application for an adjustment to the medical loss ratio (“MLR”) standard for the Georgia individual health insurance market. Although the GOI has not yet finalized its application, CCIIO has, in the interest of expediting the process, performed a preliminary review of the information the GOI has already submitted.

Based upon that review, we have some follow-up questions regarding the information the GOI submitted with its application dated March 17, 2011. These questions are distinct from the information that our separate April 4 letter indicates the GOI must submit before its application is deemed complete. Application completeness, and hence commencement of CCIIO’s 30-day application processing period, will not be impacted by the timing of the GOI’s response to the follow-up questions listed below. Nevertheless, prompt responses to the questions in this letter will greatly assist the Secretary in making a prompt determination as to whether to grant the GOI’s request for an adjustment to the MLR standard. We would consequently appreciate receiving the GOI’s responses within seven (7) calendar days from the date of this letter. The responses should be submitted to [MLRAdjustments@hhs.gov](mailto:MLRAdjustments@hhs.gov). Please understand that after receiving the GOI’s complete application we may have some additional questions.

Please provide the following information:

1. Page 1 of the application explains that if an issuer withdraws from the individual market, it cannot issue coverage in that market for a period of five years. To better understand if this restriction serves as a deterrent in practice, please provide any context regarding the discussions the GOI has had with issuers intending to remain in the market over the next several years, particularly in light of the implementation of exchanges. Based on language in Ga. Comp. R. & Regs. r. 120-2-67-.10(b)(5), issuers may not request a waiver of this five year restriction on re-entry. Please also explain whether this restriction has ever been waived for an issuer wishing to return to the Georgia market and, if so, the circumstances surrounding such waiver(s).
2. Page 5 of the GOI's application states that application of the 80 percent MLR standard would concentrate the Georgia individual market, and page 6 states that issuers covering 28.29 percent of the Georgia individual market have indicated a possible exit from the market. Exhibit 2 to the GOI's application indicates that no issuers have provided notice of exit. Please identify the issuers that have indicated they are considering leaving the market and what they have said to indicate they might leave the market.
3. As we read Ga. Code Ann. 33-29A-8, the Commissioner may adopt rules and regulations for the individual market. Please explain whether this provision permits the Commissioner to promulgate rules or regulations providing the Commissioner authority to stabilize the individual market in the event of market withdrawals, without going through the legislative process. If this is possible, please explain what specific avenues the Commissioner would pursue to assist consumers in the event of market exits.
4. Page 7 of the GOI's application discusses the GOI's concerns regarding the impact of MLR standards on agents and brokers in the State, and the resulting impact on consumers. Please provide each issuer's individual market commissions schedule for the calendar years 2009 and 2010, as well as any available indications of future changes to commissions. The letter from the Georgia Associations of Health Underwriters, submitted as part of the GOI's application, indicates that the letter included as an attachment a listing of changes in agent and broker compensation that had occurred in the month preceding the letter. Please also provide the referenced attachment, which was not included in the GOI's application. Finally, please provide the GOI's expectation for how many agents and brokers will remain in the market in the event that MLR requirements reduce commissions, and whether the GOI is aware of any issuer plans to adapt their sales practices to the MLR requirements by means other than reductions in commissions, (for example carve-outs of commissions or direct-to-consumer models).
5. Column iii of the table labeled "Exhibit – 2" in the Excel attachment to the GOI's application lists an estimated Federal MLR figure for each of 11 issuers. Please state what assumptions were made regarding Federal and State taxes, quality improvement activities, and credibility components, for each of these estimated Federal MLR figures.
6. "Notes to Data by MLR ID#" for Issuer 13 to the table labeled "Exhibit – 2" in the Excel attachment to the GOI's application states that "MLR and Federal rebate were provided

as a range. The midpoint of both is used herein.” Please provide the MLR and Federal rebate ranges that Issuer 13 provided.

7. “Notes to Data by MLR ID#” for Issuer 14 to the table labeled “Exhibit – 2” in the Excel attachment to the GOI’s application states that “Specific data will be provided once received.” Please request Issuer 14 to provide specific data immediately.
8. The table labeled “Exhibit – 2” in the Excel attachment to the GOI’s application provides the estimated federal rebate by issuer if issuers were subject to the 80 percent MLR standard. Please indicate what calendar year MLR these estimates are based on (e.g., from 2009 MLRs). Please also provide the calculations and assumptions used to estimate the rebates in the table labeled “Exhibit – 3.” Included in these calculations and assumptions, please make clear the reasons why the 2011 rebate estimates in “Exhibit – 3” are far lower than the rebate estimates in “Exhibit – 2.” For example, while “Exhibit – 3” indicates that Company 11 will pay a 2011 “Estimated rebate without an adjustment” of \$1.9 million, “Exhibit – 2” indicates that Company 11 will pay a rebate of \$7.8 million.
9. The second note to the table labeled “Exhibit – 3” in the Excel attachment to the GOI’s application indicates that Issuers 2 and 6 “provided neither the data nor an adequate explanation for the omission.” Please request Issuers 2 and 6 to provide their estimate of the rebates they would pay, with and without an MLR adjustment, for 2011, 2012, and 2013.
10. The third note to the table labeled “Exhibit – 3” in the Excel attachment to the GOI’s application indicates that Issuers 4 and 16 “provided an adequate explanation of its inability to provide the data” for the 2013 estimated rebates with and without adjustment, and that Issuers 8 and 11 did likewise with respect for the estimated rebates with and without adjustment for 2012 and 2013. Please provide or describe the explanation each of those issuers gave.
11. Title 45 CFR §158.343 provides that any State that submits a request for adjustment to the MLR standard may hold a public hearing with respect to its application. Please indicate whether the GOI has provided a forum for public input regarding the GOI’s application for an adjustment to the MLR standard. If there has been public input, please provide copies of the correspondence, comments or other input the GOI has received in connection with its request for an adjustment to the MLR standard.
12. Please give the GOI’s best estimate of the number of Georgians currently insured in the individual market who have sufficiently severe pre-existing conditions that they could not obtain comparable coverage, at comparable price, if their current issuer left the market, and indicate the assumptions underlying that estimate.

We look forward to receiving the requested information so that the Secretary can make a fully informed assessment and determination. As noted above, this information is separate and apart

from whether the GOI's application for an adjustment to the MLR for the Georgia individual market is complete.

We appreciate the GOI's cooperation in working together on this request. Please feel free to contact the Office of Oversight by email at [MLRQuestions@hhs.gov](mailto:MLRQuestions@hhs.gov) or by phone at (301) 492-4457 if you have any questions or concerns.

Sincerely

/Signed, GC, April 18, 2011/

Gary Cohen  
Acting Director, Office of Oversight  
Center for Consumer Information  
and Insurance Oversight