



June 25, 2010

TO: Mr. Lou Felice, Chair, NAIC Health Reform Solvency Impact (E) Subgroup

Dear Mr. Felice: I would like to follow up on comments I made on Thursday's conference call on behalf of the Alliance of Community Health Plans, regarding the Instructions for Line 1.7 of the revised Exhibit for reporting of Medical Loss Ratio. Health plans that are members of ACHP are non-profit plans or subsidiaries of non-profit health systems; these plans are grounded in their communities and are either integrated delivery systems and/or organized networks that deliver highly coordinated care.

As I mentioned, non-profit health plans incur community benefit (CB) expenditures in response to their obligations as tax-exempt entities under the Internal Revenue Code. These CB activities are conducted by substantially all non-profit organizations in order to qualify for tax-exempt status, while only a small number of states may have explicit requirements tying CB expenditures to deferral of state premium taxes. The language in sentence #1 of the Instructions already has a limitation on the amount that can be subtracted, tied to the state premium tax rate that otherwise would be applicable. We believe this limitation may act as a disincentive for health plans to conduct CB activities at a higher level, but we are willing to accept the limitation if the Subgroup thinks that comparability is necessary.

As I pointed out on the call, the second sentence negates the first sentence in the large majority of states and creates an unlevel playing field. For-profit plans will be able to subtract taxes they are obligated to pay. Non-profit plans will be disadvantaged without the ability to subtract the CB expenses they are similarly obligated to pay under federal law. Such disparate treatment will have the perverse policy result of discouraging health plans from organizing as non-profit entities and encouraging those that do to minimize their CB expenditures. We recognize that some for-profit plans also make some level of CB expenditures, and we have no objection to amending sentence #1 to allow those plans to include CB expenses on Line 1.7.

Another unintended consequence of not allowing the subtraction of CB expenses in most states is that, if a health plan has a non-profit HMO and a for-profit PPO subsidiary, the incentive may be to shift people into the PPO – where taxes can be subtracted – and out of the HMO, where CB expenses cannot be subtracted. If medical expenditures are harder to constrain in the PPO, given the nature of its structure and function, the effect of sentence #2 could be to push medical costs higher – an outcome that no one wants.

We believe that sentence #1 is a sufficiently limited subtraction that can and should stand alone. Please let me know if you have any questions about the points above or wish to consider alternative language that might address your concerns and still allow nonprofit plans to fairly account for their CB expenditures.

Thank you very much for your consideration of these comments.

Sincerely,

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