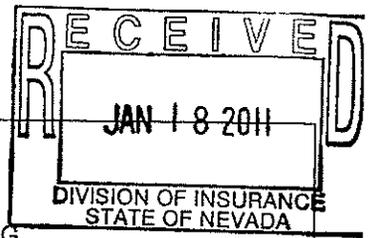


## **Attachment #2**

This attachment includes pages 1-3 and 10-49 of the official transcript of the State of Nevada Insurance Commissioner's Advisory Committee Meeting held on January 4, 2011. The MLR public meeting was conducted as part of the Advisory Committee Meeting. This attachment contains the pertinent transcription pages that address the MLR public meeting.



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TRANSCRIPT OF A PUBLIC MEETING  
OF THE  
COMMISSIONER'S ADVISORY COMMITTEE ON  
HEALTH CARE AND INSURANCE

ORIGINAL

Tuesday, January 4, 2011

10:00 a.m.

Held at the Nevada State Health Division  
Hearing Room, Suite 303  
4150 Technology Way  
Carson City, Nevada 89706

With Videoconferencing to the Bradley Building  
2501 East Sahara Avenue  
Real Estate Division Conference Room  
Second Floor  
Las Vegas, Nevada

REPORTED BY: SHANNON L. TAYLOR, CCR, CSR, RMR  
Certified Court, Shorthand and Merit Reporter  
Nevada CCR #322, California CCR #8753  
1381 Valley View Drive, Carson City, Nevada 89701

A P P E A R A N C E S

Board Members Present in Carson City:

Commissioner Brett J. Barratt  
Joy Gardner  
Mary Hoover  
Larry Matheis  
Janice Pine  
Lou Roggensack  
Judy Saiz  
Todd Thakar  
Dwight Hansen

Board Members Present in Las Vegas:

John Egermayer  
Larry Hurst  
Heidi Vasas  
James Wadhams, Esq.  
Marilyn Wills

Other Participants Present in Carson City:

Cliff King, Division of Insurance  
Glenn Shippey, Division of Insurance  
Jack Childress, Division of Insurance  
Jackie Rombardo, Esq., Division of Insurance  
Annette James, Division of Insurance

Allan Hanssen, Hometown Health Plan

Other Participants Present in Las Vegas:

Harland Amborn, Division of Insurance  
Constance Akridge, Esq.  
Mark Tabor, Coventry Health Care

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COMMISSIONER BARRATT: All right. Well, let's go ahead and go on the record. This is the time and the place set for the Commissioner's Life and Health Advisory Committee Meeting. The date is January 4th, 2011, and it's approximately 10:00 a.m. in the morning.

We are gathered here today in Carson City at -- where we at? 4150 Technology Way, Suite 303. This meeting is also being videocast to Las Vegas, our office there, at 2501 East Sahara.

This meeting was properly noticed and was posted in accordance with the requirements of NRS 241.020 and 233B of the Nevada Revised Statutes on or before December 28th.

With that said, I did mention that we are on the record today. Normally we do not have a court reporter at the Commissioner's Life and Health Advisory Committee meetings. However, because of the fact that we wanted -- we want to very accurately capture any public comments that are made today with regard to the medical loss ratio issue, we do have a court reporter here today. And a transcript will be available. You can get Shannon's card afterwards if you'd like a copy of that transcript.

Because we are -- because Shannon is here as a

1 policies in force of 57,881, covering 87,309 lives, was  
2 reported. 909 of the policies were basic or standard  
3 plans. And about 10 percent of all policies were  
4 child-only.

5 As of September 1st, 2010, the average loss  
6 ratio for the individual market in Nevada was 70.12  
7 percent.

8 For the group data call, which is due on  
9 Friday, this week, the 7th, it was sent out to 46  
10 carriers believed to be writing or having in force group  
11 health benefit plan business in Nevada. Of the 46  
12 carriers, only six have reported as of this morning. So  
13 I'm hoping that the other carriers have recovered  
14 sufficiently from New Year's and we'll get a lot of  
15 reports in the next couple of days. But I just wanted  
16 to emphasize that our due date for that is this Friday.  
17 And we've heard from very few carriers at this point.

18 That's all I have to report, Commissioner.

19 COMMISSIONER BARRATT: Thank you, Glenn. In  
20 order to maybe set up and kick off the next agenda item,  
21 can you talk just briefly about the importance of the  
22 medical loss ratio and really what it is that we're  
23 trying to do here today with regard to receiving public  
24 input on the issue?

25 MR. SHIPPEY: Yes, Commissioner. The -- and

1 let me repeat what the results revealed and that our  
2 market is currently at a medical loss ratio of close to  
3 70 percent. Federal law requires that carriers in the  
4 individual marketplace spend a minimum of 80 cents on  
5 the dollar, so a minimum loss ratio requirement of 80  
6 percent. There are some adjustments to that 80 percent  
7 based on the number of covered lives of a carrier.  
8 There's federal and state tax exclusions from that  
9 number.

10 So it is our estimate that, after the  
11 credibility adjustment, looking at it on a marketwide  
12 basis, after the credibility adjustment and, also,  
13 excluding federal and state tax, the target MLR in  
14 Nevada for the individual market is going to -- is  
15 around 74 percent, with our market currently sitting at  
16 about 70 percent, so about a four percent differential.

17 Carriers that do not spend at least the  
18 required amount, 80 percent under federal law, after  
19 adjustment, on average, 74 cents on the dollar, are  
20 going to be required to rebate the difference to  
21 policyholders. And that's, you know, effective, MLR is  
22 effective 1-1-2011.

23 COMMISSIONER BARRATT: Thank you.

24 At this point, I'd like to open up any -- open  
25 the forum up for any questions or comments anybody has

1 with regard to Glenn's report and the state of the  
2 individual market that we've been able to determine  
3 based on our data call.

4 In Las Vegas, are there any questions?

5 MR. HURST: Thank you, Commissioner. This is  
6 Larry Hurst representing Anthem Blue Cross and Blue  
7 Shield.

8 Just a -- some quick talking points on this MLR  
9 issue. The MLR section of the ACA states that the HHS  
10 secretary may adjust the MLR percentages for a state if  
11 the secretary determines that applying an 80 MLR may  
12 destabilize the individual market in that state. And  
13 while HHS has yet to establish the specific process to  
14 consider waivers or a transition on a state-by-state  
15 basis, the NAIC has suggested that HHS work with  
16 insurance commissioners in each state to determine  
17 whether a transition may be necessary. And, also, HHS  
18 has stated it fully expects to utilize the authority  
19 provided by the law.

20 Many states currently impose MLR requirements  
21 on the individual and small group markets, but most are,  
22 as we've heard, are significantly below an 80 percent  
23 MLR. And given such a significant change, it only makes  
24 sense to provide for a transition. We think it makes  
25 sense to gradually increase the MLR to 80 percent by

1 2013. And then, last, the MLR section permits the HHS  
2 secretary to adjust the 80 percent percentages for both  
3 the individual and small group markets.

4 COMMISSIONER BARRATT: Thank you, Larry.  
5 That's -- I think that's probably more, more discussion  
6 for agenda item four, which we'll get to next. But your  
7 point is well-taken, and we'll address that in just a  
8 minute.

9 What I'm looking for at this point is whether  
10 anyone has any questions about the data that our office  
11 analyzed in the individual market, the data that Glenn  
12 just presented.

13 Any questions on the data in Las Vegas?

14 MS. WILLS: This is Marilyn Wills. I have a  
15 question --

16 COMMISSIONER BARRATT: Marilyn, can you -- I  
17 know we just have one. Those of you haven't been in our  
18 Las Vegas office, they have the disadvantage of having  
19 to share one little microphone that they have to slide  
20 around the table.

21 So, Marilyn, do you have the microphone in  
22 front of you now?

23 MS. WILLS: I do now. I do. Is that better?

24 COMMISSIONER BARRATT: Yes.

25 MS. WILLS: Okay. Marilyn Wills. I have a

1 question about the data in the sense that some of the  
2 companies have already, apparently, implemented some  
3 commission changes for their agents and brokers. Was  
4 that -- when the data was collected, is it  
5 backward-looking in terms of what they're presenting, or  
6 is it forward-looking, this is what we anticipate our  
7 MLR to be in the coming year?

8 COMMISSIONER BARRATT: Glenn, can you please  
9 respond to that?

10 MR. SHIPPEY: Yes. Good morning, Marilyn. The  
11 data that I reported is as of September 1st, 2010. So  
12 it is not forward-looking. It does not consider  
13 adjustments that carriers plan to make to their target  
14 medical loss ratio.

15 MS. WILLS: Okay. Thank you.

16 COMMISSIONER BARRATT: Any other questions on  
17 the data in Las Vegas?

18 Any questions with regard to the data in  
19 Glenn's report here in Carson City?

20 Okay. Seeing none, we'll move to the big  
21 agenda item, agenda item number four, and solicit public  
22 input on the desirability of a medical loss ratio  
23 waiver.

24 And before we begin, I want to point out, from  
25 my perspective, we continue to use the word "waiver."

1 And I think what we're -- I'm sure no one in this room  
 2 has this misperception. But what we're really talking  
 3 about is a waiver of the application of the 80 percent  
 4 and the 85 percent medical loss ratio. So we're not  
 5 talking about, you know, a free-for-all and, you know,  
 6 no -- no sort of medical loss ratio analysis. We're not  
 7 really talking about across-the-board waiver and  
 8 nonapplication of the law. We're just talking about  
 9 an -- we're talking about a waiver of the requirement  
 10 that the 80 percent and 85 percent medical loss ratio be  
 11 met.

12 I also note that consistent with what Mr. Hurst  
 13 presented just a minute ago, that the regulations with  
 14 regard to the calculation of medical loss ratios really  
 15 didn't come out until November 23rd. So. And, you  
 16 know, they're effective now, well, a couple of days ago,  
 17 Saturday, beginning January 1st, 2011. And we  
 18 recognize, as well as the people that do the same jobs  
 19 we do in our sister states recognize, that that's a very  
 20 short time period and that there are some adjustments  
 21 that the market -- that will need to take place in the  
 22 marketplace, which may take longer than six weeks.

23 So with that said, Larry, did you have any  
 24 follow-up comments, or would you like to make any other  
 25 comments before we move on?

1 MR. HURST: I don't have --

2 COMMISSIONER BARRATT: Okay. Hang on. Wait  
3 till you get the microphone in front of you.

4 MR. HURST: Thank you, Commissioner. Again,  
5 Larry Hurst, Anthem Blue Cross and Blue Shield.

6 I don't have any other comments, but we  
7 certainly can get more information from our other 14  
8 states that are looking at doing this. And it looks  
9 like most of our states are going to apply for this  
10 waiver. And we know that nothing's been approved at  
11 this time, but this significant difference between what  
12 our state is and what it's supposed to be as of 1-1 just  
13 only makes sense that we should provide for a  
14 transition.

15 COMMISSIONER BARRATT: Thank you.

16 You know, I failed to ask Cliff and Glenn and  
17 our Life and Health team -- Jack is also here with us  
18 today -- if you have any further comments or if you have  
19 any comments on the desirability of the medical loss  
20 ratio before we open it up to public discussion and  
21 comment.

22 MR. KING: No.

23 COMMISSIONER BARRATT: Okay. Any other  
24 comments in Las Vegas?

25 MR. WADHAMS: Commissioner?

1 COMMISSIONER BARRATT: Yes?

2 MR. WADHAMS: This is Jim Wadhams. I just got  
3 a report from another meeting that -- that Mike Willden  
4 has just introduced a study that says that Nevada's  
5 health insurance premiums are seven to 10 percent below  
6 the national average. And I wonder if Cliff or any of  
7 the other staff have any comment on that, its -- the  
8 validity or accuracy of that, and then how that may play  
9 in any application for a waiver.

10 COMMISSIONER BARRATT: That's a report that I  
11 myself am not familiar with.

12 Glenn or Cliff, are you familiar with that?

13 MR. SHIPPEY: No.

14 MR. KING: I haven't seen it.

15 COMMISSIONER BARRATT: Is that report  
16 consistent with -- and I realize at this point it may be  
17 anecdotal. But is that consistent with your  
18 understanding of where our premiums in our marketplace  
19 here in Nevada are, that they're seven to 10 percent  
20 low?

21 My sense, and, again this is merely anecdotal,  
22 is that our health insurance premiums in Nevada are a  
23 little bit, a little bit higher. And part of that is  
24 based not only on just being a Nevada resident, but,  
25 also, when we look at the federally run high risk pool,

1 the premiums for that in Nevada are quite a bit higher  
2 than many other states. And those premiums, Glenn could  
3 speak better to how those premiums were calculated, but  
4 I believe those -- the federal risk pool premium was  
5 calculated based on existing premiums in the state.

6 Glenn or Cliff, can you respond more eloquently  
7 to Mr. Wadhams' inquiry?

8 MR. SHIPPEY: Commissioner, on your comment on  
9 the PCIP high risk pool rates, HHS did not consult with  
10 us. And we're still uncertain as to what the basis of  
11 their premium structure for Nevada is. It seems to be  
12 higher than the rates that we have on file in our  
13 office.

14 Generally speaking, Nevada does have a richer  
15 set of mandates than other states. So that does add to  
16 the cost of health care. But our individual market,  
17 because Nevada doesn't have the kind of safety net that  
18 many other states have in the form of its own high risk  
19 pool, there is a safety net for HIPAA eligible  
20 individuals in Nevada. But because it's -- we don't  
21 have guarantee issue elements to our marketplace outside  
22 of for those HIPAA eligible individuals, that may tend  
23 to keep our premium rates lower than other states that  
24 do have those safety nets.

25 But I am not familiar with a national study to

1 support that at this time. I'd have to take a look at  
2 exactly what market was identified and what kind of  
3 comparative study was used.

4 COMMISSIONER BARRATT: Glenn, speaking of the  
5 PCIP, are you aware of how the federal government, how  
6 they arrived at the premiums that they charge for people  
7 that are participating in that high risk pool? And I do  
8 want to note that the premiums were reduced by about 20  
9 percent, what, six or so weeks ago. But, I guess, I'm  
10 just commenting now. But we continue to be a little bit  
11 frustrated in the lack of individuals that are taking  
12 advantage of that risk pool.

13 But back on the question, do you know how that,  
14 those premiums were calculated?

15 MR. SHIPPEY: They were supposed to be based on  
16 the average rates in our marketplace, but they did not  
17 get any data from us, nor did they consult with us in  
18 determining those rates. And those rates do seem to be  
19 significantly higher than they should be. That was  
20 before they made an adjustment that's now effective this  
21 week. So I think the adjusted rates are more in line  
22 with where they should be.

23 COMMISSIONER BARRATT: So, I guess,  
24 Mr. Wadhams, to answer your question, although we  
25 certainly don't want to discount the report that you

1 have from Mike Willden's office, and I personally have a  
 2 great deal of respect for he and his team and the  
 3 operation that they have over there, but without having  
 4 that report and seeing the data and the market, the  
 5 marketplace we're talking about, I think it's difficult  
 6 for us to comment on, certainly, the validity of it.  
 7 Like I said, I'm not discounting the validity of it, but  
 8 on a -- just a purely ad hoc basis, it seems  
 9 inconsistent with my understanding of what our market is  
 10 compared to some other states.

11 MR. WADHAMS: Commissioner, I only raised that  
 12 because I just received that piece of information about  
 13 20 minutes ago, and it struck me as being inconsistent  
 14 with what my sense of the marketplace is as well. And  
 15 it just -- it creates, it creates questions that  
 16 probably need to be addressed in regard to that study by  
 17 the administration before we get into the legislative  
 18 session.

19 I'm just concerned sometimes when I hear an  
 20 insurance study come out of a welfare or human service  
 21 agency as opposed to your agency. I just think it's  
 22 important that perhaps it be looked into for future  
 23 reference.

24 COMMISSIONER BARRATT: You know, we already  
 25 have a meeting scheduled with Mike and some of the

1 members of his staff for later this week.

2 And, Cliff, I think we just came up with an  
3 agenda item suggestion.

4 MR. KING: I agree, Commissioner.

5 If I could, one additional comment on the PCIP  
6 rates. They were announced initially to be average  
7 rates without surcharge. However, they came out  
8 substantially higher than what we anticipated they would  
9 be.

10 When the Department of Health and Human  
11 Services, federally, announced that there was going to  
12 be a rate reduction, they didn't say it was because of a  
13 loss of support of it or experience with it. They said  
14 it in order to try to attract more people. And they've  
15 only attracted about 8,000 people nationally. In  
16 Nevada, as of the one report that we received, they had  
17 56 people in Nevada. And we anticipated that there was  
18 going to be somewhere on the order of close to a hundred  
19 thousand people eligible for it. So they did it as a --  
20 like a marketing ploy as opposed to an actuarially  
21 priced coverages program. So. That's it.

22 COMMISSIONER BARRATT: Yes, that's -- that, I  
23 think, is our perception. Again, we weren't directly  
24 involved in the setting of those rates and weren't  
25 consulted in that matter. But that does seem to be --

1 that's my perception as well.

2 Other questions in Las Vegas, or comments, or  
3 suggestions? We'll even take criticisms.

4 MR. WADHAMS: Sorry, Commissioner. We're  
5 trying to avoid passing around this microphone  
6 unnecessarily.

7 Larry Hurst just reminds me that -- and I  
8 think, Commissioner, you're well aware of it --  
9 the Nevada Association of Health Underwriters strongly  
10 supports the request for a waiver of the MLR in Nevada.

11 COMMISSIONER BARRATT: Thank you.

12 Well, while those of you participating in  
13 Las Vegas consider whether you may have some other  
14 questions or comments, and we'll come back to you, I'd  
15 like to open it up for questions or comments here in  
16 Carson City.

17 Mr. Matheis.

18 MR. MATHEIS: Larry Matheis, Nevada State  
19 Medical Association.

20 The question is really about, in seeking the  
21 waiver, I would assume that the federal government's  
22 going to expect that the data are standardized, using  
23 their definitions of medical loss ratio. I mean,  
24 otherwise, I don't see that it gets them where they want  
25 to go with all of this.

1           So, I guess, the question is the data that you  
2 collected, reported earlier, 70 percent, was that using  
3 what is now the federal standard of definition of what  
4 goes into a medical loss ratio, or do those need to be  
5 recalculated? And how will that be done?

6           COMMISSIONER BARRATT: Glenn?

7           MR. SHIPPEY: Thanks, Larry. Unfortunately,  
8 when we had to put this data call out, it was before we  
9 did get the guidance in the form of the interim rules  
10 from HHS. And in that guidance that came out recently,  
11 they do define the required elements to the waiver  
12 application.

13           So although the data we collected doesn't --  
14 isn't completely in sync with what they're asking, we  
15 can make adjustments and provide the required data  
16 elements that HHS is seeking for this application.

17           MR. KING: The regulation that was received, or  
18 released on November 23rd really laid out a two-fold  
19 piece of documentation to request this waiver. The  
20 first part is objective, meaning what are the numbers,  
21 how are the numbers supported. And those, we can work  
22 with the numbers and make adjustments, that kind of  
23 stuff.

24           The other piece is the subjective piece, will  
25 the market be disrupted by the implementation of an 80

1 percent MLR for small group and individual, 85 percent  
 2 for large group. That's the piece that's kind of the  
 3 wildcard. What happens if it's imposed strictly without  
 4 any kind of roll-in program, transition program,  
 5 something? And that's the piece that we're really  
 6 spending our time with, too.

7           At that time, we do not have any carriers who  
 8 have stated that they will be withdrawing from the  
 9 market, but we do have three carriers who have stopped  
 10 writing new business. Are they in the process of  
 11 evaluating the marketplace? And if so, they're going to  
 12 withdraw. And if they withdraw, there's over 500 lives  
 13 there that don't have a safety net. And those people  
 14 may not have a place to go. They would not be eligible  
 15 for the preexisting condition program. You have to be  
 16 uninsured for a minimum of six months to be able to  
 17 qualify for that program. So where would they go? We  
 18 do not have a high risk pool.

19           So we're trying to take into account what will  
 20 happen to our marketplace if this MLR is imposed without  
 21 any kind of transition. We have not had any carriers  
 22 achieving an 80 percent in the individual market in the  
 23 past. And so even though we have to recalculate --  
 24 again, the definitions didn't come out until  
 25 November 23rd. We're trying to take both pieces into

1 account. What do the numbers say? And what do the  
 2 people, what do the carriers plan on doing? What is  
 3 their -- what are their plans? How are they going to  
 4 accomplish this?

5 You know, in a normal insurance environment, an  
 6 insurance carrier will have good years and bad years.  
 7 And in the good years they can stockpile reserves and  
 8 surpluses to pay the losses of the bad years. Under  
 9 this program, they don't get to stockpile those  
 10 surpluses. They rebate them back to the policyholders.

11 Now, when we get to 2014, they'll be using a  
 12 three-year average. And that's all fine and well. But  
 13 for 2011, they're using one year. And that's a very  
 14 short window. So you either make money or lose money.  
 15 And if you make money, you're going to give it back.  
 16 You don't get to stockpile it for the future years when  
 17 you have a bad year.

18 That's what we're trying to be sensitive about,  
 19 is the subjective piece, what could possibly destabilize  
 20 our market and really screw things up for us. And we  
 21 want to avoid that.

22 COMMISSIONER BARRATT: And with regard to the  
 23 data call, Larry, I do want to point out that we feel,  
 24 in our office, oftentimes, you know, the chicken and the  
 25 egg. Do we go ahead and do the data call so we can

1 begin to get a sense of exactly what our individual  
2 market looks like and be proactive, or do we sit back  
3 and wait and see and, you know, be asked to do that?  
4 And in this case, we decided to be proactive.

5           You know, although we do communicate with the  
6 other states on a regular basis, you know, each state is  
7 its own -- is its own entity. And it's kind of  
8 interesting. Glenn developed our data call. And then  
9 several weeks after that, Alabama -- I think it was  
10 Alabama -- had a data call that they were, you know,  
11 showing everyone, you know, this is -- this is  
12 wonderful. This is a great model. And when Glenn  
13 looked at Alabama's data call, it ended up being very,  
14 very similar to the data call that we sent out.

15           So, you know, we're doing the best we can.  
16 It's unfortunate that the timing isn't quite -- quite  
17 what we -- well, it's less than ideal in certain  
18 instances. But we are trying to be proactive.

19           So, I guess, that's the best answer we can give  
20 you, is that, well, we're considering all aspects.

21           Other questions or comments in Carson City?

22           I thought we'd have a lot more questions and  
23 comments either in the north or in the south. I see the  
24 microphone moving in Las Vegas. Is there a question or  
25 comment?

1 We're not hearing you.

2 MS. AKRIDGE: What would be the time frame for  
3 the State of Nevada asking for a waiver, what would be  
4 the time frame in terms of, you know, your having to do  
5 that?

6 COMMISSIONER BARRATT: That is an excellent  
7 question. In the Thursday, every other Thursday  
8 meetings that we conduct, earlier in December, I had  
9 indicated that my intent was to request a waiver before  
10 the end of the year. However, after I made that  
11 commitment, there was a lot more movement on a national  
12 level with regard to the waiver.

13 The NAIC has -- the Washington lobbyist that  
14 the NAIC employs has indicated that the MLR at issue has  
15 really hit the national front, which is probably where  
16 it needs to be to get to any change or movement at this  
17 point, other than the states requesting a waiver or an  
18 adjustment.

19 And the NAIC and a number of commissioners have  
20 together developed a standardized, I guess, request form  
21 that states may consider utilizing when they ask for a  
22 waiver, an adjustment in the MLR.

23 All phone calls, conference calls that we  
24 normally participate on with both the National  
25 Association of Insurance Commissioners and the --

1 Secretary Sebelius's offices were cancelled the last two  
2 weeks due to the holidays.

3           And so I am eventually getting to your  
4 question, Ms. Akridge. We're kind of waiting right now  
5 to see what's going to happen on the national front.  
6 We're told, kind of, you know, if you read between the  
7 lines, that something is happening on the national  
8 front. I personally have received a letter from one of  
9 the Nevada senators on this very issue. And so our  
10 elected officials in Nevada are aware of this. The --  
11 Secretary Sebelius, her office is aware of these issues.

12           The NAIC on December 18th voted unanimously to  
13 form an executive level taskforce to examine this very  
14 issue. There are nine members of that taskforce, at  
15 least there were initially. Of course, everyone wants  
16 to get on it. I am fortunate enough to be one of those  
17 nine members. And then we haven't had a meeting again.

18           So, on the one hand, we're anxious to give our  
19 carriers, our brokers, our stakeholders some guidance  
20 with regard to an adjustment or -- an adjustment or  
21 request for application of the MLR waiver. We're a  
22 little hesitant to be the first ones out of the box,  
23 because we believe that there's more information being  
24 developed.

25           So the best answer I have, Connie, is we are

1 continuing to prepare our request. And that's an  
 2 ongoing process. And we will submit it when -- when we  
 3 have a little bit more information and whatever is  
 4 brewing comes to a head. We certainly -- we want to be  
 5 out front of them, but we don't want to be too far out  
 6 in front when you look at the states, the three states  
 7 that have already requested a waiver, which are Maine,  
 8 Iowa and Georgia. They were -- they really didn't have  
 9 a lot of data. And they were, essentially, denied. And  
 10 we want to have as much information in our request as  
 11 possible so that we don't run that same risk.

12 And I know a lot of states are exactly in the  
 13 spot where we are, where, you know, we're leaning one  
 14 way or another way, and those leaning towards getting a  
 15 waiver are still kind of analyzing the data. Although  
 16 we've completed that phase and are kind of waiting to  
 17 get maybe some consensus and some -- some group movement  
 18 together.

19 So the -- that was a very long way to say that  
 20 I'm not sure when we're going to request a waiver. We  
 21 want to wait and do it when we think it's the best time.  
 22 Which, you know, hopefully, would be by the end of  
 23 January. But I don't want to make a commitment that I  
 24 may not be able to keep. So we're ready to go when the  
 25 time is right. We have done the data analysis. We have

1 been developing the answers to the five criteria that we  
2 need to answer so that the HHS can evaluate our  
3 application.

4           Sorry I can't give you a better date. We just  
5 don't want to get out in front of something. We want to  
6 take advantages of any momentum that is to come here  
7 with the new Congress and, you know, the changes in the  
8 political climate.

9           MS. AKRIDGE: Thank you. Other than the three  
10 states that have already made the request, it looks like  
11 Florida is on the list of folks who are saying they're  
12 going to make the request. Are you aware of any other  
13 states that are -- you know, pretty much have indicated  
14 they're going to make the request and just haven't done  
15 it yet?

16           COMMISSIONER BARRATT: You know, yes. Yes, I  
17 am. Let me first say that we're very intently watching  
18 Florida. We think that we have similar type arguments  
19 that Florida would utilize, you know, with regard to, if  
20 a commission's reduced, the access to brokers and how  
21 that will affect people's access to health care  
22 insurance. So we're very anxious to see what Florida is  
23 going to do, and we are in contact with Florida.

24           I am aware of a number of other states that are  
25 leaning toward requesting a waiver. I know South

1 Carolina indicated that that was the way that they were  
2 leaning. You know, and I don't want to get -- I don't  
3 want to get this wrong. So my suggestion would be,  
4 there is a -- there's a news group or publication called  
5 Politico. I believe, it's probably an on-line -- an  
6 on-line news source.

7 MR. KING: Blog.

8 COMMISSIONER BARRATT: Blog. And I'm not  
9 saying it's completely, a hundred percent reliable. But  
10 that group is actively tracking what each state is  
11 doing. I've been interviewed by them myself. And that  
12 would probably be a good resource to look at.

13 The last time I saw one of their polls, it  
14 looks -- of those states that had indicated one way or  
15 another, it was basically 60 percent saying no and 40  
16 percent saying yes. But, you know, it's more leaning  
17 rather than actual firm commitments.

18 Glenn or Cliff, do you have anything to add to  
19 that?

20 MR. KING: Right on.

21 COMMISSIONER BARRATT: Okay. We've got a  
22 question here in Carson City.

23 MR. HANSSEN: Yes, thank you, sir.

24 Mr. Commissioner, Allan Hanssen with Hometown Health  
25 Plan.

1           Just a clarifying question, just orientating  
2 myself as to the discussion this morning. Mr. Shippey  
3 had mentioned that there was a credibility adjustment  
4 for the small group statistics that he quoted against  
5 the MLR.

6           And, Glenn, I was just inquiring as to whether  
7 or not that was due to plan size or your use of  
8 credibility adjustment. What was it pertaining to?

9           MR. WADHAMS: Commissioner, we can't hear the  
10 speaker.

11           COMMISSIONER BARRATT: I'm sorry.

12           Will you push your -- make sure you're -- you  
13 go green.

14           MR. HANSSEN: I'm sorry about that. Sure.

15           COMMISSIONER BARRATT: So if you could restate  
16 the question.

17           MR. HANSSEN: I'll restate it. The name is  
18 Allan Hanssen, with Hometown Health Plan, Reno, Nevada.

19           Just as a matter of orientation, I wanted to  
20 understand the technical term "credibility adjustment"  
21 that Mr. Shippey had used per the survey information  
22 that would have adjusted the MLR to 74 percent, versus  
23 the 70 percent that was surveyed.

24           MR. SHIPPEY: It's as defined within the HHS  
25 regulation that was released November 23rd. And it is

1 based on covered lives. And that's for the individual  
2 market. So we took a look based on all the individual  
3 carrier responses, and we aggregated those results to  
4 look at our entire individual market. And the average  
5 credibility adjustment that we are estimating is just  
6 under three percent based on covered lives.

7 MR. HANSSEN: And that's in reference to what  
8 HHS has published and the NAIC has recommended for plans  
9 1,000 to 75,000 fully insured members?

10 MR. SHIPPEY: That's correct. And, of course,  
11 this is greatly weighted by market share. We do have an  
12 individual market that is dominated by, you know, less  
13 than a half a dozen carriers. So it is very top-heavy.

14 MR. HANSSEN: Okay. Very good.

15 MR. SHIPPEY: But most of those 28 carriers  
16 that do have in force individual health benefit plan  
17 business are going to see substantially higher  
18 credibility adjustments based on covered lives. But it  
19 is, but it is market weighted here.

20 MR. HANSSEN: Right. Thank you very much.

21 And kind of a follow-up question for the  
22 discussion that, I think, Mr. Commissioner, you're  
23 looking for is not only what will Nevada do and  
24 recommend in the small group -- well, let's call it the  
25 individual space, which we're tracking on this

1 conversation, and whether or not overall health plans  
 2 total population should seek a waiver in Nevada.

3           For example, we have many small health plans  
 4 that are easily under 75,000 fully insured members  
 5 across all fully insured products, small group,  
 6 individual, as well as large group. And due to the --  
 7 kind of that rule of small numbers, the volatility of a  
 8 hit or a miss on the underwriting statistics around the  
 9 MLR could be quite disadvantageous for a smaller health  
 10 plan with a small total membership on the fully insured  
 11 book of business.

12           So I just raise it because I think we've been  
 13 specifying and kind of having our conversation around  
 14 the individual market. Which is very dynamic unto  
 15 itself. But if you look at the small plans in Nevada,  
 16 which there are quite a few, their total membership in  
 17 the aggregate across all product offerings are  
 18 substantially lower than most other states. And in  
 19 addition, the volatility of just a rule of small numbers  
 20 and total groups could have quite a volatile MLR from  
 21 time period to time period.

22           So I think it's a custom feature of Nevada that  
 23 small carriers and their total book of business may have  
 24 to be recognized in an MLR waiver in order for them to  
 25 sustain themselves in the future across all lines of

1 business, whether they be individual, small group or  
2 large group fully insured. Because we do have -- I'm  
3 representing Hometown Health. Plus, I'm clearly aware  
4 of other carriers in the state. Their total book of  
5 business is quite small. And for them to be in the  
6 competitive position, an MLR waiver might be anticipated  
7 for small plans across all products, not just the  
8 individual market space.

9           So it's something to consider, because I think  
10 it is -- again, you're talking about small plans that  
11 cover rural Nevada, plus the metropolitan areas have  
12 very large spans of risk in terms of the risk industry  
13 that is present in Nevada, which other states don't deal  
14 with, the casino industry, gaming industry, health care  
15 industry in particular, other industries, that the  
16 volatility of MLR is a nuance in the books of business  
17 in small plans, and large plans, for that matter, but  
18 definitely in small plans, by inducing kind of  
19 oscillation in the MLR. Because, you don't have the  
20 aggregate denominator of total members to just make  
21 mechanics of the math, you know, come and be a steady  
22 state from year to year.

23           So I just wanted to mention it. And I  
24 appreciate Mr. Shippey's reference to the small group  
25 and the credibility adjustment. But I think it does

1 beg, and even where HHS kind of started positing the  
2 idea of MLR, it does raise new plan issues as to whether  
3 or not new plans should be exempted, smaller plans, as  
4 to whether or not they should be exempted just due to  
5 the volatility and lack of credibility, actuarial  
6 credibility of total membership and the ability to take  
7 large hits or small hits in their MLR over the time  
8 periods.

9           And you do have a unique opportunity here in  
10 Nevada as an economic development issue about offering  
11 choice through multiple carriers, some domiciled in the  
12 state, some not domiciled in the state.

13           So I just raise it as I think it's a salient  
14 discussion for MLR waiver and its scope, kind of  
15 represented through the Commissioner's office for the  
16 future and looking for those waivers maybe in a  
17 different way, tailor-made to the State of Nevada's  
18 interest, both economic development and in the insurance  
19 conversation for the population.

20           So thank you very much.

21           COMMISSIONER BARRATT: Thank you, Mr. Hanssen.  
22 I appreciate your comments. And we certainly recognize  
23 the fact that the MLR requirement for small carriers  
24 will really impact them, especially when you consider  
25 the fact that we're starting in 2011 with 2011 only

1 data. So the oscillations that you're referring to, I  
 2 think, will be even greater until we get more years of  
 3 data to draw from and to average together. In the case  
 4 of a small carrier, you know, a thousand lives or  
 5 something, you get one hemophiliac in that group, and,  
 6 you know, your market will -- I like that oscillation  
 7 word; I'm trying to figure out how to use it again --  
 8 will -- it'll really go up.

9           You know, I think that this might be a good  
 10 point, Glenn, if you're able to. And Annette James is  
 11 also here. Annette is one of our actuaries. And  
 12 Annette has also participated on the very, very  
 13 technical working groups and subgroups at the NAIC on  
 14 this issue and others.

15           But between Glenn and perhaps Annette, can you  
 16 maybe talk to us and educate us a little bit more for  
 17 the record and for those here in the room, about these  
 18 credibility adjustments and at what levels the  
 19 credibility adjustments kicks in?

20           MR. HANSSEN: Mr. Commissioner, if I might just  
 21 interject one point that you just really kind of  
 22 highlighted here, HHS is very sensitive not only to the  
 23 math and the actuarial, but destabilization of the  
 24 marketplace clearly for small plans, the destabilization  
 25 of the marketplace for the plans, whether or not they

1 offer any more, don't write any new business, seek to  
 2 exit markets in the small group, in the individual space  
 3 or other kind of machinations, strategically, I think,  
 4 it is a very real consideration in any small health plan  
 5 here in Nevada.

6 So I appreciate it. Thank you very much.

7 MR. SHIPPEY: Commissioner, I first want to  
 8 just follow up on some of the points Mr. Hanssen made,  
 9 and then we are very sensitive to comments from carriers  
 10 that are concerned about their continuing ability to  
 11 write business, particularly in our most sensitive  
 12 markets, being individual and small group.

13 And those are the -- as Cliff King pointed out  
 14 earlier, that one of the components of this waiver  
 15 application is going to be subjective. And that  
 16 subjective analysis is going to depend on some of the  
 17 feedback. It's going to go beyond the data. It's going  
 18 to depend on feedback that we're going to get from  
 19 carriers like Hometown Health Plan that are out there  
 20 and assessing their book of business in the unique  
 21 aspects of the market that they may write in. And  
 22 Hometown Health, being a regional carrier up here in the  
 23 north, has different issues than a carrier that writes  
 24 in the entire state of Nevada and carriers that write in  
 25 many different states.

1           So that, that subjective analysis is going to  
 2 be a very important piece of our waiver applications in  
 3 the individual market and, if we decide to do one, in  
 4 our group markets as well.

5           Now, as far as the credibility adjustments --  
 6 and it was really the NAIC that developed them. And  
 7 Annette James did follow that a lot more closely than I  
 8 did. And she's in a better position, if we wanted to  
 9 get into the technical details of those adjustments.  
 10 But they do reflect, of course -- HHS did adopt what the  
 11 NAIC came up with through many months of discussions and  
 12 with open meetings, regulator only meetings, and it went  
 13 through the various levels within the NAIC, to take into  
 14 consideration the size of each carrier, and particularly  
 15 in the individual and small group markets.

16           As far as the waiver application for the small  
 17 group market, we don't have a lot of definition from HHS  
 18 in the 11-23 release of this regulation. The criteria  
 19 that was released in that regulation is really more  
 20 towards the individual market. And that's what we're  
 21 focusing on currently.

22           We do expect to get some more guidance when it  
 23 comes to the group markets. And we do -- I want to  
 24 emphasize that, for those carriers that haven't  
 25 responded to the group data call, it's important that we

1 do get a sense of where our market's at. We need to  
2 look at that data. And we also need to rely on the  
3 comments, such as the comments Mr. Hanssen made,  
4 representing Hometown, in order to do our subjective  
5 analysis of this marketplace.

6 COMMISSIONER BARRATT: So I do kind of want to  
7 circle back. And perhaps -- I don't mean to put you on  
8 the spot, Annette. I know you are not sitting here at  
9 the table, which probably indicates that you had not --  
10 we had not anticipated you talking about the credibility  
11 adjustments. But I think it would be helpful for me,  
12 although I know we've had many discussions on this  
13 issue, but also because we are creating a record here,  
14 of when we're talking about credibility adjustments,  
15 exactly what are we talking about? What are the  
16 numbers? What are the cutoff points?

17 Is that something you're comfortable speaking  
18 to off the hip?

19 MS. JAMES: Thank you, Commissioner.

20 COMMISSIONER BARRATT: Are you green?

21 MS. JAMES: I think I'm green, yes. Oh. Now I  
22 am.

23 Thank you, Commissioner. I don't have any of  
24 the numbers in front of me. So I can't speak  
25 specifically about exactly what the credibility

1 adjustment numbers are. I can speak in generalities. I  
 2 wish I brought it with me. I kind of contemplated that  
 3 but decided against it.

4 The credibility adjustment, essentially, if  
 5 there are fewer than a thousand lives, there is no  
 6 credibility adjustment. Those carriers that have fewer  
 7 than a thousand covered lives, essentially, will not be  
 8 subject to the MLR requirements, and so will not be  
 9 required to give rebates. And then, over 75,000 lives,  
 10 there's no credibility adjustment.

11 So the credibility adjustment is for carriers  
 12 between a thousand and 75,000 lives. And it goes from  
 13 zero, of course, to -- I believe, it's 8.4 percent. So  
 14 that -- let me back up a second. There are two, there  
 15 are two parts of the credibility adjustment. The first  
 16 part and the most significant part, that everyone's  
 17 talking about, is for the size of the carrier, the  
 18 number of covered lives.

19 The second part is the adjustment for cost  
 20 sharing, depending on the deductible. And there's a  
 21 formula, there's a formula to calculate what that  
 22 adjustment would be.

23 And I'm trying to come up with the numbers  
 24 there, and I falling short. But, essentially, the  
 25 highest credibility adjustment that a carrier can have

1 is -- if I remember correctly, is about 14.4 percent.

2 So what that means is --

3 COMMISSIONER BARRATT: I'm sorry. Did you say  
4 14.4 percent?

5 MS. JAMES: Yes.

6 COMMISSIONER BARRATT: Okay.

7 MS. JAMES: So that means that on the high end,  
8 a carrier with an MLR of 65.6 percent -- did I get that  
9 right? -- to get to 80 percent, would not have to have a  
10 rebate, if they meet, you know, if they hit the high end  
11 of both credibility adjustments.

12 Is that clear to everybody?

13 COMMISSIONER BARRATT: And, I guess, the  
14 purpose of these credibility adjustments, and it, I  
15 think kind of goes back to Mr. Hanssen's comments, is  
16 that the credibility adjustments under a thousand, it's  
17 such a small group that it's -- I want to keep using  
18 that word oscillating. It oscillates too much, too high  
19 and too low to really get -- to get credible data and to  
20 smooth that data over a period of time over a number of  
21 lives.

22 So, I guess, if you could speak just for a  
23 second on -- the purpose of the credibility adjustment,  
24 I believe, is to help those small carriers navigate  
25 those peaks and valleys and those oscillations.

1 MS. JAMES: That's correct, Commissioner. The  
 2 committee that studied the MLR credibility and took the  
 3 credibility report from an independent consultant, what  
 4 they were looking at is exactly that, not penalizing a  
 5 small carrier for the natural peaks and valleys of the  
 6 business. And so that addresses Mr. Hanssen's concerns  
 7 specifically.

8 Now, I want to, I want to point out a couple of  
 9 things. And maybe Glenn can correct me here if I'm  
 10 wrong. But my understanding is that the legislation  
 11 really gave HHS the authority to waive the MLR  
 12 requirements or waive the 80 percent requirement for  
 13 individual only and not for small group or large group.  
 14 Now, that's my understanding. So it may change in the  
 15 future. But right now, I don't believe that the states  
 16 have the authority to move on that point.

17 Then, secondly, I wanted to address  
 18 Mr. Hanssen's concern about new plans. And I believe  
 19 that the MLR regulation -- I wish I had it in front of  
 20 me; I could show you exactly where it is -- has an  
 21 adjustment for new plans. So it does anticipate the  
 22 fact that new plans will have some special  
 23 considerations.

24 Does that answer your question?

25 COMMISSIONER BARRATT: It does. It does. I

1 appreciate that, Annette.

2 Glenn, with regard to the waiver, I thought we  
3 could ask for a waiver on a small group. Is that --

4 MR. SHIPPEY: The 11-23 released by HHS  
5 outlines an application process for the individual  
6 market and not for the small group market or large group  
7 market at this point in time.

8 COMMISSIONER BARRATT: Okay. So perhaps  
9 there's more to come on that.

10 MS. JAMES: Maybe so.

11 COMMISSIONER BARRATT: Okay. I appreciate that  
12 clarification.

13 MR. KING: If I might add one little piece.  
14 Cliff King. Ms. James talked about the application of  
15 the credibility factor does not apply to carriers with  
16 more than 75,000 lives. We've got about 87,300 in  
17 Nevada total. No carrier has anywhere near 75,000  
18 lives. So this credibility does affect all of our  
19 carriers.

20 COMMISSIONER BARRATT: Ms. James, is the  
21 credibility on a state-by-state basis or nationally  
22 aggregated?

23 MS. JAMES: It's on a state-by-state basis.  
24 And let me also clarify. Thank you, Mr. King. For the  
25 2011 plan year, only 2011 will be considered as far as

1 looking at the size of the carrier.

2 When you get to 2012, if a carrier does not  
3 have the 75,000 covered lives, then they may aggregate  
4 with 2011. And so together that will be considered the  
5 covered lives for the 2012 application of the MLR  
6 calculation. And then, similarly, for 2013, for  
7 everybody, regardless of credibility, all three years,  
8 2011, 2012 and 2013, will be combined together.

9 COMMISSIONER BARRATT: And so, each year, the  
10 carriers would, essentially, then add together the  
11 covered lives. Say, they had 25,000 covered lives in  
12 the first year, 25,000 covered lives again in the second  
13 year, and 26,000 lives in the third year, then by the  
14 third year, the credibility adjustment wouldn't apply  
15 when you average those together?

16 MS. JAMES: That's correct.

17 MR. KING: But, again, if you have a really  
18 good year in 2011, and you have to give all your money  
19 back, and you have a really bad year in 2012 and '13,  
20 you don't have the surpluses there that you've  
21 accumulated from that one year. You had to pay it back  
22 in the form of a rebate.

23 That's one of the troubling pieces of this, is  
24 that it's one year for 2011 year, that's two years for  
25 2012, based upon an average. But you have to give that

1 back.

2 COMMISSIONER BARRATT: That's certainly true,  
3 and that's where the credibility adjustments are  
4 supposed to help. You know, how effective they'll be,  
5 you know, I suppose only time will tell.

6 Any other questions in Las Vegas or Carson  
7 City?

8 MR. HURST: Thank you, Commissioner. Larry  
9 Hurst, Anthem Blue Cross and Blue Shield.

10 Just to touch on that subjective topic, our  
11 marketplace isn't that different from a lot of states;  
12 but in a way, it can be. We have open network health  
13 plans. We have staff model health plans. And I'm just  
14 not sure what the advantage or disadvantage is when you  
15 control the cost of the policy and, also, the cost of  
16 the health care and, then, if you control the cost of  
17 the policy and don't control the cost of the -- or you  
18 know, an open network.

19 I just want to touch on that regarding the  
20 subjective portion of that application.

21 COMMISSIONER BARRATT: Thank you.

22 Other questions or comments?

23 Okay. Well, hearing none, let me kind of  
24 outline for you where we're at, at the Division of  
25 Insurance, and what my intentions continue to be. As

1 I've indicated previously, on our Thursday afternoon  
2 calls and at the last Life and Health Advisory Committee  
3 meeting is, at this point, based on the data that we  
4 have and speaking exclusively to the individual market,  
5 my intent is to request a waiver, and when I say a  
6 waiver, what I'm really saying is an adjustment, to the  
7 application of the medical loss ratio in the individual  
8 market for a period of one year of up to 10 percent.  
9 Because I think we do need to put some bumpers around  
10 the waiver.

11           And when you read the regulation that talks  
12 about what we all refer to as a waiver, what it says is  
13 it's always -- it uses the word -- what is it,  
14 reduction? Yes. It uses the word reduction  
15 considerably more often than a waiver.

16           So that would be our intent at that point, or  
17 my intent at this point is to request a waiver for a  
18 period of one year, a waiver of the application of up to  
19 10 -- application of the MLR in the individual market  
20 for up to 10 percent for a period of one year and  
21 request that we are allowed to reserve the right to  
22 request for -- request of future waivers of the  
23 application of the medical loss ratio in the individual  
24 market in subsequent years.

25           We're allowed, states are allowed to request a

1 reduction in the -- or waiver of the application of the  
 2 MLR for up to three years. Recognizing that the -- as I  
 3 indicated previously, recognizing that these regulations  
 4 came out on November 23rd and that the marketplace needs  
 5 some time to adjust, I don't want to go out for the  
 6 three years at this point, but we would like to go out  
 7 for a year and constantly and consistently be  
 8 reevaluating our marketplace to see what's happening in  
 9 the marketplace, what our consumers' experience is  
 10 saying, are they able to access the health care, are  
 11 there brokers and agents that are out there able to be  
 12 of service and available to our friends and neighbors  
 13 here in Nevada to answer the questions about health care  
 14 and health insurance options.

15           And if, at the end of the year or halfway  
 16 through the next year, if we are granted a waiver, it's  
 17 justified to ask for another year, then we'll do so.  
 18 But I think we would like -- I would like to kind of  
 19 take incremental steps, baby steps, as we see how health  
 20 care reform affects us, and we see what happens in  
 21 Washington with the -- with the political changes that  
 22 are occurring this week as the new Congressmen or  
 23 Congresspeople take office.

24           Any questions or suggestions on -- and I do  
 25 want to also note that what I've just outlined is

1 something that I have also shared with Mike Willden and  
2 his group and the Governor -- at the time it was the  
3 Governor elect, one of his staff members. And at this  
4 point, I've received no objection to proceeding in that  
5 manner.

6 And so unless and until I hear otherwise,  
7 that's the way I intend to proceed. And we will keep  
8 you informed and communicate as best we can with where  
9 we are in the process.

10 Ms. Akridge, your question, I wish -- as to  
11 when we're going to apply for this, I wish I could  
12 answer that better right now. We want to, we want to  
13 apply as soon as possible. But we want to have as many  
14 answers as possible. And if there's some momentum to be  
15 gained by when we know all the states are filing  
16 together or what we know may be successful, if we have  
17 more feedback from HHS, we want to be able to take  
18 advantages of those opportunities with our request.

19 So with that, are there any questions or  
20 comments with regard to the plan I've just outlined?

21 Okay. Well, we have a couple of other agenda  
22 items. They're not quite as -- well, I think they're  
23 all interesting. But they're not quite as probably --  
24 they didn't draw the crowd today that the last two items  
25 did. But the next item on our agenda is agenda item