August 10, 2010

Jane L. Cline  
President, National Association of Insurance Commissioners  
2301 McGee Street, Suite 800  
Kansas City, MO 64108-2662

Re: Medical Loss Ratios – Section 2718 of the Public Health Service Act (PHSA)

Dear Commissioner Cline:

AARP and the National Partnership for Women & Families appreciate the opportunity to offer comments on the amendments to the Life and Health Blanks Proposal that was released last week.

**Ensure full transparency of the process**

First, we urge you to make public the schedule insurers use to report their quality improvement activities. As has been evident during the development of recommendations concerning appropriate items for inclusion in the numerator of the medical loss ratio (MLR), there is tremendous interest among all stakeholders on this issue, and the public deserves the opportunity to determine whether Section 2718 is being implemented as Congress intended. Moreover, development and enforcement of MLR policies will require refinement over time as we learn more about health plan activities that most effectively improve quality. The public will have confidence in this process only if it is fully transparent.

**Recognize measurement and public reporting of clinical effectiveness and patient experience as legitimate quality improvement activities**

We urge you to include a clear and explicit statement that activities to measure and publicly report on the quality of performance of doctors, hospitals, and other health care providers on measures of clinical quality and patient experience are considered numerator activities. While an argument could be made that these activities are already included, we believe there should be left no room for doubt that these activities are recognized contributors to quality improvement. Such a statement could be added to the listing of items in Column 1 at the bullet that now reads, “Quality reporting and documentation of care in non-electronic format.” The revised bullet would say, “Quality reporting and documentation of care in either electronic or non-electronic format, including measurement and public reporting on the quality of performance of doctors, hospitals, and other health care providers on scientifically valid measures of clinical quality and patient experience.”
We also suggest that you clarify item 1 in Column 5 to be explicit that costs for reporting on patient experience are recognized along with those for clinical effectiveness. We believe the intent is to include both types of measures, but, as currently written, item 1 only identifies costs associated with clinical effectiveness (although CAHPS, which is a patient experience survey, is used as an illustrative example.)

Improving Health Care Quality Expenses

Under the general definitions section, Improving Health Care Quality Expenses, we note that the revised proposal deleted “other nationally recognized health care quality organizations” from the list of bodies that might be looked to as having identified legitimate quality improvement activities. This deletion would preclude inclusion of practices endorsed by the National Quality Forum (NQF). Since the NQF employs a multi-stakeholder consensus process, the recommended practices are broadly supported. Therefore, we urge either reconsideration of the deletion of the term, “nationally recognized organizations” or add an explicit reference to the NQF.

Wellness and Health Promotion Activities

Please note that under Column 4, Wellness and Health Promotion Activities, the 5th bullet incorrectly mentions that the current allowable incentive amount under HIPAA is 30 percent. The current allowable amount is 20 percent. The higher amount does not go into effect until 2014.

Thank you again for your consideration of these comments and suggestions. Should you require further clarification, please contact Nora Super of AARP’s Federal Affairs staff at (202) 434-3770 or Kirsten Sloan of the National Partnership at (202) 238-4815.

Sincerely,

David Sloane
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Government Relations & Advocacy

Debra L. Ness
President
National Partnership for Women & Families