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***Via:* Electronic Mail**
MLRAdjustments@hhs.gov

Dear Acting Director Cohen:

Thank you for your response to Nevada's application for an adjustment to the medical loss ratio ("MLR") standard. The following is the State of Nevada Division of Insurance's ("Division") response to your follow-up questions.

Question 1.

Page 3 of the letter portion of Nevada's application states that three carriers that have discontinued writing new business in Nevada "may withdraw completely from the marketplace unless there is some relief granted through an adjustment to the medical loss ratio standard." However, according to page 4 of Nevada's letter, these three carriers currently provide coverage to a combined total of 419 enrollees. Because each of these three carriers covers fewer than 1,000 enrollees, these carriers will not be subject to MLR rebate requirements in 2011 (45 CFR § 158.230(c)(3) and (d)). Please provide any additional information supporting your expectation that implementation of an 80% MLR standard may cause these three carriers to withdraw from Nevada's individual market.

Response 1.

There are 28 carriers writing individual coverage in Nevada. Of these, only 10 cover more than 1,000 lives and are subject to the rebate provisions of the MLR. Of the remaining 18 small carriers, the target loss ratio has traditionally been 65%. A one-year deferral of the 80 percent standard will allow these small carriers to adjust their business models to allow them to effectively compete in this new and dynamic environment and encourage a continued competitive market in Nevada.

Question 2.

As we read Nevada Revised Statute ("NRS") 689A.630(1)(d), it directs the Commissioner to "assist the persons covered by the discontinued insurance in this state in finding replacement coverage" if the Commissioner finds that a carrier should not be required to renew coverage. Please explain what methods the Commissioner may use, or has historically used, to assist enrollees of issuers leaving Nevada's individual market in finding comparable replacement coverage. Please also explain which, if any, of these methods would be available to the Commissioner to assist enrollees in finding replacement coverage if their issuer voluntarily exits Nevada's individual market due to the MLR standard.

Response 2.

NRS 689A.630(1)(d)[1] *pertains to a carrier that ceases operations as a result of a regulatory action initiated by the Commissioner related to the insurer's solvency. In such an instance, the Commissioner customarily, with the prior approval of the exiting carrier, contacts other carriers to encourage and facilitate their voluntary assumption of the exiting carrier's book of business. This voluntary assumption of all existing policies provides continued coverage and avoids "cherry picking." The Commissioner's authority does not extend to mandating such an assumption. If another carrier does not agree to assume the book of business, there may be a void in coverage since Nevada does not have a state high risk pool. The Commissioner could take a similar course of action should a carrier decide to voluntarily exit the Nevada market.*

Question 3.

Page 4 of Nevada's letter states, "While we are concerned with the disruption caused by the departure of these three carriers, we are also apprehensive that other carriers may opt to exit Nevada, further destabilizing the market and adversely affecting Nevadans." However, Nevada's response to 45 CFR § 158.321(d)(2)(ix) indicates that no issuers have provided notice of exit. Furthermore, page 3 of Nevada's letter states, "It is unknown, at this time, whether any of the other carriers offering individual health benefit plans in Nevada will choose to exit the market if the statutorily-required MLR standard is not adjusted." Please indicate any information that supports Nevada's concern that issuers are likely to leave Nevada's individual market absent an MLR standard adjustment.

Response 3.

Regulation 45 CFR § 158.330(e)(5)(2010) directs respondents to identify those carriers that are "reasonably likely" to exit the market absent an adjustment to the MLR standard. Although no carriers have provided a notice of exit, the three carriers' imposition of a moratorium on new business indicates the possibility that they may be considering leaving the state. The Division's letter responded that other carriers may opt to exit Nevada; it did not state they are "likely to leave."

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[1] NRS 689A.630 (1) (d) provides:

1. Except as otherwise provided in this section, coverage under an individual health benefit plan must be renewed by the individual carrier that issued the plan, at the option of the individual, unless:

(d) The Commissioner finds that the continuation of the coverage in this state by the individual carrier would not be in the best interests of the policyholders or certificate holders of the individual carrier or would impair the ability of the individual carrier to meet its contractual obligations. If the Commissioner makes such a finding, the Commissioner shall assist the persons covered by the discontinued insurance in this state in finding replacement coverage.

Question 4.

Page 2 of Nevada's letter suggests that five of the ten issuers in the Nevada individual market currently insuring at least 1,000 lives have MLRs below 80%. Please provide any analysis the Division has done regarding the ability of these five issuers to meet an 80% MLR standard or to provide rebates to enrollees.

Response 4.

Five of the ten carriers failed to meet the 80% MLR based on 2009 data. In order for these carriers to meet the 80% requirement, they must reduce administrative expenses, which has generally been achieved through reduced agent and broker commissions. Commissions are presently classified as an administrative expense and, therefore, are part of the MLR calculation.

If agents and brokers are less accessible to consumers as a result of reduced commissions, consumers will be harmed. The loss of agent resources eliminates one-stop shopping, assistance with policy underwriting, and ongoing consumer support. One of the main purposes of The Patient Protection and Affordable Care Act ("PPACA") is to provide insurance to the uninsured population; the agents and brokers are important participants in effectively accomplishing this objective.

Since the five issuers are large, solvent, national carriers, the Division does not have concerns about their ability to provide rebates.

Question 5.

The January 4 Advisory Committee's public meeting included a discussion of a study prepared by the Nevada Department of Health and Human Services regarding Nevada's health insurance premiums (Nevada's Attachment 2, pages 17-20). Please identify the report referenced and a means to obtain this report, and please indicate whether this report was taken into consideration in assessing competitiveness of Nevada's health insurance market.

Response 5.

The report mentioned in the transcript is the Nevada Department of Health and Human Services Presentation to Business Lobbyist Group on January 4, 2011, and is attached for your review. The information in this report is based on data gathered by the Kaiser Family Foundation, and the premiums shown for health insurance coverage include insured and self-funded programs in Nevada. The Division of Insurance does not regulate self-funded plans; consequently, the Division cannot verify the report data. Therefore, the Division did not take the report into consideration in assessing the competitiveness of Nevada's health insurance market.

Question 6.

The transcript of the January 4 Advisory Committee's public meeting (Nevada's Attachment 2) excludes pages 4 through 9. These pages appear to address a report by Glenn Shippey, the Division's actuary, on Nevada's individual market, which was based on data collected during the Division's data calls. Please provide pages 4 through 9 of the Advisory Committee transcript, as well as a copy of Glenn Shippey's report.

Response 6.

Attached is a copy of pages 4 through 9 of the Advisory Committee transcript and Mr. Shippey's report.

Question 7.

During the January 4 Advisory Committee's public meeting, Marilyn Wills, Director of the Nevada Governor's Office for Consumer Health Assistance, noted that some issuers had already implemented structural commission changes to raise their 2011 MLRs (Nevada's Attachment 2, pages 13-14). Please indicate which issuers have implemented such adjustments, describe the adjustments, and quantify the impact you expect these adjustments to make on these issuers' 2011 MLRs.

Response 7.

The two issuers that have implemented structural commission changes are Health Plan of Nevada and Sierra Health and Life Insurance Company. These issuers reduced commissions on new and renewal business from 15% and 10% to 8% and 5%, respectively, effective January 1, 2011. This change enabled the issuers to re-file their rates, changing their target loss ratio from 65% to 77%. With the removal of premium tax, the 77% loss ratio will equate to approximately 80% MLR.

Question 8.

Page 2 of Nevada's letter states, "The Division has received rate filings from carriers using the new 80% MLR standard to price their business issued or renewed in 2011." Please indicate which carriers have submitted rate filings priced to an 80% MLR.

Response 8.

The carriers that have submitted rate filings priced to an 80% MLR are Health Plan of Nevada, Inc. and Sierra Health and Life Insurance Company.

I appreciate the opportunity to respond to your questions and hope the provided information will assist you in your assessment of the Division's MLR adjustment application. Please feel free to contact me directly by phone at (775) 687-0771 or by electronic mail at icommish@doi.state.nv.us if you have any additional questions or concerns.

Respectfully,

Brett J. Barratt
Commissioner of Insurance

Attachments

c: Brian Sandoval, Governor, State of Nevada
Senator Harry Reid
Senator John Ensign
Congresswoman Shelley Berkley
Congressman Joe Heck
Congressman Dean Heller
Terry Johnson, Director, Department of Business and Industry