NPAF National Patient Advocate Foundation

The Patient's Voice | *since* 1996

Submitted By E-Mail

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

Re: Request for Adjustment to the Medical Loss Ratio (MLR) for the State of Texas

Dear Secretary Sebelius:

NPAF is a non-profit organization dedicated to improving patient access to healthcare services through both federal and state policy reform. Its mission is to be the voice for patients who have sought care after a diagnosis of a chronic, debilitating or life-threatening illness. NPAF has a fifteen year history of serving as the trusted patient voice. The advocacy activities of NPAF are informed and influenced by the experience of patients who receive direct, sustained case management services from our companion organization, Patient Advocate Foundation (PAF). In 2010, PAF resolved 82,963 cases nationally and provided information to almost 4 million online contacts.

Patients suffering from a chronic, debilitating or life-threatening illness understand that health insurance coverage too often determines whether they will have access to necessary health care services. The challenges they face in trying to maintain the cost of coverage while battling illness escalates their need to assure value of premium expenses. NPAF recommends HHS review the State of Texas's request for MLR adjustment from a patient-centric perspective. NPAF is concerned that granting the MLR adjustment will likely have a deleterious effect on consumers which will be exacerbated when those consumers become patients.

The medical-loss ratio (MLR) was designed to ensure that Americans receive value for their premium dollars. It provides consumers with an ability to calculate how their premium dollars are spent by identifying the total premium revenue that health plans devote to clinical services, as distinct from administration and profit.

The Patient Protection and Affordable Care Act (PPPPACA) sets a minimum level of spending on medical benefits and quality improvement at 80% of premium revenue

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In the individual and small-group markets.[1] The Congressional Budget Office (CBO) determined the 80% minimum MLR in the individual and small-group markets was attainable by efficiently-operated insurers. NPAF encourages HHS to consider the CBO report as well as the intent of the MLR when considering requests for MLR adjustments.

NPAF recognizes that HHS must consider market forces if it is to assure consume access to health insurance products. The PPACA allows adjustments to the MLR to be granted only if "the Secretary determines that the application of such 80 percent may destabilize the individual market" in a state. HHS regulations[2] allow state adjustment of the MLR standard only if there is a "reasonable likelihood" that the requirement will cause market disruption.

The Texas Insurance Department provides the following as justification for the need for MLR adjustment:

> "Without an adjustment, the current MLR requirement will force carriers, regardless of size, to make dramatic cuts in their expense structures to remain profitable. Such cuts are likely take the form of reduced commissions for agents and brokers. It is also likely that a number of carriers would exit the market, choosing instead to focus on select products and states. The loss of these carriers would constitute a material difference in the availability of health insurance options and would decrease competition, which is vital to ensuring the highest quality and value of individual coverage."

While NPAF recognizes the importance of the insurance business community in insurance market disruption considerations, consumer value indicators of extant health insurance products are likewise an important market disruption factor. PAF case managers collect data on the patients they serve and compile an annual Patient Data Analysis Report (PDAR). The 2010 PDAR data on top insurance issues for patients served by PAF from Texas reveal important consumer value indicators of health insurance products:

Out- of- pocket cost - Pharmaceutical	42.47%
Out -of-pocket cost - Facility/doctor visits	28.12%
Out- of- pocket cost - Inability to afford Medicare Part D cost share	7.76%
Premium assistance	5.88%
General benefit/coverage questions	4.82%
Deductible assistance	3.06%
Out-of-pocket cost - Radiation	2.71%
Coding and Billing errors	1.88%
Benefit exclusion	1.65%
Out-of-Pocket Cost – Medical (i.e., DME, wigs)	1.65%

[1] Pub. L. No. 111-148 ss1001(5), 1010(f), 124 Stat. 119, 130, 885 (2010) (inserting and amending a new section 2718 in the Public Health Service Act (PHSA)

[2] 42 C.F.R. § 158.301

Market destabilization considerations must include consumer impact informed by patient data if they are to be informed considerations. For example, HHS should consider whether granting an MLR adjustment sends a message to insurers that insurance oversight will not be as consumer-centric as indicated in relevant PPACA language. The NPAF invites HHS policymakers to submit requests for PAF patient data to ensure its MLR adjustment request deliberations are well informed of potential consumer impact.

NPAF is concerned with the information submitted by Texas Insurance Department regarding rebate estimates. The table below estimates likely foregone consumer rebates:

Carrier	Estimated Rebate at 71% PPACA MLR	Estimated Rebate at 74% PPACA MLR	Estimated Rebate at 77% PPACA MLR
Carrier A	$9,756,604	$36,365,524	$62,974,444
Carrier B	$0	$0	$132,527
Carrier C	$9,450,861	$12,750,032	$16,049,202
Carrier D	$9,740,769	$12,523,846	$15,306,923
Carrier E	$0	$403,012	$4,433,136
Carrier F	$2,439,403	$3,459,602	$4,479,801
Carrier G	$0	$0	$0
Scott & White Health Plan1	$0	$0	$0
Carrier I	$0	$815,055	$1,755,504
Carrier J	$381,386	$1,096,600	$1,811,814
Southwest Service Life Ins. Co.	$1,527,446	$1,828,916	$2,130,385
Carrier L	$0	$0	$0
Carrier M	$0	$0	$0
Standard Life and Casualty Ins. Co.	$842,219	$978,795	$1,115,371
Carrier O	$746,106	$1,107,125	$1,468,144
Carrier P	$0	$0	$0
Carrier Q	$0	$0	$0
Celtic Ins. Co.	$0	$0	$0
Citizens National Life Ins. Co.1	$392,751	$448,574	$504,397
Southern Farm Bureau Life Ins. Co.	$0	$0	$69,376
Carrier U	$0	$0	$0
Carrier V	$0	$0	$0
Carrier W1	$0	$143,053	$502,222
Citizens Ins. Co. of America1	$0	$0	$0
State Farm Mutual Automobile Ins. Co.	$0	$0	$0
Carrier Z1	$123,960	$193,675	$263,390
New York Life Ins. Co. 2	$0	$0	$0
American Medical Security Life Ins. Co.2	$0	$0	$0
New Era Life Ins. Co.2	$0	$0	$0
National Health Ins. Co.2	$0	$0	$0
Jefferson Life Ins. Co.2	$165,940	$199,754	$233,567
American Public Life Ins. Co.2	$0	$0	$0
LifeSecure Ins. Co.1	$0	$0	$0
Metropolitan Life Ins. Co.2	$0	$0	$0

Total (All Carriers)	**$35,567,446**	**$72,313,563**	**$113,230,203**
Total (All Carriers - Values Reported in Initial Application)	**$34,884,794**	**$71,328,507**	**$111,941,748**
Top 8 Carriers	**$31,387,637**	**$65,502,016**	**$103,376,033**
Carriers that Filed SHCE Only	**$165,940**	**$199,754**	**$233,567**

In summary, NPAF encourages HHS to consider the legislative intent of the *Patient Protection and Affordable Care Act* when considering MLR adjustment requests. Rather than consider the impact of the adjustment on consumers, NPAF believes HHS should consider that impact when it is most crucial- when the consumer becomes a patient.

Sincerely,

Nancy Davenport-Ennis
Chief Executive Officer