



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

July 13, 2011

The Honorable Tim Huelskamp
U.S. House of Representatives
Washington, DC 20515

Dear Representative Huelskamp:

Thank you for your letter regarding the provisions of the Affordable Care Act related to annual dollar limits on benefits, the medical loss ratio (MLR), and waivers for State Innovation.

The Affordable Care Act gradually phases out annual dollar limits on health care coverage benefits for all group health plans and for non-grandfathered plans in the individual market. This consumer protection is vital for working families who might otherwise believe they have health care coverage, but learn—often after a catastrophic illness or accident—that they have no protection against high medical costs. In these challenging economic times, unexpected medical costs present a real hardship for American families.

Limited benefit plans constitute a very small percentage of the total market for employer-sponsored insurance. These plans, however, may be the only option currently available to some workers, particularly people working multiple part-time or seasonal jobs. In 2014, employers will have more affordable health insurance options, with better benefits, to offer to their employees. Until then, the Affordable Care Act provides accommodation for limited benefit plans as they transition to the new annual limits prohibition.

The Affordable Care Act also directs the Secretary of Health and Human Services to establish a definition of “restricted annual limit” that ensures “that access to needed services is made available with a minimal impact on premiums.” Accordingly, the Center for Consumer Information and Insurance Oversight (CCIIO) has implemented a responsible, transparent, and fairly administered policy to grant waivers to plans meeting specific criteria. These waivers enable employers, many of which are small businesses, to continue to offer coverage to their employees and to protect both employers and employees from significant increases in premiums or decreases in coverage. Employees can keep the coverage they have until more affordable and comprehensive coverage choices are available in 2014.

CCIIO’s website includes lists of approved and denied waiver applicants.¹ Applicants that were denied a waiver were informed of their ability to seek a reconsideration of CCIIO’s determination, and some have been subsequently approved.

As you may know, the Government Accountability Office (GAO) recently published a report entitled *Private Health Insurance: Waivers of Restrictions on Annual Limits on Health Benefits (GAO-11-725R)*. GAO found that the Centers for Medicare & Medicaid Services (CMS)

1. cciio.cms.gov/resources/files/approved_applications_for_waiver.html;
http://cciio.cms.gov/resources/files/denials_06172011_g.pdf

approved more than 95 percent of all waiver applicants (1,372 applications), and that the total number of people covered in approved plans represented approximately 2 percent of people covered by private health insurance plans in 2009. GAO reported that most of the 65 applications that CMS denied were denied on the basis of a projected premium increase of six percent or less, along with a significant decrease in access to benefits. A copy of the GAO report is included with this letter.

In your letter, you also requested information related to the Affordable Care Act's MLR provisions. The Affordable Care Act requires health insurance issuers to spend between 80 and 85 percent of earned premium (depending on the market) on clinical care and quality improvement activities, or pay rebates to health plan enrollees. The MLR standard is one of several provisions in the Affordable Care Act that help to give consumers greater value for their premium dollars. In 2011, health insurance issuers must report medical loss ratios. Any rebates due to enrollees will be payable in 2012.

The Affordable Care Act directed the Secretary to work with the National Association of Insurance Commissioners (NAIC) to establish uniform definitions and a standardized methodology for calculating the MLR. The NAIC undertook an extensive and open public process that included input from many stakeholders across the health care system. On October 27, 2010, the NAIC released a model MLR regulation. The Secretary adopted the NAIC recommendations in a December 2010 regulation implementing the new MLR standards.

The Secretary has authority to adjust the MLR standard in the *individual market* if the Secretary determines that application of the 80 percent MLR standard may destabilize a state's individual market. In December 2010, CMS released guidance on this provision and provided the states with a uniform template for requesting such an adjustment.

CCIIO has implemented a fully transparent process for state MLR adjustment applications. Each applicant submits the required information to CCIIO, and this information is then posted for public comment on CCIIO's website. The decision whether or not to grant an adjustment, and the level of that adjustment, is based on the unique circumstances of each state's market and the standards outlined in regulations and guidance. All pending adjustment applications, final determinations and supporting documentation are posted on the CCIIO website at <http://cciio.cms.gov/programs/marketreforms/mlr/index.html>.

Finally, the Affordable Care Act allows states to apply for a waiver for State Innovation for plan years beginning on or after January 1, 2017. Although such waivers cannot take effect prior to 2017, the Affordable Care Act required the Secretary to publish regulations related to this provision well in advance of its effective date. As a result, a proposed rule with a 60-day comment period was published on March 10, 2011. To date, no state has submitted a State Innovation waiver request.

As we lay the groundwork for 2014, we will continue implementing vital consumer protections while offering enough flexibility to avoid market disruptions. I appreciate your interest in the

implementation of the Affordable Care Act, and I look forward to 2014, when Americans will have access to more affordable, comprehensive health insurance options. I will also provide this response to the co-signers of your letter.

Sincerely,



Kathleen Sebelius

Enclosure