



**Texas Legislature
82nd Legislative Session
House of Representatives**



December 7, 2011

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

Via email to MLRAdjustments@hhs.gov

Re: Comments on Texas Medical Loss Ratio Adjustment Request

Dear Secretary Sebelius:

On behalf of Texas residents, we as State Legislators respectfully ask 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 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 Texan covered by individual health insurance.

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.

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,¹ we 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 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.² 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. On behalf of policyholders in Texas, we urge you to deny Texas' application that would allow insurance companies an adjustment from the MLR standards.

Sincerely,



Ruth Jones McClendon
State Representative, House District 120



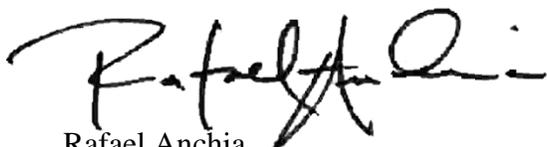
Joaquin Castro
State Representative, House District 125



Dr. Alma Allen
State Representative, House District 131



Dawnna Dukes
State Representative, House District 46



Rafael Anchia
State Representative, House District 103



Craig Eiland
State Representative, House District 23

¹ http://cciio.cms.gov/programs/marketreforms/mlr/mlr_texas.html

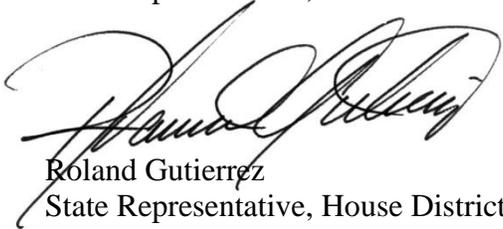
² 28 Texas Administrative Code § 3.3038



Jessica Farrar
State Representative, House District 148



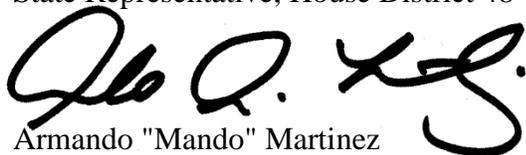
Naomi R. Gonzalez
State Representative, House District 76



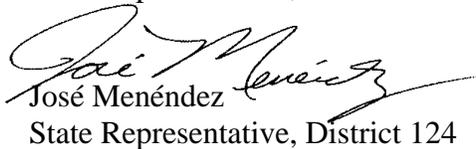
Roland Gutierrez
State Representative, House District 119



Donna Howard
State Representative, House District 48



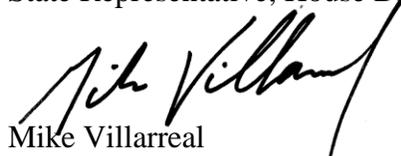
Armando "Mando" Martinez
State Representative, District 39



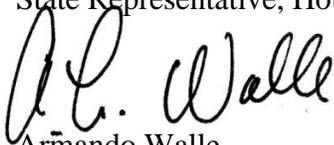
José Menéndez
State Representative, District 124



Elliott Naishtat
State Representative, House District 49



Mike Villarreal
State Representative, House District 123



Armando Walle
State Representative, House District 140