

NPAF National Patient Advocate Foundation

The Patient's Voice | *since 1996*

EXECUTIVE BOARD

Nancy Davenport-Ennis
CEO, President
National Patient Advocate Foundation

Dennis A. Gastineau, MD
Board President
Director, Human Cell Therapy Laboratory
Divisions of Transfusion Medicine & Hematology
Mayo Clinic

Christian Downs, MHA, JD, MHA
Immediate Past President
Executive Director
Association of Community Cancer Centers

Leah Locke-Arnett, RN, BSN, MHCA
Board Secretary

John L. Murphy
Board Financial Officer
Saguenay Capital, LLC

Bruce Avery, MD
Hematology-Oncology Knoxville

Alan J. Balch, PhD
Vice President
Preventive Health Partnership

Martha E. "Meg" Gaines, JD, LL.M.
Clinical Professor of Law,
University of Wisconsin Law School

Lovell A. Jones, MD, PhD
Director, Center for Research on Minority Health
Department of Health Disparities Research
University of Texas
MD Anderson Cancer Center

Pearl Moore, RN, MN, FAAN

Jonathan B. Perlin, MD, PhD, MSHA, FACP, FACMI
President, Clinical Services & Chief Medical Officer
HCA / Hospital Corporation of America

Roy Ramthun, MSPH
President
HSA Consulting Services

Reed V. Tuckson, MD, FACP
Executive Vice President and
Chief of Medical Affairs
UnitedHealth Group

SCIENTIFIC ADVISORY COMMITTEE

Robert M. Rifkin, MD, FACP
Chair, Science Advisory Committee
Director, NMDP Collections
Rocky Mountain Blood & Marrow Transplant Program
Rocky Mountain Cancer Centers

Charles Balch, MD, FACS
Professor of Surgery and Oncology and Dermatology
Deputy Director, Johns Hopkins Institute for Clinical
and Translational Research
Johns Hopkins

Pamela S. Becker, MD, PhD
Associate Professor of Medicine/Hematology
Institute for Stem Cell and Regenerative Medicine
University of Washington

Al Benson III, MD, FACP
GI Medical Oncology (Professor of Medicine)
Northwestern University - Feinberg School of Medicine

David Brizel, MD
Professor of Radiation Oncology
Associate Professor of Head and Neck Surgery
Duke University Medical Center

Nicholas J. Petrelli, MD, FACS
Medical Director
Helen F. Graham Cancer Center

F. Marc Stewart, MD
Professor of Medicine, University of Washington
Fred Hutchinson Cancer Research Center

Lori Williams, PhD, RN, AOCN
University of Texas
MD Anderson Cancer Center

Submitted By E-Mail

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

Re: Request for Adjustment to the Medical Loss Ratio (MLR) for the State of North Carolina

Dear Secretary Sebelius:

The National Patient Advocate Foundation (NPAF) is a non-profit organization dedicated to improving patient access to healthcare services through both federal and state policy reform. Its mission is to be the voice for patients who have sought care after a diagnosis of a chronic, debilitating or life-threatening illness. NPAF has a fifteen year history of serving as the trusted patient voice. The advocacy activities of NPAF are informed and influenced by the experience of patients who receive direct, sustained case management services from our companion organization, Patient Advocate Foundation (PAF). In 2010, PAF resolved 82,963 cases nationally and provided information to almost 4 million online contacts.

Patients suffering from a chronic, debilitating or life-threatening illness understand that health insurance coverage too often determines whether they will have access to necessary health care services. The challenges they face in trying to maintain the cost of coverage while battling illness escalates their need to assure value of premium expenses. NPAF recommends HHS review the State of North Carolina's request for MLR adjustment from a patient-centric perspective. NPAF is concerned that granting the MLR adjustment will likely have a deleterious effect on consumers which will be exacerbated when those consumers become patients.

The medical-loss ratio (MLR) was designed to ensure that Americans receive value for their premium dollars. It provides consumers with an ability to calculate how their premium dollars are spent by identifying the total premium revenue that health plans devote to clinical services, as distinct from administration and profit. The Patient Protection and Affordable Care Act (PPACA) sets a minimum level of spending on medical benefits and quality improvement at 80% of premium revenue

in the individual and small-group markets.¹ The Congressional Budget Office (CBO) determined the 80% minimum MLR in the individual and small-group markets was attainable by efficiently-operated insurers. NPAF encourages HHS to consider the CBO report as well as the intent of the MLR when considering requests for MLR adjustments.

NPAF recognizes that HHS must consider market forces if it is to assure consumer access to health insurance products. The PPACA allows adjustments to the MLR to be granted only if “the Secretary determines that the application of such 80 percent may destabilize the individual market” in a state. HHS regulations² allow state adjustment of the MLR standard only if there is a “reasonable likelihood” that the requirement will cause market disruption.

The North Carolina Department of Insurance (NCDI) provides the following as justification for the need for MLR adjustment:

“the immediate implementation of an 80 percent MLR is likely to destabilize and disrupt the already tenuous individual insurance market. Competition will be hampered and access to coverage options will be constrained for North Carolinians.”

North Carolina requests an adjustment to the 80% MLR requirement of 72% in 2011, 74% in 2012, and 76% in 2013. NPAF reads the above justification with some concern for patients in North Carolina. As noted above, the MLR requirements North Carolina proposes are concerning. According to an article in the *New York Times*, in 2008, the country’s for-profit average medical loss ratio in the individual market was 74 percent.³ NPAF notes with dismay that it does not appear the NCDI included sufficient consumer perspectives in market disruption considerations. NPAF does appreciate the sentence in the application regarding options for individuals impacted by an insurance issuer’s withdrawal from the market. NPAF also noted NCDI did consider health consumer issues in the section that reads as follows, “Another concern is that in an effort to meet the 80% MLR requirement, issuers will cease marketing the lower-cost, leaner plans in favor of higher-cost plans with lower cost sharing. The higher cost plans provide a higher premium base over which to spread administrative costs, making it easier to meet the 80% MLR requirement. A shift to these higher premium plans would limit the number of affordable options available to consumers, potentially increasing the number of uninsured residents until federal subsidies become available in 2014.” Finally, NPAF appreciates that according to the application information, a number of North Carolina insurers already come close to the 80% MLR rate.

To assure sufficient consumer in market disruption considerations, NCDI might have considered data from the nonprofit community regarding the validity of this prediction. For example, PAF case managers collect data on the patients they serve and compile an annual Patient Data Analysis Report (PDAR). The 2010 PDAR data on top insurance issues for patients served by PAF from North Carolina reveal important consumer value indicators of health insurance products:

¹ Pub. L. No. 111-148 ss1001(5), 1010(f), 124 Stat. 119, 130, 885 (2010) (inserting and amending a new section 2718 in the Public Health Service Act (PHSA)

² 42 C.F.R. § 158.301

³ Abelson, Reed. "Senate Pressing Insurers on the Amount of Premiums They Spend on Care" *The New York Times* [New York] 2 November 2009

Out- of- pocket cost - Pharmaceutical	43.29%
Out -of-pocket cost - Facility/doctor visits	26.58%
Out- of- pocket cost - Inability to afford Medicare Part D cost share	7.09%
General benefit/coverage questions	7.09%
Premium assistance	4.81%
Deductible assistance	3.54%

Market destabilization considerations must include consumer impact described by patient data if they are to be informed considerations. For example, the data above reveal insured North Carolinians have experienced challenges in paying out-of-pocket costs for pharmaceuticals and for provider visits. The NPAF recommends that absent compelling information that there is a reasonable likelihood MLR compliance will disrupt the market and therefore have an adverse impact on health insurance consumers, North Carolina's MLR adjustment application request should be denied. The application consideration should also consider whether granting an MLR adjustment sends a message to insurers that insurance oversight will not be as consumer-centric as indicated in relevant PPACA language.

The NPAF invites HHS policymakers to submit requests for PAF patient data to ensure its MLR adjustment request deliberations are well informed of potential consumer impact. Please contact Beth Patterson, PAF's President of Mission Delivery, at beth.patterson@patientadvocate.org for patient data requests. To learn more about PAF and its national recognition as a stellar nonprofit, please review a recent press release that is attached to this letter.

In summary, NPAF encourages HHS to consider the legislative intent of the Patient Protection and Affordable Care Act when considering MLR adjustment requests. Rather than consider the impact of the adjustment on consumers, NPAF believes HHS should consider that impact when it is most crucial- when the consumer becomes a patient.

Sincerely,



Nancy Davenport-Ennis
Chief Executive Officer



FOR IMMEDIATE RELEASE
January 12, 2012

CONTACT: Courtney Goodwin, 703-966-1214

Patient Advocate Foundation (PAF) Second Highest-Rated Charity in America According to New *MainStreet* Analysis of Charity Navigator Data

PAF's Perfect Four-Star Charity Navigator Rating and 69.40 out of 70 Score on Organizational Financial Health, Accountability and Transparency Places It Among Top of National U.S. Charities

Hampton, VA – Patient Advocate Foundation (PAF) announced today that a new analysis from personal finance news website *MainStreet* (www.mainstreet.com), also reported on *MSN Money*, has named PAF as the second-highest rated national charity in America. PAF received a perfect four-star rating from Charity Navigator, America's leading independent charity evaluator, for the second consecutive year in 2011 and a 69.40 out of 70 score for its fiscal performance and operational responsibility, ranking it higher than thousands of other charities in the nation. PAF is the only healthcare advocacy organization of its kind earning a spot in the top-ten rated charities in the analysis.

In its compilation of highest-rated charities, *MainStreet* looked at the leading charities in the U.S. based on their 2011 Charity Navigator scores, filtering out organizations that operate only locally and those that work mainly to collect and distribute funds to other charitable organizations. To compute the charities' performance scores, Charity Navigator evaluated 5,500 charities in America based on their financial health, accountability and transparency, of which 238 were rated with four stars.

“PAF is honored to receive this distinctive recognition of our ongoing commitment to utmost accountability, fiscal responsibility and dedication to always putting the patient first – which is also evidenced by the fact that we put 91.6 cents of every dollar we collect to patient services,” said Nancy Davenport Ennis, PAF Founder and CEO. “Likewise, we are proud that in 2011 we received a four-star rating from Charity Navigator for the second year in a row, helping enlighten patients in need as well as the public at large that we are a trusted, ethical and highly effective organization.”

The 10 highest rated national charity organizations in 2011 based on the *Main Street* analysis are: 1) Give Kids The World, 2) Patient Advocate Foundation, 3) Navy SEAL Foundation, 4) Homes for Our Troops, 5) Special Operations Warrior Foundation, 6) Teach For America, 7) Environmental Law & Policy Center, 8) National Campaign to Prevent Teen and Unplanned Pregnancy, 9) Spondylitis Association of America and 10) Injured Marine Semper Fi Fund.

For more information about Charity Navigator scores, visit www.charitynavigator.org.

###

About Patient Advocate Foundation

Patient Advocate Foundation is a national non-profit organization that seeks to safeguard patients through effective mediation assuring access to care, maintenance of employment and preservation of their financial stability. PAF's professional case managers received and resolved 82,963 cases in 2010, an increase from 55,384 in 2009. Additionally, PAF received and provided information through online contacts to more than 4 million patients, family members and care professionals requesting access to care information and assistance. PAF services are available to all patients, patient families, and medical professionals, offering nineteen programs and services ranging from case management to co-pay relief, as well as specialized clinical support through the MedCare Line. PAF handles insurance claims intervention, job retention services and medical debt crisis management.

For more information about Patient Advocate Foundation, please visit www.patientadvocate.org or call toll-free (800) 532-5274