

# TEXAS HOUSE OF REPRESENTATIVES

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**LON BURNAM**  
DISTRICT 90 • FORT WORTH

December 8, 2011

The Honorable Kathleen Sebelius  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D. C. 20201

Re: Comments on Texas Medical Loss Ratio Adjustment Request

Dear Secretary Sebelius,

On behalf of the residents and policy holders of House District 90 in Fort Worth, Texas, I respectfully urge you to reject Texas' request to delay full implementation of new medical loss ratio (MLR) rules. *If health insurance companies in Texas are allowed to maintain MLR's that are lower than what is required under law, Texas consumers will pay a steep price.*

Starting in 2011, the Affordable Care Act (ACA) requires insurance companies to spend at least 80 percent of premium dollars on actual medical expenses (health care services and quality improvements), rather than on overhead, marketing, advertising, or bonuses. If insurers fail to comply with these standards, they must provide rebates to policyholders. This important provision of the ACA makes crucial strides toward holding insurance companies accountable for how they spend consumers' premium dollars and places downward pressure on insurance premiums.

**If the Texas request for an adjustment to MLR standards is granted, hard working Texas families will lose more than \$260 million in rebates anticipated to be paid out over the next three years.** That is an average loss of \$350 for each person covered by individual health insurance -- a significant amount for low and middle-income Texans that would also provide a much-needed boost to our economy.

The goal of this rule is to provide an incentive for insurance companies to operate more efficiently and to use customers' premium dollars wisely. If insurers cannot meet this reasonable standard by improving their operations, then consumers shouldn't have to waste money on low-quality, inefficient health plans. It's worth noting that several carriers in this market are already exceeding the new requirement, demonstrating that the standard is clearly achievable.

Adjustments to the MLR standard may be granted by the Department of Health and Human Services (HHS) only if a state demonstrates that there is a "reasonable likelihood" that the requirement "may

destabilize the individual market in the state.” (45 C.F.R. § 158.301) Based on the significant amount of data posted on the HHS website,<sup>1</sup> I believe Texas has failed to make its case for an adjustment.

There is insufficient evidence to support the Texas Department of Insurance’s (TDI’s) claim that the minimum MLR requirement may result in a destabilized individual market in Texas, or that insurers will exit the market, leaving Texans without coverage options. *In fact, TDI surveyed insurers in Texas and found those that cover more than 90% of the Texas market intend to stay in Texas, regardless of whether an adjustment is granted. Only two surveyed insurers indicated an intention to leave, and together they cover just 0.68% of the market.* If these small insurers do exit the market, it will not have a destabilizing effect. Insurers have known about the rule since it was proposed in 2010, giving them plenty of time to implement business decisions to improve their medical loss ratios.

Texas law requires that if an individual market insurer pulls out of the state, it cannot re-enter for five years.<sup>2</sup> Having access to the greatly expanded and subsidized market that will start in 2014 provides a strong incentive for insurers to maintain service to their Texas customers now.

As we move forward with implementation of the ACA in Texas, retaining the reforms which protect the interests of consumers is vital for the law to be successful. **The MLR requirement is an important consumer protection to reduce premium costs and ensure the quality of care; it should not be weakened.** For these reasons, I urge you to deny Texas’ application that would increase insurance companies’ profits at the expense of Texas policy holders by allowing insurance companies an adjustment from the reasonable MLR standards.

Thank you in advance for your consideration in this matter of such importance to Texas families.

Sincerely,



Lon Burnam

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<sup>1</sup> [http://cciio.cms.gov/programs/marketreforms/mlr/mlr\\_texas.html](http://cciio.cms.gov/programs/marketreforms/mlr/mlr_texas.html)

<sup>2</sup> 28 Texas Administrative Code § 3.3038