

October 25, 2010

The Honorable Kathleen Sebelius  
Secretary, Department of Health and Human Services  
200 Independence Ave. SW  
Washington, D.C. 20201

Dear Secretary Sebelius,

We are writing to you as the consumer representatives to the National Association of Insurance Commissioners (NAIC). Collectively we represent millions of American health insurance consumers. We are proud that the NAIC has sent to you a proposed regulation for implementing the medical loss ratio requirements of section 2718 of the Public Health Service Act, added by section 1001 of the Affordable Care Act, that faithfully implements the requirements of that law and that takes into account the concerns of health insurance consumers as well as those of the health insurance industry.

We urge you to carefully consider the interests and concerns of consumers as you make decisions with respect to the certification of the rule. We encourage you to adopt the NAIC proposal without significant changes. In particular, we urge you to resist requests from issuers to be exempted from the application of the legislation or for changes in the methodologies contained in the NAIC rule. We also ask you not to expand or redefine any of the definitions of categories found in the proposed rule of expenses that are included in the numerator or excluded from the denominator.

We understand and appreciate that once the medical loss ratio is in place, it will be your responsibility to determine whether the loss ratios should be “adjusted” in any state to avoid destabilization of the individual market. We urge you to exercise this discretion carefully, understanding that the purpose of these adjustments is to avoid destabilization of the market, not to preserve the least efficient insurer in any market. We would also ask that you establish a formal process that provides ample opportunity for consumers and consumer advocate input and involvement in determining whether and to what extent adjustments should be made in any state. That process must focus on insurance market conditions broadly and not just the situation of individual insurers. Adjustments should also be applied on a year to year basis, with the goal of achieving full conformity with the requirements of 2718 before 2014 if possible. We attach IRD041, which the NAIC PPACA subgroup proposed as an approach to this problem. We believe this is a workable solution.

Finally, we understand that insurance agents and brokers have expressed concerns about how the application of the medical loss ratio provision will affect their current business model. While agents and brokers often provide useful services and are valued by consumers and employers, there is no provision in section 2718 for any special treatment of their commissions and therefore we believe these expenses must be treated like any other administrative cost. This is what the NAIC concluded.

Notwithstanding the tremendous pressure they were under, the NAIC faithfully upheld its role as a public regulator and the responsibility given it by Congress to establish fair methodologies and definitions for implementing the medical loss ratio requirement. Our hope and trust is that you will do the same and certify this rule that will provide important new assurances for American health insurance purchasers and consumers that they are receiving fair value for their hard-earned premium dollars.

Respectfully,

Timothy Stoltzfus Jost

Barbara Rea

Sabrina Corlette

Bonnie Burns

Stephen Finan

Georgia Maheras

Stacey Pogue

Mark Schoeberl

Elizabeth Abbott

Barbara Yondorf