Kansas Insurance Department
Sandy Praeger, Commissioner of Insurance

November 13, 2011

TRANSMITTED BY E-MAIL **MLRAdjustments@hhs.gov**

Mr. Gary Cohen
Acting Director, Office of Oversight
Department of Health & Human Services
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C2-21-15
Baltimore, MD 21244-1850

RE: Kansas' Request for Adjustment to Medical Loss Ratio Standard

Dear Mr. Cohen:

As requested in your May 25, 2011 request for additional information related to our MLR Adjustment Request, we are providing the following information:

1. With respect to the high risk pool referenced on pages 2-3 of the Department's application ("KHIA"), please describe any funding caps or constraints that would close KHIA's enrollment or preclude KHIA from offering coverage to eligible enrollees of issuers leaving the Kansas individual health insurance market. Please also state if there have been any periods or closed enrollment in KHIA since January 1, 2008 and, if so, the dates of each of those periods.

At this time there are no funding caps or constraints that would close KHIA's enrollment or preclude KHIA from offering coverage to eligible enrollees. There have been no periods of closed enrollment in KHIA since January 1, 2008.

2. With regard to the Excel spreadsheet entitled "Issuers in Kansas Individual Market" attached to the Department's application, please confirm that the information provided thereon refers to 2010 and that there are currently only 12 issuers offering coverage in the individual market in Kansas.

The Notice of Hearing, attached, which was distributed to all health insurance companies operating in the State of Kansas, specifically asked companies to respond if they were issuing coverage in the individual market. Several companies responded that they were not currently issuing new coverage in Kansas but, in some cases, were still administering closed blocks of business. Twelve companies responded that they were currently offering and issuing coverage.

3. With regard to the Excel spreadsheet entitled "Kansas Issuers With More Than 1,000 Enrollees" attached to the Department's application, please confirm that the information provided thereon is for 2010 and state the formulas used to calculate Reported MLR, estimate 158.221 MLR, Estimated 158.221 MLR Rebate, and Net Underwriting Profit Margin. Please also state the underlying assumptions made for calculating the figures for QIA and taxes.

Yes, we have confirmed that the information provided is 2010 data.

Responses from issuers with regard to formulas used to calculate Reported MLR, estimated 158.221 MLR, Estimated 158.221 MLR Rebate, and Net Underwriting Profit Margin varied from company to company as follows:

Aetna

Reported MLR – Calculated as per 2010 Supplemental Health Care Exhibit – Part 1, Line 7
Estimated 158.221 MLR – See attached spreadsheet
Estimated 158.221 MLR Rebate – See attached spreadsheet
Net Underwriting Profit Margin – Calculated as per 2010 Supplemental Health Care Exhibit – Part 1, Line 11
Assumptions made for calculating figures for QIA and taxes: See Supplemental Health Care Exhibit. Total MLR reportable business income taxes were allocated to the Kansas individual market using the ratio of Kansas individual market underwriting results to the total reportable business underwriting results. QIA expenses were identified and then gradually allocated based on legal entity, jurisdiction and membership or premium volume.

Blue Cross and Blue Shield of Kansas

Assumptions for calculating QIA and tax figures were based on actual time reporting and estimated derived from interviews. Tax amounts reflect actual expenses.

Blue Cross and Blue Shield of Kansas City

Formulas used to calculate Reported MLR = Claims incurred and paid in 2010 (with actual runout through March 2011) plus provision for incurred but not reported claims; divided by earned premiums through 2010

Estimated 158.221 MLR – Same incurred claims as before, adjusted by quality initiatives as reported in Supplemental Health Care Exhibit for 2010; divided by same earned premiums, less taxes reported in the SHCE; plus the PPACA credibility adjustment

Estimated 158.221 MLR Rebate = (80% - Estimated 158.221 MLR) x Earned Premiums

Net Underwriting Profit Margin – Earned Premiums (same as in statutory financials), less Actual Incurred & Paid Claims + estimated Completion Factor (not equal to statutory incurred claims), less Actual Administrative Expenses (same as in statutory financials).

Coventry Health Care of Kansas

Reported MLR – Total Claims$_t$ /Total Premium$_t$ (where $_t$ = total year)

Estimated 158.221 MLR for 2011 = Reported MLR + QIA + Tax Adjustment + Credibility Adjustment; For 2012 = [(Total claims 2012 + Total Claims 2011 + Rebates 2011) / (Premium 2012 + Premium 2011)] + QIA + Tax Adjustment + Credibility Adjustment); For 2013 = [(Total claims 2013 + Total Claims 2012 + Total claims 2011 + Rebates 2011 + Rebates 2012) / (Premium 2013 + Premium 2012 + Premium 2011)] + QIA + Tax Adjustment + Credibility Adjustment

Estimated 158.221 MLR Rebate = (HCR Min MLR – Estimated 158.221 MLR) * Total Premium

Net Underwriting Profit Margin = Premium – Claims – Healthcare Initiatives – General & Administrative Expenses

Assumptions made for calculating figures for QIA and taxes – Quality Improvement Activity expense, Federal Income Tax and Premium taxes are estimated at 0.1% of premium

Golden Rule Insurance Company

Not provided

Humana Insurance Company

Reporting MLR = (Incurred Claims + Change in Statutory Policy Reserves + Quality Improvement Expenses + Previous Years Rebate, if applicable) / (Earned Premium – Premium Tax – Federal Income Tax – Licensing & Regulatory Fees)) + Credibility Adjustment

Estimated MLR = (Incurred Claims + Change in Statutory Policy Reserves – Quality Improvement Expenses + Previous Years Rebate, if applicable) / (Earned Premium – Premium Tax – Federal Income Tax – Licensing & Regulatory Fees)) + Credibility Adjustment

Estimated MLR Rebate = (Maximum ((Reporting MER – Applicable MER Standard) versus 0)) * (Earned Premium – Premium Tax – Federal Income Tax – Licensing & Regulatory Fees)

Net Underwriting Profit Margin = Earned Premium – Incurred Claims – Change in GAAP Reserves – Estimated Expenses (Including rebates additionally subtracts the expected value of the rebate)

Assumptions for calculating figures for QIA and taxes = Quality Improvement Expenses are assumed to be 1% of Premium

Premium tax is assumed to be 0.8%

Federal Income Tax is estimated as (Earned Premium * (1 – Estimated Tax Admin Ratio) – Incurred Claims – Change in Reserves) * 35%

<u>Reserve National Insurance Company</u>

Reported MLR = (incurred claims plus expenses to improve quality) / (earned premium minus fed and state taxes, licenses and fees)

158.221 MLR = Reported MLR after credibility adjusting for deductible and life years

158.221 MLR Rebate = (80% minus 158.221 MLR) * (earned premium minus fed and state taxes, licenses and fees)

Net Underwriting Profit Margin = (earned premium – incurred claims – admin exp. – comm. Exp. – income tax) / earned premium

Reserve National does not include any expenses as Quality Improvement expenses. Taxes include fed and state income tax and state premium tax.

<u>Time Insurance Company</u>

Not provided

4. With respect to page 4 of the Department's application, please confirm that Coventry was the issuer at the March 14, Department's Public Fact Finding Hearing that suggested the concept of a gradual transition to the Affordable Care Act's 80 percent MLR requirement.

Yes, during the Department's public hearing held on March 14, 2011 Mr. Michael Murphy, CEO of Coventry of Kansas, requested an MLR of 65 in 2011, 70 in 2012, and 75 in 2013.

5. Please provide a copy of the notice of hearing issued on January 14, 2011 that is referenced on page 4 of the Department's application.

A copy of the Notice of Hearing is attached.

6. Please provide a copy of the data, referenced on page 4 of the Department's application, which led the Department, after reviewing them to determine that the proposed adjustment schedule would minimize disruption to the Kansas individual health insurance market.

The "data" referred to in the Department's application refers to the data provided by the insurance companies and provided to HHS in the Request for Adjustment of Individual Market Medical Loss Ratio submitted on April 29, 2011.

7. With regard to the explanation on page 5 of the Department's application regarding 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, please provide the Department's assessment of how common it is for an issuer providing coverage to more than 1,000 enrollees in the Kansas individual health insurance market to have a multi-year contract with an outside vendor for services related to claims administration, marketing, and servicing of its policies that may not be adjusted during the term of the contract.

The Department has no specific knowledge in terms of number of companies that execute multi-year contracts with outside vendors. The information about that practice was included in statements made in testimony during the public hearing held on March 14, 2011.

8. With regard to the explanation on page 5 of the Department's application regarding how an adjustment to the MLR standard for the Kansas 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, please state which issuers that currently use independent agents for marketing their product in the Kanas individual health insurance market are making significant adjustments to their compensation arrangements and describe those changes.

We are aware of at least two companies doing business in Kansas that have made a specific adjustment to their compensation arrangements In the past, insurance companies have typically determined the commission rate for the sale of their policies and included that amount as part of the premium charged to the insureds. We have been advised that at least one company will now require agents to negotiate some type of agreement with the insured regarding the amount of compensation they are willing to pay and then the company will include that amount in the invoice for the coverage. Since Kansas, like many states, has a law that defines what is included as "premium", it's not exactly clear how this practice modifies the calculation of the medical loss ratio. One or more companies have also simply reduced the percentage of commission paid to agents.

9. With regard to the explanation on page 5 of the Department's application regarding how an adjustment to the Kansas individual market MLR will permit issuers to adjust their business models and practices in order to meet an 80 percent MLR as soon as is practicable, please describe what new compensation models that will ensure appropriate compensation for Kansas agents and brokers have come to the Department's attention.

The Department has no specific knowledge regarding what adjustments companies will be making to their business models and practices in order to meet the 80 percent MLR. The Department therefore has no knowledge as to whether these new practices will "ensure appropriate compensation" for Kansas agents and brokers.

10. Please provide the department's assessment regarding the views and concerns expressed in the April 18, 2011 letter from the Statewide Independent Living Council of Kansas that the Department included with the Department's application.

The Department agrees with the statement made by Shannon M. Jones, Ex. Director of the Statewide Independent Living Council of Kansas, that Blue Cross and Blue Shield of Kansas, a not-for-profit corporation, is currently meeting the 85/15 and 80/20 MLR. However, not all insurers operating in Kansas are non-profit corporations and therefore have additional financial obligations.

11. Please provide the Department's assessment regarding the views and concerns expressed in the April 27, 2011 letter from the Kansas Association of Community Action Programs that the Department included with the Department's Application.

The Department agrees with the statement made by Tawny Stottlemire, Executive Director of Kansas Association of Community Action Programs, that the Affordable Care Act makes insurance companies more accountable for their use of consumers' premium dollars. However, the new MLR requirements are substantially higher than the 55% MLR requirement that has been in place in Kansas since 1981 and based on the data provided by the companies the Department has determined that the insurers operating in Kansas need a period of time to make adjustments to the business practices that impact their administrative costs.

Please advise us if you have additional questions regarding the Department's Request.

Sincerely,

Linda J. Sheppard
Director, Accident & Health Division
and PPACA Project Manager

Attachments