Memorandum

April 16, 2012

To: Steve Ostlund, Chair HATF Subgroup on Medical Loss Ratios

Re: Comments on IRD14-005

America’s Health Insurance Plans (AHIP) appreciates the opportunity to provide these comments as our response to the issues discussed in IRD14-005. America’s Health Insurance Plans (AHIP) is the national trade association representing the health insurance industry. AHIP’s members provide health and supplemental benefits to more than 200 million Americans through employer-sponsored coverage, the individual insurance market, and public programs such as Medicare and Medicaid.

IRD14-005 would provide for the use of accrual estimates to reflect unpaid credits or debits to premiums for the federal reinsurance, risk corridors and risk adjustment programs applicable to the MLR calculations for 2014-2016. It notes in the description section that delaying rebate payments until the paid amounts from these three programs are completely known could add to the time until the rebate payments are made.

First, we object to the characterization of potential delay as a “20 month delay” and ask that the description reflect the true situation that the MLR calculation is based on a calendar year of experience and no rebate could possibly be paid until the full year is complete. Even then, there must be some delay for the completion of full year values and the completion of state and market specific data.

As a general rule, we believe that the timing of the MLR calculations should be considered with the primary goal of making sure that, where rebate payments are to be made, that they are made in appropriate amounts and for the correct calendar year. Policyholders will not know in advance whether they will receive a rebate or what the amount of any rebate will be. So for 2014 rebates, where owed, the receipt of a rebate later than August would not unduly inconvenience policyholders. We suggest that rebates paid after August are more valuable than rebates delayed until the following year — or eliminated entirely — by the use of insufficiently mature estimates.

Related to terminology used in the IRD, we note it is also possible that a policyholder who receives a rebate may already have received medical benefits of a much higher value than the premium he or she paid. So we suggest that casting this issue in terms of whether an individual is receiving “timely” value for premiums paid is not the issue. What is important is that the policyholder receives the fair value of coverage for the premiums, which is defined by the MLR. And if that MLR is not met, then the policyholder receives a rebate.
We suggest that the current MLR calculation rules for 2011-2013 allow for a significant increase in the accuracy of the MLR calculations using three months of claim run-out. We are unsure at this time as to the manner in which HHS will provide interim experience for the three programs of risk mitigation, the three Rs. Without interim data, the estimates of each company will be highly uncertain and potentially subject to substantial revisions when reported at the state/market level. This could result in creating enough differences that the MLR calculations could be less accurate, and possibly eliminate rebates that would otherwise have been payable. With sufficient interim data, the potential differences could be reduced to a level similar to the potential adjustment for claims after the three month run-out.

We would expect that actual claims for the calendar year will be the basis for final amounts for each of the three programs. As such, at a minimum, the three month run-out allowed for claims should be allowed for the accruals for these three programs (although the accruals will adjust the denominator of the MLR calculation, rather than the numerator as the claims do). As a preliminary resolution to this IRD, we would propose the use of the estimated incurred, using a paid plus change in accrued amounts, as the way to report these three programs, as we believe this is most consistent with the measurement of premium as it is used in the denominator of the MLR. However, final resolution of this timing issue should be delayed until there is a clear understanding of the manner in which HHS will be reporting on each of these programs. If there is not sufficient data to provide for reasonable estimates on each state/market segment, then we will support a modification to the timing of all MLR calculations to increase the probability that appropriate rebates are paid for each calendar year.

Finally, we also respond to the question raised during the April 4 conference call, that publicly traded company shareholders would not want to wait ten or more months to determine the company’s profitability. In fact, an insurance company’s profit is reported based on many estimates, most notably estimates of claim liabilities, which may vary significantly from the ultimately determined amounts. The SEC requires that companies disclose how much of the profit reported in a given period results from the revision of estimates used in prior periods (similar to the way that they are disclosed in statutory financial statements). Shareholders who make use of these disclosures will indeed be aware that the company’s profit may not be known with great accuracy until perhaps several additional calendar quarters have passed. Furthermore, shareholder dividends typically are set by management at a level that is expected to be sustainable (or increasable) throughout the foreseeable future. We suspect that shareholders would have great concern if payments to small selected parts of the entire shareholder group were based on estimated profits of a small segment and were paid without assurance that the amount was reasonably appropriate.

Thank you for the opportunity to comment on IRD14-005.
Sincerely,

William C. Weller
Consultant to AHIP

c/c: Eric King, NAIC staff to HATF
    Candy Gallaher, AHIP