



Illinois Department of Insurance

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June 23, 2010

Mr. Steven Ostlund
Chair, Accident & Health Working Group
National Association of Insurance Commissioners
2301 McGee Street, Suite 800
Kansas City, Missouri 64108-2662

Re: *NAIC Actuarial Subgroup -- MLR definition.*

Dear Steve,

Thank you for your continuing efforts as Chair Accident & Health Working Group. As the PPACA Actuarial Subgroup continues to define the medical loss ratio (MLR) calculation, this letter provides our views on two specific issues: (1) treatment of federal taxes in the calculation, and (2) rebates of *de minimis* amounts.

The issue identified in IRD064 contemplates the subtraction of Federal Income Tax from premiums in the calculation of MLR. This comes from 2718(b)(1)(A) which refers to the "total amount of premium revenue (excluding Federal and State taxes and licensing or regulator fees)." Section 2718(b)(1)(A), consistent with the intent of Congress, excludes only premium-based taxes and assessments, or taxes based on gross receipts -- taxes and fees that directly reduce premium revenue. These taxes often fund activities that benefit the health of the broader population. For example, Congress clearly intended to exclude from the MLR calculation the new federal premium tax enacted as part of the Affordable Care Act to fund comparative effectiveness research. Other taxes, especially those based on net income, are based on the insurer's business judgment (health care vs. profits) and should not be deductible.

In addition, the resolution of IRD056 currently contemplates setting a minimum rebate amount of \$5. In our view, no MLR rebate amount should be construed as *de minimis*. Consumers are entitled to the MLR refund regardless of the dollar amount. Even a check of less than one dollar, though "of largely symbolic value," still provides valuable information to the consumer about his or her insurance company and coverage. Further, insurers should not be allowed to keep unpaid refunds because that result directly contravenes the intent of the law. While for a single consumer, an amount less than \$5 might be small, these amounts compounded by tens of thousands or even millions of covered lives could result in meaningful dollar totals being reinvested into the health care economy.

Please contact me if you have any further questions.

Very truly yours,

Michael T. McRaith
Director

MTM:srb