



KENNETH ADAMS
President & CEO

May 25, 2010

Mr. Lou Felice
Chair, Health Care Reform Solvency Impact Subgroup

Steve Ostlund
Chair, Accident & Health Working Group

National Association of Insurance Commissioners
2301 McGee Street, Suite 800
Kansas City, Missouri 64108-2662

Dear Messrs Felice and Ostlund:

I am writing on behalf of The Business Council of New York State, a statewide business trade association with over 3,000 members across New York representing all sectors and all sizes of employers. Our members employ over 1 million New Yorkers, and all of our members have a vested interest in ensuring that implementation regulations associated with federal health care reform are carefully crafted to reflect the environment within which New York's health insurance system functions.

We are writing to comment on the National Association of Insurance Commissioners' ("NAIC") development of recommendations related to the calculation of medical loss ratios ("MLR") in section 2718 of the Public Health Service Act ("PHSA") as added by the Patient Protection and Affordable Care Act ("PPACA"). The recommendations you are advancing in this regard are critical, as PPACA put a primary emphasis on coverage and very little emphasis on cost containment. It is essential that MLR recommendations not be narrowly constrained limiting New York employers' flexibility in plan design and their ability continue to offer affordable, quality coverage.

The Business Council urges you to ensure that MLR recommendations recognize the value of health plans in driving quality and ensuring that consumers continue to have access to critical activities that improve the quality and the value of their care. This is very important in New York State – often recognized as a state with among the highest costs in the country – because employers have moved more aggressively into areas which have proven effective in managing employee wellness, allowing employers to better control plan costs without compromising quality. The learning and impact of these employers from implementing chronic disease management programs and employee wellness initiatives has not been limited to large employers. These programs have served to become part of a broader movement toward community wellness initiatives with large employers sharing their experiences and best practices with smaller employers, thus providing a pathway for community-wide efforts to address regional health and wellness issues.



Section 2718 of PHSA allows certain quality measures to be included in the MLR calculation. The Business Council asks that those quality measures which are valuable to employers and their employees be included in the MLR calculation, including: wellness programs, disease management programs, fraud, waste and abuse activities, and certain health information technology tools. These measures provide valuable services to employees improving their health and the value of the care they receive. Failure to include these measures would increase costs for employers, and could jeopardize programs that are valuable to employees and beneficial to their health.

Specifically, we ask that you consider the following:

Wellness and disease management programs

Whether offered by an insurer or an employer, we strongly support wellness programs which modify consumer behaviors to improve health and incentivize activities that will lead to a healthier population, whether medical, fitness, or otherwise. Wellness and prevention initiatives have been demonstrated to lead to overall lower costs for consumers by improving their health and well being, and none of them should be considered "administrative."

Wellness programs may include activities such as smoking cessation, health assessments, counseling, fitness programs and the administration of such programs. Similarly, disease management programs provide important care management for employees with chronic and acute conditions. Disease management programs may include activities such as nurse lines, care coordination, special employee communications and other similar activities.

These types of wellness and disease management activities improve health outcomes, increase quality and help to control long-term costs. In drafting PPACA, Congress recognized the importance of wellness and disease management programs as part of an overall health care strategy.

Health information technology

Effective health information technology tools help to reduce costs for employers and employees and, by allowing clinical information to be shared among patients and providers, they help to avoid adverse consequences to patients caused by duplicative tests, treatments, and prescribing errors. Personal health records also help employees take control of their own health and become more powerful advocates for themselves. These positive results help to mitigate premium increases and improve the quality of care. As the benefits of health IT become apparent, employers are increasingly demanding more complex health IT solutions in the plans they sponsor for employees.

Include all quality, fraud and abuse, and cost control initiatives that clearly improve quality and patient safety in the definition of "activities that improve health care quality" including:

Quality Programs: Many activities undertaken already, and many that will be required as a result of PPACA, include the developing, gathering, aggregation, and analysis of data in order to measure and incentivize quality, credentialing of providers, etc. We support such activities, and

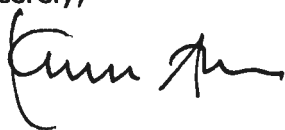
believe that both quality and transparency must be paramount in order to make health care more efficient, affordable, and to improve patient care.

Fraud and Abuse: Consumers demand that insurers help in efforts to control premium costs, and a key way of doing so is to prevent fraud and abuse. Programs which prevent fraud and abuse improve the quality of care for patients by freeing up funds that would otherwise be wasted, and improve patients' ability to afford health insurance, as well as their financial freedom.

Cost Control Efforts: Consumers are protected from unnecessary costs and get better health outcomes when insurers invest in developing best-practices for providers, aggregating evidence-based guidelines, analyzing the success of health promotion activities in order to refine programs, and analyzing claims data to investigate over- and under-utilization of services. Categorizing broad swaths of cost-control programs as "administrative" is a sure way to drive up premium costs for consumers, thus making it more difficult for them to obtain insurance.

The Business Council of New York State appreciates the task before your group and urges you to consider our thoughts as you finalize your recommendations. Our objective is to ensure that New York employers are not burdened with regulations which so narrowly define an MLR as to cause plan design changes which will drive up costs even further. Our organization stands ready to provide you with any information we can, to help further what we hope is a mutual objective of an affordable health insurance system accessible to New York's thousands of employers.

Sincerely,

A handwritten signature in black ink, appearing to read "Carmine" followed by a stylized flourish.

MM