



OFFICE OF INSURANCE REGULATION

KEVIN M. MCCARTY
COMMISSIONER

May 12, 2010

The Honorable Kathleen Sebelius
The Secretary of Health and Human Services
U.S. Department of Health and Human Services
Attention: DHHS-2010-MLR
Hubert H. Humphrey Building, Room 445-G
200 Independence Avenue, SW
Washington, D.C. 20201

Via Internet Only

Re: DHHS-2010-MLR

Dear Secretary Sebelius:

Thank you for the opportunity to comment on the above-referenced notice published in the Federal Register on April 14, 2010. The notice requests comments on Section 2718 of the Public Health Service Act (PHSA), regarding medical loss ratios.

In this regard, last week, on May 4, 2010, I chaired a fact-finding public hearing, jointly held by the Office of Insurance Regulation (the Office) and the Florida Health Insurance Advisory Board (FHIAB). The FHIAB is a statutorily-created board that makes recommendations to the Governor and the Florida Legislature on health insurance issues. The purpose of this hearing was to address, preliminarily, two issues: what are the activities that improve health care quality that can be factored into the medical loss ratio calculation; and would the application of the 80% medical loss ratio requirement have the potential to destabilize the individual market in Florida. (See Sec. 2718 (a) and (b)(1), PHSA).

The hearing was illuminating in multiple areas. Parties appearing at the hearing included Florida health carriers, Florida health insurance agents, and members of the public. The carriers expressed their ideas about activities that improve health care quality and should be factored into the medical loss ratio, and both health carriers and health insurance agents expressed concern about potential destabilization of the individual market in Florida. I have attached the written testimony from the hearing to this letter for your consideration.

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Further, I would like to address one of the specific questions in the notice:

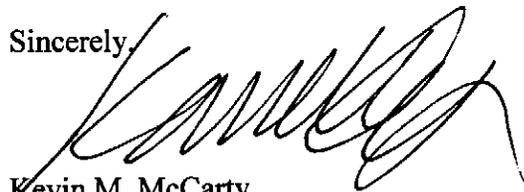
A.2. What Criteria Do States and Other Entities Consider When Determining if a Given Minimum MLR Standard Would Potentially Destabilize the Individual Market? What Other Criteria Could Be Considered?

In this regard, I draw to your attention the written testimony of Aetna Inc. Recommendation #5 deals with market monitoring. Aetna recommends that regulators identify and monitor early warning signals of potential destabilization that would act as triggers for intervention. The triggers include Early Solvency Warning, Product Withdrawal, and Market Contraction. If Madame Secretary does not make a determination under Sec. 2718(b)(1)(A)(ii) that the application of the 80% medical loss ratio requirement may destabilize the individual market in Florida (and the Office will present evidence to Madame Secretary for doing so once guidance is issued), then the Office recommends that these early warning triggers be adopted and set the stage for intervention.

If you have any questions, please do not hesitate to contact me or Deputy Commissioner Mary Beth Senkewicz at 850-413-5104 or Marybeth.senkewicz@florir.

Thank you for your consideration of the Office's comments.

Sincerely,



Kevin M. McCarty
Florida Insurance Commissioner