DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C2-21-15
Baltimore, Maryland 21244-1850

April 8, 2011

By Email and Regular Mail

Brett J. Barratt
Commissioner of Insurance
Division of Insurance
State of Nevada Department of Business and Industry
1818 East College Pkwy, Suite 103
Carson City, NV 89706

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

Dear Commissioner Barratt:

We are writing to seek clarification regarding the status of Nevada's request for an adjustment to the medical loss ratio ("MLR") standard for its individual health insurance market. We hope to conclude our review of your request in a timely fashion, but will require resolution of the outstanding issue relating to the asserted confidentiality or unavailability of data in order to do so.

On March 14, 2011, the Center for Consumer Information and Insurance Oversight (CCIIO) provided to the Division of Insurance a description of the additional information Nevada should submit in order for the application to be considered complete based on the criteria established in the MLR interim final regulation. This information includes, among other things, data on the enrollment, premiums, and MLRs for insurers providing coverage in the Nevada individual market. Our understanding is that the Division believes it may be unable to provide the data for each issuer as required by 45 CFR §158.321(d) because these data had been collected prior to the publication of the MLR interim final regulation, under an understanding with issuers that their individual data would be kept confidential.

While we cannot evaluate the scope or content of any agreement or understanding the Division may have with issuers in the state, we believe that the vast majority of the information required under 45 CFR §158.321(d) is currently, or will soon be, publicly available. For example, certain premium, claim, and other financial data are available from the 2009 and 2010 NAIC financial statements. In addition, largely all of the data elements required by 45 CFR §158.321(d)(2),

except for enrollment and premium by product, are available from the 2010 NAIC Supplemental Health Care Exhibit ("SHCE"), which has been filed, or should have been filed, by issuers by April 1, 2011.

CCIIO will accept, for the purposes of concluding that Nevada's application is complete under 45 CFR §158.321(d)(2), the information that Nevada's issuers are required to report as part of the publicly available SHCE. CCIIO would reserve the right to request that Nevada provide the premium and number of enrollees by product required by 45 CFR §158.321(d)(1), if that information were deemed material to the decision of whether to grant an adjustment. If this information were requested by CCIIO, the Division of Insurance could either seek that information from the issuers, or request that the Secretary proceed to process the application without the information, as provided by 45 CFR §158.320.

In the alternative, pursuant to 45 CFR §158.320, if the Division continues to view the requested information as confidential, it may advise us in writing that the information required by 45 CFR §158.321(d) is unavailable or that collection of this information would be unduly burdensome, and request that CCIIO move forward with the determination without receiving this information. If the Division makes such a request, the 30-day application processing period will commence and we will consider your application solely based on the information you have provided to date, recognizing that much of the information needed to apply the criteria set out in the regulation for establishing that a market may be destabilized would not be part of the application.

Please submit any response to this letter and additional information to MLRAdjustments@hhs.gov. We would appreciate receiving a response within seven (7) calendar days from the date of this letter so that we can make a prompt determination on the Division's application. Please feel free to contact the Office of Oversight by email at MLRQuestions@hhs.gov if you have any questions or concerns.

Sincerely,

/Signed, GC, April 8, 2011/

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