



April 18, 2011

By Email and Regular Mail

Andrew W. Hamm
Commissioner of Insurance
North Dakota Insurance Department
600 E. Boulevard Ave
Bismarck, ND 58505

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

Dear Commissioner Hamm:

On April 18, 2011, the Center for Consumer Information and Insurance Oversight ("CCIIO") emailed you a letter regarding information the North Dakota Insurance Department ("NDID") must submit in order to complete its application for an adjustment to the medical loss ratio ("MLR") standard for the North Dakota individual health insurance market. Although the NDID has not yet finalized its application, CCIIO has, in the interest of expediting the process, performed a preliminary review of the information the NDID has already submitted.

Based upon that review, we have some follow-up questions regarding the information the NDID has already submitted with its application, dated March 18, 2011. These questions are distinct from the information that our separate April 18 letter indicates the NDID must submit before its application is deemed complete. Application completeness, and hence commencement of CCIIO's 30-day application processing period, will not be impacted by the timing of the NDID's response to the follow-up questions listed below. Nevertheless, prompt responses to the questions in this letter will greatly assist the Secretary in making a prompt determination as to whether to grant the NDID's request for an adjustment to the MLR standard. We would consequently appreciate receiving the NDID's responses within seven (7) calendar days from the date of this letter. The responses should be submitted to MLRAdjustments@hhs.gov. Please understand that after receiving the NDID's complete application we may have some additional questions.

Please provide the following information:

1. Title 45 CFR §158.343 provides that any State that submits a request for adjustment to the MLR standard may hold a public hearing with respect to its application. Please indicate whether the NDID has provided a forum for public input regarding the NDID's application for an adjustment to the MLR standard. If there has been public input (other than the survey of health insurance companies noted in the NDID application and the letter from the National Association Of Insurance and Financial Advisors Of North Dakota included as Attachment C to that application), please provide copies of the correspondence, comments or other input the NDID has received in connection with its request for an adjustment to the MLR standard.
2. Page 1 of the NDID's letter notes that it has had "many discussions with insurance carriers, the producer community and other stakeholders on the MLR percentage." Please identify who those other stakeholders were.
3. As part of the NDID's process of deciding whether to request an MLR waiver, page 1 of the letter portion of the NDID's application states that "the Insurance Department conducted a survey of health insurance companies offering individual products in North Dakota. [...] Eight companies were contacted; six responded." According to page 2 of the NDID's letter, "North Dakota currently has nine companies selling individual health insurance policies." Please identify the eight companies included in the survey and identify and explain why the ninth company was not included in the survey.
4. Page 1 of the NDID's letter notes that two companies' responses to the survey described in Item 3 above included statements that "the absence of an MLR waiver may cause carriers to terminate existing blocks of business and leave the market." In addition, page 4 of the NDID's letter notes that "One carrier has stated that without a transition period, carriers may choose to terminate existing blocks of business to avoid future solvency issues." Please identify the carriers that made these statements and clarify whether carriers have identified any specific issuers that they believe may terminate existing blocks of business.
5. Page 1-2 of the NDID's letter notes that one of the surveyed issuers stated that it "saw no need for a phased-in approach" to the 80 percent MLR standard, "anticipating it would meet the requirement throughout 2011-13." Please identify that issuer.
6. Page 2 of the NDID's letter states that, of the nine companies selling individual insurance in the State, "Two of these companies were not selling in the state two years ago." Please identify these two companies, both of which entered the North Dakota individual market after the North Dakota legislature lowered the State's MLR from 65% to 55%. If not already provided in the table labeled "Medical loss ratios" in Attachment B, please provide the MLR of these two companies for each year since their entry into the North Dakota individual market.
7. Page 2 of the NDID's letter states that the addition of two new insurers and six new individual policies in the State over the last two years "indicates a strengthening in the individual market over the past several years" that "has been very advantageous for

consumers in North Dakota.” Please provide any data that demonstrate the ways in which consumers have benefited from the increased competition in the State’s individual market over the last several years, such as data demonstrating that premiums have decreased or increased less than projected over the last several years.

8. Please explain the process, calculations, and assumptions used to generate the figures provided in the table labeled “Estimated PPACA MLR for individual market business in North Dakota” in Attachment B.
9. As we read N.D.C.C. §26.1-36.4-07, it appears that all issuers in the individual market in North Dakota are required to offer a “basic health benefit plan” and a “standard health benefit plan.” If so, please provide the total enrollment in these plans by issuer, the premiums for these plans, and a description of the benefits offered under these plans.
10. As we read N.D.C.C. §26.1-36-12.5, it appears that issuers in the individual market in North Dakota are allowed to offer consumers a “basic health insurance policy” exempt from State-mandated benefits. Please indicate which, if any, plans from the data provided in Attachment A to the application qualify as “basic health insurance polic[ies].” If other plans not listed in Attachment A to the application qualify for exemptions from State-mandated benefits, please identify these policies and provide the enrollment in the policies.
11. As we read N.D.C.C. §26.1-36.4-04, in addition to HIPAA portability requirements, all issuers in North Dakota are required to credit prior coverage under an individual policy towards a pre-existing condition exclusion period if there was no break in coverage of more than 63 days. Please explain the applicability of this provision to the North Dakota individual market and describe how creditable coverage is defined.
12. Please clarify the calendar year that pertains to the data in the table labeled “Premium and enrollee information for all individual major medical products in ND” in Attachment A. If the data are for 2009, please explain why the sums of the premiums for each of the first three insurance companies (Medica, American Republic, and World) listed in the table labeled “Premium and enrollee information for all individual major medical products in ND” are not equal to the 2009 figures given for those companies in the Attachment A table “Total Earned Premium on individual market products in North Dakota.”
13. In the Attachment A table “Total agent and broker commissions on individual market business in North Dakota,” Time Insurance Company’s 2010 commissions are marked as “n/a.” Please confirm that Time Insurance Company did not pay commissions in 2010. If Time did pay commissions, please provide that data.

We look forward to receiving the requested information so that the Secretary can make a fully informed assessment and determination. As noted above, this information is separate and apart from whether the NDID’s application for an adjustment to the MLR in its individual market is complete.

We appreciate the NDID's cooperation in working together to implement the Affordable Care Act in the best interests of all stakeholders. Please feel free to contact the Office of Oversight by email at MLRQuestions@hhs.gov or by phone at (301) 492-4457 if you have any questions or concerns.

Sincerely,

/Signed, GC, April 18, 2011/

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