

January 27, 2011

Mr. Lou Felice
Chair, NAIC Health Reform Solvency Impact (E) Subgroup
C/- New York Department of Insurance
25 Beaver Street
New York, New York 10004-2319

Re: 2010 Supplemental Health Care Exhibit

Dear Mr. Felice:

We write today on behalf of America's Health Insurance Plans (AHIP). AHIP is the nation's trade association representing nearly 1300 member companies providing health, long-term care, dental, disability and supplemental coverage to more than 200 million Americans. We appreciate the opportunity to provide comments on the Supplemental Health Care Exhibit Instructions ("Supplement instructions") that were exposed on January 18. These instructions make some significant changes to our original understanding of the filing requirements for the supplement. Specifically, our original understanding, confirmed on a number of earlier conference calls, was that carriers with no reportable business in Columns 1 – 3 (comprehensive major medical in the small group, large group or individual markets) in a particular state would not be required to complete the Supplement for that state. The new instructions, however, require that if there is reportable business in Columns 1 – 3 in *any* state, then the carrier must fill out the supplement in *every* state.

To add this requirement in the middle of January, when carriers are working zealously to complete their annual statements by the March 1 filing deadline is simply onerous. Whether carriers can – or should – be required to file in every state, despite their lack of business in a state is a discussion that can – and should – take place after March 1 for the 2011 calendar year filings. To change the rules now creates a tremendous burden on companies that were not prepared for the level of detailed allocation that they must now accomplish in an extremely abbreviated timeframe.

The appropriate focus for carriers at this stage should be to perform those allocations that are critical and necessary for those states that have open blocks of business in column 1 – 3 in a state. The processes that carriers need to collect, compile, analyze and report the required data have already been built – to require them to back out those systems and rebuild them to capture and analyze data, including expense allocations for states in which they do not have any comprehensive major medical policies to trigger a filing requirement will simply add to the administrative costs of completing the filings, precisely at a time when carriers are being

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required to significantly cut those administrative costs or face rigorous financial penalties. There is no real reason to do this, at this time.

We therefore urge the working group to table these amendments at this time, and put on the agenda for Subgroup's session at the March National meeting whether and how to amend the Supplement form for 2011 calendar year filings.

We thank you for the opportunity to provide comments. If you have any questions or comments please feel free to contact me at (301) 984-8352 or rreichel@mwlaw.com.

Thank you.

Sincerely,

MITCHELL, WILLIAMS, SELIG,
GATES AND WOODWARD, P.L.L.C.



By

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Counsel

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Dan Durham, Sr. , Vice President, Policy
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January 20, 2011

Todd Sells, Amy Lopez

RE: Exposure documents 2010 MLR SHCE Draft Guidance 1-18-11.doc and SHCE Clarification Example.xls

Todd and Amy,

Thank you for the opportunity to comment on these exposure documents. Please contact me if you have any questions.

- SHCE Clarification Example.xls
 - In the Cover worksheet item 2 the use of the word ‘ANY’ could be interpreted to mean one instead of all. Replacing ‘ANY with ‘EVERY’ clarifies that ALL states is meant.
 - In the Cover worksheet item 5 where it states “...the insurer only completes.” We would recommend changing wording to “...the insurer only needs to complete.” This matches the wording in the Draft Guidance and current Instructions and leaves the option open for the insurer to enter amounts in columns 4, 5 or 6 instead of breaking the calculations in column 7 and 9. Item 5 should also indicate that the insurer is not restricted from entering amounts in columns 4, 5 or 6 if they so chose.
 - In the Cover worksheet item 6 states:
“If some business is in run off (major medical claims incurred for 2010 policy year and prior, with zero major medical earned premiums or no coverage in place) for a state, the run off claims and expenses are reported in Part 1, Column 6 (Other Health).”

However the Draft Guidance document states:

“If an insurer has direct business to include in Columns 1, 2 or 3 of Part 1 but also has some business in run off (major medical claims incurred for 2010 policy year and prior, with zero major medical earned premiums or no coverage in place), the run off claims and expenses results should be reported in Part 1, Columns 1, 2, or 3.”

Should the Draft Guidance document be updated to agree with the Cover worksheet wording?

- In the ME 3 worksheet Pt3B should be completed as there are amounts in Pt3A.

- In the Excel workbook all Pt1's show 'XXX' for Line 04 Columns 4 thru 9 but this contradicts the Blank which has the fields open for data entry.
- In the Excel workbook all Pt3A's should show 'XXX' in Line 01.5, 02.5 and 03.5 Cols. 2 thru 5 and in Lines 01.9, 02.9 and 03.9 Cols. 1 thru 9.
- 2010 MLR SHCE Draft Guidance 1-18-11.doc
 - Recommend replacing the second sentence of the second paragraph of the body which begins, "However, insurers that have no business..." with the wording in item 2 of the Example.xls file:

"If the insurer writes \$0 business (or has direct amounts paid, incurred or unpaid for provisions of health care services) that would qualify for inclusion in Part 1, Columns 1, 2 and 3 in ~~ANY~~ **EVERY** state, then the supplement is not filed at all."
 - Column 7 wording implies an insurer is restricted from entering amounts in columns 4, 5 and 6 per the 2% test but actually an insurer is afforded the option of either entering the "other accident and health" amounts directly to Column 9 or allocating the amounts to columns 4, 5 and 6. Recommend the following revision:

Sum of Columns 1 through 6. For Part 1, this is valid even for states where the insurer's Columns 1, 2 and 3 premiums are less than 2% of its total accident and health business in that state (~~Columns 4, 5 and 6 will be zero since the other accident and health business will be reported in the Column 9 Total column).~~
 - Column 9 recommend the following revision:

For states where the insurer's Columns 1, 2 and 3 premiums are less than 2% of its total accident and health business in that state, ~~this will equal any amounts reported in columns 1, 2 and 3 plus the total of all other insured health business written in that state that would have otherwise been reported in Columns 4, 5 and 6 if the 2% rule had not been triggered, plus Column 8.~~ **the insurer has the option of**

 - 1) **reporting the other accident and health business in Columns 4, 5 and 6, or instead ;**
 - 2) **pass over Columns 4, 5 and 6 and report the total other accident and health amounts directly in Column 9. If option 2) is chosen then Column 9 will not equal Column 7 plus Column 8 as the other accident and health amounts are not reflected in Column 7.**
 - The list of NAIC crosschecks that will fail if the insurer does not enter the other accident and health amounts in columns 4, 5 and 6 but instead enters the total amount in column 9 should be included in the guidance for column 9. That list has been provided to the vendors but should also be part of the guidance. Recommended revision:

If Option 2) is selected then certain NAIC validations/crosschecks are not valid and will fail. For these failed validations the insurer may provide an explanation indicating that other accident and health amounts have been entered directly in column 9. The following validations are known to be affected :

_2010SHCEPT1: _IAAU905347, _IAAU905348, _IAAU905349,
_IAAU905350, _IAAU905329, _IAAU905330, _IAAU905331,
_IAAU905609, _IAAU905610, _IAAU905611, _IAAU905612,
_IAAU905613, _IAAU905614, _IAAU905615, _IAAU905616,
_IAAU905617, _IAAU905332, _IAAU905618, _IAAU905619,
_IAAU905620, _IAAU905621, _IAAU905622, _IAAU905623,
_IAAU905624, _IAAU905625, _IAAU905333, _IAAU905334,
_IAAU905335, _IAAU905631, _IAAU905336, _IAAU905337,
_IAAU905338, _IAAU905339, _IAAU905340, _IAAU905341,
_IAAU905342, _IAAU905343, _IAAU905629, _IAAU905344,
_IAAU905627, _IAAU905345, _IAAU905630, _IAAU905346

_2010SHCEPT1OTHIND: _IAAU905387, _IAAU905388,
_IAAU905389, _IAAU905390

_2010SHCEPT2: _IAAU905392, _IAAU905393, _IAAU905394,
_IAAU905395, _IAAU905428, _IAAU905400, _IAAU905401,
_IAAU905402, _IAAU905403, _IAAU905404, _IAAU905405,
_IAAU905406, _IAAU905407, _IAAU905408, _IAAU905409,
_IAAU905410, _IAAU905411, _IAAU905412, _IAAU905413,
_IAAU905414, _IAAU905415, _IAAU905416, _IAAU905417,
_IAAU905418, _IAAU905419, _IAAU905420, _IAAU905421,
_IAAU905422, _IAAU905423, _IAAU905424, _IAAU905425