



September 07, 2011

By Email and Regular Mail

Jan Graeber
Deputy Commissioner and Chief Actuary
Life/Health Division
Texas Department of Insurance
333 Guadalupe
P.O. Box 149104
Austin, TX 78714-9104

Re: Texas' Request for Adjustment to Medical Loss Ratio Standard

Dear Deputy Commissioner Graeber:

Thank you for the Texas Department of Insurance ("Department")'s application for an adjustment to the medical loss ratio ("MLR") standard for its individual health insurance market. In order for the Department's application to be complete, please provide the information listed below.

Please note that 45 CFR §158.345(a) provides that the time frame for the Secretary to determine whether to grant the Department's request begins only when the complete application is received.

1. At this time, the Center for Consumer Information and Insurance Oversight ("CCIIO") will provisionally accept information regarding each issuer's number of enrollees and amount of premiums earned in the Texas individual market at the company level, rather than by product. CCIIO reserves the right to request information regarding each issuer's premium and number of enrollees by product, as required by 45 CFR §158.321(d)(1), if CCIIO determines that such information is material.

However, we ask that the Department comment upon whether any of the issuers listed in the Excel attachment to the Department's application offer unique products for which there are no comparable products offered by other issuers. Further, please comment upon whether the products offered in the Texas individual market are generally comparable to each other in product design and cost.

2. Please provide the most recent 2010 Supplemental Health Care Exhibits ("SHCEs") for each issuer that has at least 1,000 life-years in the Texas individual market. Please include the 2010 SHCEs for New York Life Ins. Co.; American Medical Security Life Ins. Co.; American Republic Ins. Co.; American National Life Ins. Co.; New Era Life

Ins. Co.; and National Health Ins. Co., which may not have been included in the Department's application, as well as Southwest Life & Health Ins. Co. and issuer "AA", unless the latter two issuers are no longer active in the Texas individual market. In the alternative, please confirm that the Department does not wish the Secretary to take these issuers' information into consideration in making a determination. Please also provide the 2010 SHCE for any other issuer that the Department wishes CCIIO to consider in making a determination with regard to the Department's application.

3. Page 2 of the Department's application states that the Department conducted a data call to gather the data necessary for the Department to complete its application. Please confirm the specific time period represented by the data and please provide a copy of the entire questionnaire submitted to the issuers. Please advise whether the Department believes that the data collected in the Department's data call provide more accurate estimates of issuers' MLRs and rebates than do the 2010 SHCEs. If that is the case, please ask each issuer to provide detailed information about the assumptions used to produce the estimates in the Excel attachment to the Department's application, including, but not limited to: whether significant assumptions were made regarding future business trends; what assumptions, if any, were used to estimate the amount of quality improvement activities and taxes; and whether the credibility adjustments included deductible factors and, if so, what such factors were.
4. With regard to the exhibit entitled "158.321(d)(2)" of the Excel attachment to the Department's application, please explain why issuers "H", "W" and "Z", which appear to be partially credible, did not include credibility adjustments when calculating their MLRs in the column labeled "PPACA MLR with Credibility Adjustment." Further, please explain why issuer "T" included a negative credibility adjustment.
5. For the issuers listed on the exhibit entitled "158.321(d)(2)" of the Excel attachment to the Department's application, please identify those that have indicated or suggested to the Department that they plan to price their products to meet an 80 percent MLR beginning in 2011 or 2012.
6. Please provide the name of each issuer listed in the exhibit entitled "158.321(d)(2)" of the Excel attachment to the Department's application that has not specifically requested that its identity remain undisclosed and state whether or not each issuer has filed a 2010 Supplemental Health Care Exhibit.
7. Title 45 CFR §158.322(c) requires an estimate of the rebates that would be paid by each issuer for the 2011, 2012, and 2013 MLR reporting years if issuers in the individual market must meet an 80 percent MLR standard in each of those years. The exhibit entitled "158.321(d)(2)" to the Department's application provides such an estimate for 2011. Please also provide estimated rebates that would be paid by each issuer in the MLR reporting years 2012 and 2013 if issuers in Texas individual market must meet an 80 percent MLR standard. Please provide such information for each issuer that has not specifically stated that it is unable to provide forward-looking data.
8. Title 45 CFR §158.322(d) requires an estimate of the rebates that would be paid by each issuer for the 2011, 2012, and 2013 MLR reporting years if issuers in the individual

market must meet the MLR standard that the Department proposes for each of those years. On page 23 of The Department's application packet, the Department provides aggregated rebate estimates for the entire market for these years (under a 71 percent standard for reporting year 2011, 74 percent for 2012, and 77 percent for 2013). Please provide separately for each issuer the estimated rebates that would be paid for MLR reporting years 2011, 2012, and 2013 if issuers must meet the MLR standards that the Department proposes. Please provide such information for each issuer that has not specifically stated that it is unable to provide forward-looking data.

9. Please confirm that no issuer in Texas' individual market has submitted a "withdrawal plan" as referenced in 28 Texas Insurance Code ("TIC") §§827.001-827.011 and 28 Texas Administrative Code ("TAC") §§7.1801-7.1808. If the Department has received a withdrawal plan from an issuer in the individual market, please indicate the issuer, the date the plan was submitted, and whether the plan was approved, modified, or limited.
10. Page 14 of the Department's application references TIC §§827.001-827.011 and 28 TAC §§7.1801-7.1808 as the authorities governing an issuer's withdrawal from the individual market. As we read TIC §§817.003 and 817.005(a), the Commissioner shall approve the issuer's withdrawal plan if the plan provides for (1) meeting the issuer's contractual obligations; (2) providing service to the issuer's policy holders and claimants; and (3) meeting any statutory obligations. TIC §817.005(b) allows the Commissioner to "modify, restrict or limit a withdrawal plan as necessary if the Commissioner finds that a line of insurance subject to the withdrawal plan is not offered in a quantity or manner to adequately cover the risks in Texas or to adequately protect the residents and policyholders in Texas." Please clarify what, if any, additional guidelines, guidance, or requirements the Commissioner uses in determining whether to approve, limit, or restrict withdrawals from the individual market. Such information may be in the form of statute, regulation, or official and unofficial guidance.
11. As we read 28 TAC §7.1806, a withdrawal plan shall be deemed approved if a hearing is not held within 30 days of filing of the plan, or if the plan is not denied within 30 days after a hearing is held. Please indicate the shortest timeframe in which an issuer could effectuate a withdrawal from the Texas individual market.
12. As stated by the Department on page 15 of its application, TIC §827.006 prohibits an issuer that withdraws from writing all lines of insurance in Texas from re-entering the Texas health insurance market for a period of five years, unless the issuer receives the Commissioner's approval. As further explained by the Department, TAC §7.1808 provides that an issuer that withdraws from only a single line of insurance in Texas may re-enter the market at any time, so long as the issuer receives the Commissioner's approval. Please comment on what, if any, additional guidelines, guidance, or requirements the Commissioner may use in determining whether to permit an issuer to re-enter the individual market. Such information may be in the form of statute, regulation, or official and unofficial guidance.
13. Pages 16 through 20 describe Texas' mechanisms to provide options to consumers in the event an issuer withdraws from the individual market and specifically outline provisions related to the Texas Health Insurance Pool ("the Pool"). Please confirm whether or not

the Pool is currently accepting enrollees and whether or not the Pool has an open enrollment period. Please also confirm the current number of enrollees in the Pool, and discuss its current capacity to handle additional enrollees.

14. Pages 9 and 13 of the Department's application state that eight issuers have less than 11% of their total individual business in Texas, and therefore may choose to withdraw. Please identify these eight issuers.
15. With regard to Appendix 2 of the Department's application entitled "Technical Workgroup Meeting Minutes," please identify which issuers' representatives have made the following statements:

"Another representative said that the mutual holding company has already begun to take action to meet the MLR requirements by considering cutting quality programs and agent commissions. She suggested that these cutbacks will make clear to states that a market disruption will result from MLR standards." (p. 43 of the Department's application)

"The representative explained that some companies, including the one she represents, were already taking action [regarding agents as a result of the MLR standards] in anticipation of the MLR requirements." (p. 44 of the Department's application)

Please also confirm whether these are the issuers that have indicated that they "plan to alter their commission schedules once contracts expire to cover the costs of anticipated rebates," as stated on page 9 of the Department's application.

Please submit the information listed above to MLRAdjustments@hhs.gov.

Thank you in advance for your prompt reply. We look forward to working together to implement the Affordable Care Act. If you have any questions during this process, please contact the Office of Oversight by email at MLRQuestions@hhs.gov or by phone at (301) 492-4457.

Sincerely,

/Signed, GC, September 07, 2011/

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