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# DIFP

Department of Insurance,  
Financial Institutions &  
Professional Registration

Jeremiah W. (Jay) Nixon, Governor  
John M. Huff, Director

Monday, December 27, 2010

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## Hearings and Meetings

ALL LOCATIONS are in the Harry S Truman State Office Building unless otherwise noted.

### Insurance Hearing and Meeting Schedule

Date and Time	Place*	Agenda**
December 28, 2010 9:00 am to 12:00 Noon	Room 500	<p align="center"><b>Medical Loss Ratio</b></p> <p>The purpose of this hearing will be to solicit testimony on the record related to the particular effect of the Medical Loss Ratio on the individual health insurance market in Missouri.</p> <p>In lieu of or in addition to providing testimony at the hearing, interested parties may also submit written comments in the form of a sworn affidavit to the Department. Such comments shall be submitted no later than 5:00 p.m. CST on December 30, 2010 and shall be submitted via U.S. Mail, E-Mail, or in person as outlined below.</p> <p>Mailing Address: John M. Huff, Director Department of Insurance, Financial Institutions, and Professional Registration P.O. Box 690 Jefferson City, MO 65102</p> <p>Physical Address: Department of Insurance, Financial Institutions, and Professional Registration Harry S Truman State Office Building 301 West High Street, Room 530 Jefferson City, MO 65101</p> <p>E-mail: <a href="mailto:mary.kempker@insurance.mo.gov">mary.kempker@insurance.mo.gov</a> Please use "MLR COMMENTS" in the Subject Line</p> <p>For more information on MLR and the specific form of comments, please visit: <a href="http://insurance.mo.gov/about/insurance/meetings/medical_loss_ratio.html">http://insurance.mo.gov/about/insurance/meetings/medical_loss_ratio.html</a></p>



**\*SPECIAL NEEDS:**

If you have special needs addressed by the Americans with Disabilities Act, please notify us at least five (5) working days prior to the event.

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## NOTICE OF HEARING – MEDICAL LOSS RATIO IN INDIVIDUAL MARKET

The U.S. Department of Health and Human Services (HHS) recently promulgated regulations implementing provision of the Patient Protection and Affordable Care Act (PPACA) (Pub. L. no. 111-148, 124 Stat. 119 through 124 Stat. 1025). One such provision is the requirement that health insurance issuers must meet a specified annual loss ratio or pay rebates to enrollees, also known as the Medical Loss Ratio. PPACA specifies that large group plans must have loss ratio of 85% or higher, and small group and individual plans must have a loss ratio of 80% or higher. Health insurance issuers are required to report these ratios to HHS each year. If the ratio is not met, the issuer must pay rebates to its insureds. The regulations issued by HHS allow the Secretary to adjust the MLR standard that must be met by issuers offering coverage in the individual market in a State for a given MLR reporting year if it is determined that application of the 80% MLR standard may destabilize the individual market in the State.

The Department of Insurance, Financial Institutions, and Professional Registration has received inquiries from some interested parties regarding Medical Loss Ratio adjustments. The Department has determined that it would be beneficial to allow those with an interest in the issue the opportunity to present their views as to whether the Department should pursue an adjustment to the MLR for the State of Missouri.

The federal regulations related to Medical Loss Ratios are published in the Federal Register, 75 Fed. Reg. 74864, et seq. (December 1, 2010) (45 C.F.R. Part 158). The regulations specify that adjustments to Medical Loss Ratio requirements are granted by the Secretary of HHS and are granted on a state-wide basis, not to individual insurers. Only the 80% ratio may be adjusted and only when the 80% ratio "may destabilize the individual market" in the state requesting the adjustment. The adjustment is not a waiver of all loss ratios. The request for an adjustment to the MLR standard for a state must be made by the State's insurance regulatory authority and the adjustment can be made for up to three years. 45 C.F.R. §158.310.

HHS outlines six criteria to determine the risk of destabilization:

- The number of issuers reasonably likely to exit the State or cease offering coverage in the State absent an adjustment to the 80% MLR and the resulting impact on competition in the State;
- The number of individual market enrollees covered by issuers that are reasonably likely to exit the State absent an adjustment to the 80% MLR;
- Whether absent an adjustment to the 80% MLR standard consumers may be unable to access agents and brokers;
- The alternate coverage options within the State available to individual market enrollees in the event an issuer withdraws from the market;
- The impact on premiums charged, and on benefits and cost-sharing provided, to consumers by issuers remaining in the market in the event one or more issuers were to withdraw from the market; and
- Any other relevant information submitted by the State's insurance commissioner, superintendent, or comparable official in the State's request.

## FORM OF COMMENTS

The Director is requesting comment from individual consumers, insurers or carriers, HMOs, professional associations, public interest groups, and from any other person with an interest in the Medical Loss Ratio rules as they apply to the health insurance marketplace in Missouri.

Comments should specifically address any or all the following issues:

- Whether Missouri should request an adjustment to the MLR for the individual market in the state;
- If so, the appropriate adjusted MLR and suggestions for the length of the transitional period in Missouri;
- The consequences to companies offering individual coverage in Missouri if an adjustment is not sought;
- The consequences to brokers or agents offering products in the individual market if an adjustment is not sought; and
- Any other matter bearing on the six criteria HHS has identified, as set forth above, that impact the risk of market destabilization.

Comments may address the impact of Medical Loss Ratios on individuals, insurers, or agents as well as any other individual. Comments should be brief, specific, fact-based, and focused on the Missouri health insurance marketplace. Supporting data should be targeted to conditions in the State of Missouri.

The Director will use the information gathered along with information from other sources to determine whether Missouri should request an adjustment to the Medical Loss Ratio rules from the U.S. Department of Health and Human Services.

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URL: [http://insurance.mo.gov/about/insurance/meetings/medical\\_loss\\_ratio.htm](http://insurance.mo.gov/about/insurance/meetings/medical_loss_ratio.htm)

STEERING COMMITTEE

Rev. John Bennett  
MO Interfaith IMPACT  
Statewide, Jefferson City

Andrea Routh  
Missouri Health Advocacy Alliance  
Statewide, Jefferson City

Rev. Jim Hill  
Churchmen  
Statewide, Jefferson City

Rev. Ben Martin  
Presbytery of Giddings-Lovejoy  
St. Louis

Will Richardson  
SEMO Alliance for Disability Independence  
Cape Girardeau

Steve Skrainka  
Jewish Community Relations Council  
St. Louis

Amy Smoucha  
Missouri Jobs with Justice  
Statewide, St. Louis

Jerry Jones  
Communities Creating Opportunity  
Kansas City

Rabbi Susan Tahve  
Central Reform Congregation  
St. Louis

Rev. Allen Ladage  
United Methodist Church  
St. Clair

Bunnie Gronborg  
Health Care Advocate  
Festus

Stacey Sickler  
Missouri Health Care for All Staff  
Statewide, St. Louis

## Missouri Health Care for All

4144 Lindell Boulevard, Ste. 221 St. Louis, MO 63108  
Phone 314-531-4787 • Fax 314-531-4785



December 28, 2010

John M. Huff, Director  
Department of Insurance, Financial Institutions, and Professional  
Registration  
P.O. Box 690  
Jefferson City, MO 65102

Dear Director Huff,

Missouri Health Care for All respectfully submits these comments regarding possible waiver or adjustment of the Medical Loss Ratio in the State of Missouri.

Thank you for this opportunity to provide testimony. It is important to us to have the grassroots and faith voices heard in this issue.

If you have any questions or require additional information please contact Stacey Sickler, Administrative Director, at 314-570-5505 or at [stacey@interfaithstl.org](mailto:stacey@interfaithstl.org).

Sincerely,

Rev. Jim Hill  
Missouri Health Care for All  
Steering Committee Member

Stacey Sickler  
Administrative Director

Testimony before the Missouri Department of Insurance, Financial Institutions, and Professional Registration opposing pursuit of an adjustment to the MLR for the State of Missouri.

Submitted by Rev. Jim Hill on behalf of the Missouri Health Care for All Steering Committee  
December 28, 2010

My name is the Reverend Jim Hill, and I'm on the Steering Committee of Missouri Health Care for All. MHCFA is a grassroots, non-partisan movement of faith and community leaders committed to securing quality, affordable health care for all Missourians. We have 120 organizations who have endorsed our Principles for a just health care system. In addition, we have more than 7300 grassroots members.

We are very glad to see a public process begin in Missouri on components of the Affordable Care Act. In addition, we see the questions of how to hold insurance companies accountable to Missouri families and consumers as fundamental to realizing the benefits of the new law.

Missouri Health Care for All firmly believes that we have a moral obligation to make sure that every person and family in our state has access to the rich health care resources Missouri enjoys. We understand there is a long way to go until everyone has health care they can afford that is available to them in their home community, no matter where they live or how much money they make. Still, we are committed to that vision and to holding Missouri officials and companies that conduct business in Missouri accountable to that vision.

We strongly assert that investing in health care for all is both critically important for the well-being of all Missourians and a sound economic investment. Based on faith and ethical values, we affirm that all persons should have the opportunity for healthcare and healing.

**Missouri should not seek an adjustment or waiver of the Medical Loss Ratio Standards for Insurance Carriers.**

**The Medical Loss Ratio rules are good for consumers and small businesses who purchase insurance. THE MLR assures that we receive value for our premium dollars by requiring 80% or more of premium dollars be spent on medical care versus administrative costs, such as profits, advertising, CEO pay, claims administration and lobbying. If a health plan falls short of that standard, it must rebate the difference to consumers.**

**Missouri consumers need more value for our premium dollars—and insurance companies must be required to deliver more value and more affordable premiums.**

The MLR is intended to put effective pressure on insurance companies—to do better, to decrease administrative costs and to deliver more value to Missouri consumers. It is one of the few cost containment provisions of the Affordable Care Act that will impact many insured families.

**The Medical Loss Ratio rule is sound public policy.**

Assuring that a reasonable percentage of our health insurance premiums benefit consumers and families is good public policy. We are concerned about compromising the consumer protections vital for Missouri families in order to benefit the health insurance industry. The top five for-profit health insurers alone recorded \$12.2 billion in profits in 2009. Without the minimum medical-loss ratios, which still are well below the average MLRs achieved in the 1990s, health plans would continue to spend excessively on profits, disproportionate CEO pay packages, lobbying and administrative activities designed that continue to harm consumers. The MLR restores needed balance.

**Missouri consumers need increased transparency to assure value of our premium dollars.**

The Department of Health and Human Services identifies six criteria that will be used to determine the risk of destabilization in the insurance market. However, here in Missouri we do not have sufficient data readily available to consumers to evaluate the effect on the marketplace. Only two other states (Georgia and Montana) have so little transparency with regard to insurance premiums and their medical loss ratios. It will be critically important for the Department of Insurance to improve information available to consumers about rate increases and medical loss ratio now that the State and federal government have greater capacity to protect consumer interests.

However, we do know that Missouri families and small businesses have been saddled with staggering premium increases. **The cost of insurance grew by a startling 83% between 2000 and 2009 for Missouri Consumers.** The transparency of the medical loss ratio means that for the first time, Missouri consumers can actually learn and understand what insurance companies are doing with our premium dollars, and to shop wisely with that knowledge.

**Conclusion:**

For Missouri consumers the medical loss ratio provisions are a significant opportunity and an important piece of the Affordable Care Act that makes coverage more affordable and makes the system more transparent. The new Medical Loss Ratio rules will insure that consumers get good value for their premiums. In addition, granting a waiver would deny Missourians their rebates from companies that failed to meet the MLR standard.

Any potential adjustment should involve a rigorous assessment by the Department of insurance and should be transparent and should involve significant consumer input and engagement.

The MLR rule is sound public policy. If Missouri experiences adverse consequences due to the MLR, the solution is to modify state laws to protect consumers. Many tools are available including rate review, more stringent requirements on carriers who wish to sell policies in Missouri, and stronger consumer protections.

**We strongly urge Director Huff and the Department of Insurance *not to request a waiver* lowering the Medical Loss Ratio standards for the State of Missouri.**



## **Missouri Health Care for All Principles**

**We resolve that a health care reform plan should:**

**• Provide timely access to quality, affordable health care to all Missourians.**

**• Assure access in all communities regardless of geography or economic base.**

Access and affordability of health care will meet the unique needs of rural communities challenged by geography and communities with high rates of poverty or unemployment. We also must ensure adequate participation of health care practitioners to meet this goal including ensuring adequate provider reimbursement throughout the system.

**• Employ both private coverage options and public insurance programs including Medicaid.**

We must protect the health care of those traditionally covered by public insurance programs including seniors, low income individuals, children and people with disabilities. In addition, we must expand coverage to everyone, including those with pre-existing conditions.

**• Achieve fair and efficient financing.**

Financing health care for all Missourians will include *fair* contributions from individuals, businesses, and public resources. The community will explore revenue sources that other states have successfully used to expand healthcare. Wise stewardship of our resources is critical in financing health care for all.

**As a plan is developed to provide health care to all Missourians, it must:**

- Truly reflect the diversity of our communities working in active partnership to overcome racial and ethnic disparities.

- Ensure meaningful public input into each step of developing the plan, including public meetings and hearings and meaningful engagement of consumers, front-line healthcare workers, advocates, health care providers, businesses, and state officials.

- Be based on best practices that have proved effective in providing affordable, high quality, comprehensive health care, including wellness education, preventive care and mental health parity.

- Be subject to annual review and evaluation of the impact on the uninsured, the health care system and individuals who are insured under the new plan.

MISSOURI HEALTH CARE FOR ALL  
129 Endorsing Organizations  
December 2, 2010

Adorers of the Blood of Christ, *St. Louis region*  
American Jewish Congress, *St. Louis Region*  
Associated Services, Inc., *St. Louis*  
Better Family Life, *St. Louis*  
Catholic Diocese of Kansas City-St. Joseph,  
Human Rights Department, *Kansas City*  
Catholic Charities, *St. Louis*  
Centennial Christian Church, *St. Louis*  
Center for Immigrant Healthcare Justice,  
*Nationwide*  
Central Reform Congregation, *St. Louis*  
Children's Services Coalition, *St. Louis County*  
Church and Society Mission Team of Missouri  
Union Presbytery, *Statewide*  
Church Women United, *St. Louis*  
CHIPS- Community Health in Partnership  
Services, *St. Louis*  
Christ Lutheran Church (ELCA), *St. Louis*  
City of Potosi, *Washington County*  
City of St. Louis, *St. Louis*  
Coalition of Black Trade Unionists, *St. Louis*  
Coleman-Wright CME Church, *St. Louis*  
District  
Committed Caring Faith Communities, *St. Louis*  
Communities Creating Opportunities, *Kansas*  
*City*  
Congregation Kol Am, *St. Louis*  
Congregation Neve Shalom, *St. Louis*  
Congregation Shaare Emeth, *St. Louis*  
Congregation Temple Israel, *St. Louis*  
Cooperative Home Care, *St. Louis*  
Covenant House Missouri, *St. Louis*

CWA Local 6355 Missouri State Workers Union,  
*Statewide*  
Deaconess Parish Nurse Ministries, *Statewide*  
The Diocesan Council of the Episcopal Diocese of  
Missouri, *Statewide*  
Disability Coalition on Healthcare Reform,  
*Statewide*  
Disabled Citizens Alliance - DCAI, *Viburnum*  
Eden Theological Seminary, *St. Louis*  
Emerson Unitarian Universalist Chapel, *St. Louis*  
Epiphany United Church of Christ, *St. Louis*  
Faith Des Peres Presbyterian Church, *St. Louis*  
Faith Des Peres Presbyterian Church Mission  
and Ministry Committee, *St. Louis*  
Faith Walk Ministry INC, *Paris*  
Family Preference Health Care Clinic, *Matthews*  
Feed My People, *St. Louis*  
First Unitarian Church of St. Louis Social  
Responsibility Committee, *St. Louis*  
Gateway OWL the Voice of Midlife and Older  
Women, *St. Louis*  
GRO- Grass Roots Organizing, *Mexico- Statewide*  
Greater Mt. Carmel Baptist Church, *St. Louis*  
Greater St. Louis Parish Nurse Network, *St. Louis*  
Greater St. Mark Family Church, *St. Louis*  
Greater Works Church of Jesus Christ, *Sikeston*  
High Pointe Healthcare, *Scott City*  
Higher Heights Christian Church, *St. Louis*  
Hindu Temple of St. Louis, *St. Louis*  
Human Rights Action Service, *St. Louis*  
HumanityWorks!, *St. Louis*

Institute for Peace and Justice, *St. Louis*  
Interfaith Partnership/Faith Beyond Walls, *St. Louis*  
Inter-religious Roundtable, *Statewide*  
Islamic Community Center, *St. Louis*  
Jewish Community Relations Council, *St. Louis*  
Jirah Child Care, Inc., *St. Louis*  
Justice, Peace, Integrity of Creation Office, *St. Louis*  
Lane Tabernacle CME Church, *St. Louis*  
Lutheran Family and Children's Services, *St. Louis-*  
*Statewide*  
Mariposa Men's Wellness Institute, *St. Louis*  
Mark Twain Forest Regional Health Alliance,  
*VanBuren*  
M.D. Pharmacy, Inc., *St. Louis*  
Medi Clinic, *St. Louis*  
Methodist Federation for Social Action, Missouri  
Chapter- *Statewide*  
Metropolitan Community Church of Greater St.  
Louis, *St. Louis*  
Metropolitan Congregations United (MCU), *St.*  
*Louis*  
Missouri Alliance for Retired Americans, *Statewide*  
Missouri Association for Social Welfare (MASW),  
*Statewide*  
MASW Kansas City Chapter, *Kansas City Region*  
MASW Jefferson City Chapter, *Jefferson City*  
MASW Springfield Chapter, *Southwest Region*  
MASW St. Louis Chapter, *St. Louis*  
Missouri Budget Project, *St. Louis - Statewide*  
Missouri Christians Against Racism and Poverty,  
*Statewide*  
Missouri Churches Uniting in Christ, *Statewide*

Missouri Family Health Council, Inc., *Jefferson City*  
 Missouri Immigrant and Refugee Advocates, *St. Louis*  
 Missouri IMPACT, *Jefferson City-Statewide*  
 Missouri Nurses Association – *Third District*  
 Missouri Rural Crisis Center, *Columbia*  
 Missouri Union Presbytery, *NE-MO Region*  
 Missouri Women in Trade, *St. Louis*  
 Mt. Beulah Missionary Baptist Church, *St. Louis*  
 National Conference for Community & Justice of  
 St. Louis  
 National Council of Jewish Women, *Statewide*  
 National Council of Jewish Women, *St. Louis Section*  
 Neighborhood Houses, *St. Louis*  
 New Hope United Methodist Church, *Arnold*  
 New Horizons Presbyterian Church, *Overland*  
 New Life Upreach Ministry, *St. Louis*  
 Northeast Missouri Rural Health Network, *Kirksville*  
 Northminster Presbyterian Church, *St. Louis*  
 Northside Community Center Housing, *St. Louis*  
 Nurses for Newborns Foundation, *St. Louis-Statewide*  
 OACAP (Adult Community Action Program),  
*St. Louis*  
 Paraquad, Inc., *St. Louis*  
 Partnership for Children, *Kansas City*  
 Pilgrim Congregational Church UCC, *St. Louis*  
 Presbytery of Giddings-Lovejoy, *St. Louis-Eastern*  
*MO*  
 Salvation Army Midland Division, *St. Louis*  
 Salvation Seeker's Ministries, *St. Louis*  
 Samaritan United Methodist Church, *St. Louis*  
 Second Presbyterian Church, *St. Louis*  
 Self Help Center, *Afton*  
 Senior Helpers In-Home Companions, *St. Charles*  
 Service Employees International Union,  
*Local 1 Missouri Division*  
 Sisters of St. Joseph of Carondelet, *St. Louis*  
 Southside Welfare Rights Organization, *St. Louis*  
 Southwest Center for Independent Living,  
*Springfield*  
 St. Francis Xavier College Church, *St. Louis*  
 St. Louis Area Jobs with Justice, *St. Louis*  
 St. Louis American Foundation, *St. Louis*  
 St. Louis Citizens for R.E.A.L. Healthcare Reform,  
*St. Louis*  
 St. Monica Church, *St. Louis*  
 Susanna Wesley Family Learning Center,  
*East Prairie*  
 SEMO Alliance for Disability Independence, Inc.,  
*Cape Girardeau*  
 The Cross Roads Inc., *Columbia*  
 Touch Point Autism Services, *St. Louis*  
 United Methodist Church of St. Clair, *St. Clair*  
 Valued Pharmacy Services, *St. Louis*  
 Vision for Children at Risk, *St. Louis*  
 Washington County Community Partnership, *Potosi*  
 Westside Missionary Baptist Church, *St. Louis*  
 Westminster Presbyterian Church, *St. Louis*  
 Whole Health Outreach, *Ellington*  
 The Whole Person, *Kansas City*  
 Women's Voices Raised for Social Justice, *St. Louis*  
 Youth In Need, *St. Charles*

## *Building a Movement...*

**We've all heard the stories.**

**Working parents who can't afford to see a doctor...senior citizens cutting their prescribed pills in half...families forced to choose between filling their gas tank or filling their prescriptions...doctors who can't treat their cancer patient as they see best because the insurance company denied payment.**

**These stories shouldn't be true in Missouri.**

Throughout the state, Missourians are speaking out for health reform in the belief that every person deserves guaranteed, affordable health care choices. Health care that provides real and meaningful choices so we can make responsible life decisions. Missouri Health Care for All is bringing us together.

We are breaking down the barriers that divide us. We are educating ourselves about the challenges and the possible solutions. We are building a grassroots coalition that allows the voice of Missourians to rise above the powerful influence of well-paid industry lobbyists.

This work requires trust, patience and a belief that together we can create change. **Please join us.** Be one of the many individuals, organizations, and faith groups that will bring accessible, affordable, quality health care choices to all Missourians.

*...for Health Care for All*

## *History*

In April 2007, a group of faith and community leaders met to hear Vinny DeMarco of the Maryland Health Care for All Coalition. Vinny described how a small group of concerned citizens grew a powerful statewide coalition by agreeing to certain principles. Following this successful model, Missouri drafted principles and began organizing a broad array of groups and individuals to call for a long term plan that will provide health care for all in Missouri.

In 2009, the movement has grown to include individuals in Cape Girardeau, Mid-Missouri, Southeast Missouri, Farmington, Poplar Bluff, St. Louis and Kansas City. We are continuing to grow the movement statewide.

Missouri Health Care for All has not endorsed any particular policy or legislation. **We are building a movement that will have enough power to demand that our leaders create a plan to bring high-quality, affordable health care choices to all Missourians.** Our vision is to build a base that is big enough, strong enough, and diverse enough to ensure that whatever plan Missouri adapts will agree with our Principles.

For more information:

Stacey Sickler, Health Care Advocate  
4144 Lindell Blvd, Ste 221  
St. Louis, MO 63108

Phone: 314-531-4787  
Fax: 314-531-4785  
ssickler@faithbeyonddwalls.org

[www.mohealthcareforall.org](http://www.mohealthcareforall.org)



# Missouri Health Care for All

*Join the grassroots  
movement that will bring  
health care to all  
Missourians!*



[www.mohealthcareforall.org](http://www.mohealthcareforall.org)

**Missouri Health Care for All is a non-partisan, grassroots movement committed to securing access to affordable, high-quality health care choices for all Missourians.**

## Our Principles

We affirm, based on moral and ethical values, that all persons should have the opportunity for health care and healing. We strongly assert that investing in health care for all is critically important for the well-being of all Missourians and economic health of our state.

Missouri is struggling with rising health care costs for those who are insured, significant declines in health care access and increasing numbers of the uninsured. These serious challenges and the ripple effects they produce in our communities, congregations and families motivate us to work diligently to improve health care for all Missourians.

Our Principles call for quality, affordable, health care choices for all and reflect four key areas:

- All Missourians must have quality, affordable health care.
- The care must be available regardless of where you live or how much money you make.
- Missourians will have choices that include good public insurance programs and private coverage.
- Individuals, businesses, government and insurers will share responsibility in making health care access and costs affordable, efficient and fair.

## Please Join Us!

We need YOU to build a diverse, statewide movement for health care reform.

Please read the Principles in this brochure. If you support them, please join our movement by completing and submitting the attached form. You can also join online at [www.mohealthcareforall.org](http://www.mohealthcareforall.org).

We welcome all individuals, faith congregations and community groups.

As a member of Missouri Health Care for All, you will receive regular updates, timely health care alerts, and opportunities to *learn* and to *take action*.

You can participate in many different ways: by attending planning meetings; recruiting new members; participating in community education or media events; talking to your legislators; or speaking to others about Missouri Health Care For All. No member is required to participate in any single activity, but we do hope each person will help us work towards high-quality, affordable health care choices for all Missourians.

Together, we will bring health care for all to Missouri.



**YES!** I support the Missouri Health Care for All Principles. I want to join this movement. I am supporting MO Health Care for All as (please circle one)

**An Individual      An Organization**  
**Both**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Organizations, congregations, or groups: \_\_\_\_\_

How did you hear about us? \_\_\_\_\_

**How would you like to help Missouri Health Care for All? I would like to:**

- Allow my name/organization's name to be printed on Missouri Health Care for All literature.
- Participate in meetings and planning.
- Ask others to support the Principles.
- Write letters to the editor.
- Contact my legislators.
- Provide information about individuals in my family/community/congregation who are struggling to get health care.

**Please return to:**  
**Stacey Sickler**  
**Missouri Health Care for All**  
**4144 Lindell Blvd. Suite 221**  
**St. Louis, MO 63108**



Testimony before the Missouri Department of Insurance, Financial Institutions, and Professional Registration opposing an adjustment to the MLR for the State of Missouri.

Submitted, by Amy Smoucha, Missouri Jobs with Justice  
December 28, 2010

My name is Amy Smoucha and I'm a statewide health care organizer with Missouri Jobs with Justice, and I'd like to speak today on behalf of health care consumers in Missouri and urge you to fully implement the federal medical loss ratio. We believe it will be harmful to Missouri consumers if the Department obtains an adjustment to the new MLR standards. Jobs with Justice is a coalition of labor, community, faith and student groups. We have more than 100 member organizations in the State and grassroots membership of 10,000 Missourians. Our members, who are working people and middle class families, have a significant stake in the implementation of the Affordable Care Act, especially provisions that will make health care premiums more affordable and insurance companies more accountable to consumers. We are concerned that if the state seeks a federal adjustment to the medical loss ratio, working and middle class families in our state will lose an important premium protection and will be forced to forfeit rebates that are owed to them under federal law.

**The Medical Loss Ratio Rule is good public policy**

The medical loss ratio provision of the Affordable Care Act (ACA) is intended to ensure that consumers get good value for their health care dollar. This rule was developed after extensive, non-partisan debate at the National Association of Insurance Commissioners (NAIC). The medical loss ratio provision is good for Missouri's worker and families purchasing in the individual and small group markets.

Missourians desperately need protection from soaring premiums and decreasing value of health coverage. Our families have struggled with unreasonable premium rate increases in the last few years. Overall, the cost of health insurance grew 83 percent between 2000 and 2009, while median earnings in the state grew only 23 percent. We're spending more and more for less coverage, and our earnings are stagnant. The costs of health care premiums for working families is soaring out of control, growing at unsustainable rates, and insurance companies can and must deliver more value.

**Missouri consumers need transparency.**

The transparency of the medical loss ratio rule is also good for working families. This policy means that, for the first time, consumers can get an answer to an important question: when we pay health care premiums, where is all of our money going? Currently, Missouri does not even require health insurers to file their rate increases with the state. Only two other states have so little transparency (Georgia and Montana). We urge the state to view the application of a medical loss ratio as another important tool in making sure consumers get a fair deal. At the very least, implementation of the medical loss ratio requirements would mean that if an insurer implements a rate increase that turns out not to be necessary to cover health care claims and quality improvement expenses, the consumer would get the excess back.

**Insurance companies must be accountable and must deliver better value**

Some insurers in the state have claimed that being required to spend 80 cents of every premium dollar on medical care and quality improvement would "force" them to stop selling insurance in the individual market. Missouri consumers are fed up with unjustified premium increases that leave too many of us with ever-increasing premiums or, worse yet, uninsured. We are also fed up with insurers who seek to control the market and then take advantage of consumers with high premiums and low value policies. Data available on the insurance department website shows that three of the top five insurers writing policies in Missouri's individual market are meeting or close to meeting the 80% MLR

spending target. In 2009 Blue Cross/Blue Shield of Kansas City, reported an 80.56% MLR. Mercy Health Plans reported 78.97%, and Continental Life Ins. Reported an MLR of 82.14%. Though the methodology of each company is not defined, the only available data indicates that the new federal standards would not place any significant burden on these companies and clearly some Missouri plans are delivering better value.

Other insurers should be able to lower their administrative expenses to meet the MLR spending target or they should rebate consumers the difference. For instance, the website indicates that Healthy Alliance, the insurer that holds the largest share of the individual market in Missouri spends less than 70% of premiums on care. Why is one company with more than half of the market share unable to deliver a competitive Medical Loss Ratio? Healthy Alliance and other insurers need to work with the consumers and Missouri Department of Insurance to help create a more competitive, value-for-premium health insurance system. Missouri's working families who have faced an 83% increase in premiums since 2000 need to know where our premiums dollars go and why our premiums and deductibles are so unsustainably high? As a subsidiary of Wellpoint, what portion of premiums from Healthy Alliance went toward the company's 91% profit increase or their CEO's 51% pay increase in 2009—a CEO who makes more than \$11 million in annual compensation? If such insurers cannot meet the challenge of competitive MLRs, Missouri should create stronger rules for insurance companies. For example, we should create new regulations barring any health insurer who leaves the Missouri individual health insurance market or redlines geographic areas of the state between now and 2014 from being eligible to sell policies in the new health insurance exchanges.

**A thorough, transparent process must be conducted if Missouri moves forward to seek a waiver.**

Insurance carriers need to answer some basic questions. Why are administrative costs in our health plans so high, and why can't they be brought down in compliance with the law? Why can insurers comply with the medical loss ratio in other states, like Colorado and Kansas, but not in Missouri. How much in rebates will Missourians lose if the state seeks an adjustment? Would the loss of a few low-performing insurers in the state hurt consumers?

It is also important for the State to conduct a thorough, transparent assessment of which insurers will or will not meet the MLR requirements. It's essential to know which insurers fall into the gap since protecting a few insurers by seeking an adjustment means lowering the standard statewide and denying all consumers the rebates they are entitled to receive.

**Conclusion:**

We commend Director Huff for voting with all the other Insurance Commissioners in the nation to create the MLR Rule. In the last few years, Missouri families have had to tighten their belts to afford health coverage. It's time for insurers to do the same: cut the waste, become more efficient, and give consumers a fair deal. **On behalf of consumers and working families in our state, we respectfully urge you not to request an adjustment to the medical loss ratio for our state. Enforce the rule fully and hold insurance carriers in Missouri accountable to higher standards.**

Amy Smoucha, Health Care Organizer  
Missouri Jobs with Justice  
2725 Clifton Ave.  
St. Louis, MO 63113  
[amy@mojwj.org](mailto:amy@mojwj.org), 314-608-3917

12/27/10



TO: John M. Huff, Director  
Department of Insurance, Financial Institutions, and Professional Registration  
P.O. Box 690  
Jefferson City, MO 65102

RE: The "medical loss ratio" provision of the Affordable Care Act

My name is Bernadette Gronborg and I am a resident of Festus, Missouri. I am writing to inform you that I support the medical loss ratio and its enforcement with regard to insurance companies in the State of Missouri.

Health insurance companies continue to post record profits in the wake of the enactment of the Affordable Care Act in March 2010. The purpose of the Medical loss ratio provision was to guarantee that a greater percentage of the enormous profits reaped by health insurance companies actually is spent on the insured and their health care costs rather than on administrative bonuses.

My own personal insurance voyage is a case in point. I left my position in public library service at age 60 in order to care for my husband who has several chronic and serious medical conditions. I used Cobra to extend my Group Health Care Plan for the maximum number of months at a cost of nearly \$600.00 per month.

Near the end of my Cobra coverage, I applied for private insurance, thinking that since I am a relatively healthy woman, I would have no trouble obtaining coverage. I was subsequently denied by several insurance companies, including Anthem Blue Cross/Blue Shield. I was denied for hypertension (high blood pressure) that has been under control for many years with minimal medication.

I finally sought and received coverage through AARP. This is insurance provided to AARP members through Aetna. The only policy I could afford carries a \$15,000 deductible. Please read this correctly, not \$1,500, but \$15,000. The policy lists a number of things that will not be covered, including anything related to hypertension, spinal issues, anything related to breast cancer (because my sister had breast cancer), and anything related to menopause. Since I am post menopausal, I'm not sure what that really means and they have never been able to tell me. It is clear that my gender alone is enough to send up red flags.

I believe this policy will cover any injuries related to my being struck broadside by an invading alien craft, but I'm not certain since reading the 80 page manual is somewhat discouraging. My premium for such excellent coverage has increased twice this year, even though I HAVE FILED NO CLAIMS AGAINST my insurance. There was a \$40 premium increase in March and another this month. My current premium is \$321.00 per month. The letter I just received from Aetna this month gave "age increase" as a reason. In other words, I have not died and continue to grow older daily, to my current age of 63.

In a study recently released by United Health Foundation, the American Public Health Association and Partnership for Prevention, our state has now fallen to 39<sup>th</sup> in health rankings. ("How



low can you go? Missouri ranks falls to 39<sup>th</sup> in health rankings", St. Louis Beacon 12/27/10.) This is a shameful state of affairs considering that the Missouri State Motto is

"Let the Welfare of the People be the Supreme Law".

I respectfully ask that you allow the full implementation of all provisions of the Affordable Care Act, especially with regard to the medical loss ratio.

Bernadette Gronborg  
1948 Anchorage Drive  
Festus, Missouri 63028

Testimony before the Missouri Department of Insurance, Financial Institutions, and Professional Registration opposing pursuit of an adjustment to the MLR for the State of Missouri.

Submitted by Tim Gibbons, Communications Director, Missouri Rural Crisis Center  
December 28, 2010

My name Tim Gibbons with the Missouri Rural Crisis Center, a non-profit statewide farm and rural organization representing 5600 member families.

### **Missouri should not seek an adjustment or waiver of the Medical Loss Ratio Standards for Insurance Carriers.**

Our members, comprised of Missouri family farmers and rural citizens, have significant experience in the individual insurance marketplace, and under the current rules farm families are not getting value for their premium dollars. Family farmers are extremely dependent on the private individual marketplace (30% vs. the national average of 8%) and have been paying into the marketplace and getting very inadequate health coverage.

Increasingly, many of our members cannot afford to purchase any coverage at all with soaring premiums and low value of the coverage available. We see the Medical Loss Ratio standards as a good first step in: holding insurance companies accountable for affordable premiums, increasing transparency in the individual and small group markets and assuring rural families and family farmers a good value for their premium dollars.

MRCC has partnered with several community groups, including St. Louis University and the Access Project, to produce a report about access to health insurance for family farmers and ranchers in Missouri. Our report, based on 2006 data, revealed the problems Missouri farmers and ranchers are facing in the individual insurance market. And please note premium costs and value for premiums spent has gotten *significantly worse for farm families and rural citizens since this data was gathered in 2006.*

The report shows:

1. Farmers and ranchers who purchased policies directly through the individual marketplace had significantly higher total health care costs than those who were insured through off-farm coverage.
2. Controlling for age and health status, families insured through the individual market spent \$2,117 more on health care, on average, than those insured through off-farm jobs.
3. Farmers and ranchers who bought insurance in the individual market relied overwhelmingly on the costliest types of policies – those with high premiums and high deductibles (more than \$500 a year). The fact that so few of those purchasing insurance in the individual market (five of 35 respondents) had low deductible plans suggests that low deductible plans are not really available in this market.
4. People with high premium policies (\$500 per month/ \$6,000 per year or more) spent significantly more overall on health care than those who had low premium policies.

**We believe the Medical Loss Ratio Policy is headed in the right direction.**

The transparency of the medical loss ratio means that, for the first time, consumers can get an answer to a basic question: **where are the dollars spent on our premiums really going?**

Missourians have absorbed outrageous and unsustainable premium rate increases in our state in the last few years. Overall, the cost of health insurance grew 83 percent between 2000 and 2009, while median earnings in the state grew only 23 percent. Our report shows that 1 out of 5 Missouri farmers and ranchers surveyed reported that health care costs contributed to their financial problems, including



making it difficult to pay-off farm or ranch loans, causing them to delay farm or ranch investments and increasing the need to take off-farm work.

Some insurers in the state have claimed that being required to spend 80 cents of every premium dollar on medical care and quality improvement would “force” them to stop selling insurance in the individual market. MRCC is very concerned about access to health insurance and choice of insurers in rural areas. However, data available on the insurance department website seems to indicate that several insurers are close to meeting the spending target. Other insurers would need to lower their administrative expenses or, if administrative spending exceeded the target, would have to rebate consumers the difference.

While we see no data or reason to assess that the threat of some Missouri insurance companies is founded or valid, should such concrete data be determined valid by the Department, and the state does seek an adjustment, it should be short term, temporary, and designed to move insurers in the right direction over time. For instance, the standard could be 75 percent in 2011 and 80 percent in 2012 and 2013.

**Missouri consumers need increased transparency to assure value of our premium dollars.**

The state must create a strong, transparent process of assessing which insurers will or will not meet the MLR requirements. The federal formula for calculating the medical loss ratio already makes reasonable accommodations for plans that are small or new or that have low annual limits. It is unfair to consumers to say that the state needs to seek an adjustment because a few companies don't meet the new standard – the point of the law is to change their behavior, not to sanction it. It is unfortunate that in Missouri we do not have rules that require insurance companies to provide appropriate data. Only two other states (Georgia and Montana) have so little transparency with regard to insurance premiums and medical loss ratios. The Department of Insurance needs to do much more to protect consumers and require plans to submit standard data.

We commend Director Huff for voting with every other state insurance commissioner in unanimous support of the federal regulations. We appreciate his vote especially given the significance of medical loss ratio as an important piece of the Affordable Care Act that makes coverage more affordable and makes the system more transparent.

**We strongly urge Director Huff and the Department of Insurance not to see a waiver or adjustment of Medical Loss Ratio Rules for the State of Missouri.**

**Thank you for the opportunity to testify.**

**Tim Gibbons  
Missouri Rural Crisis Center  
1108 Rangeline Street  
Columbia, MO 65201  
(573) 449-1336  
[tingibbons@morural.org](mailto:tingibbons@morural.org)**



Missouri and Central/Southern Illinois  
13655 Riverport Drive  
Maryland Heights, MO 63043



December 28, 2010

The Honorable John M. Huff  
Director  
Missouri Department of Insurance, Financial Institutions,  
and Professional Registration  
Harry S Truman State Office Building  
301 West High Street, Room 530  
Jefferson City, MO 65101

**RE: *Effect of the Medical Loss Ratio on the Individual  
Health Insurance Market in Missouri***

Dear Director Huff:

UnitedHealth Group appreciates the opportunity to provide written comments on the topic of the effect of the Medical Loss Ratio (MLR) on the individual health insurance market in Missouri.

UnitedHealth Group employs 2,400 people in Missouri, and provides health coverage to nearly 1 million residents. Recognized as America's most innovative health care company by *Fortune* magazine, UnitedHealth Group offers a highly-diversified and comprehensive array of health and well-being products and services, empowers individuals, expands consumer choice and strengthens patient-provider relationships.

Through our six businesses—UnitedHealth Care - Employer & Individual, UnitedHealthcare – Community & State, UnitedHealth Care – Medicare & Retirement, Ingenix, Prescription Solutions and OptumHealth- our 78,000 employees serve the health care needs of more than 75 million individuals, develop and advance new health technologies and enhance financial and operational connectivity across the care system. Our role as a national leader in both private and public health benefits programs enables us to continuously foster innovative health solutions aimed at creating a modern health care system that is more accessible, affordable and personalized.

The Patient Protection and Affordable Care Act is a large, highly complex piece of legislation that requires extensive federal rulemaking and substantial regulatory and process changes for states and insurance companies. Regulators and insurers have many questions that remain unresolved which make it difficult to answer all of the questions and concerns that consumers and our distribution partners have today.

While we welcome efforts by states and the federal government to gather detailed information about the practical application of new MLR standards that become effective on January 1, 2011, we remain concerned about unintended consequences and potential disruption for consumers.

Through Golden Rule Insurance Company, a subsidiary of UnitedHealthcare, we offer a wide range of quality health insurance options to individuals and families, including lower-cost high deductible plans, health savings accounts and traditional plans. In addition, we offer short term health insurance designed to bridge temporary gaps in health insurance coverage. Our products cover workers between jobs, new graduates who do not have insurance coverage through their parents, and others who purchase their own health insurance because they are retired, self-employed or because their employer does not offer employer-sponsored health insurance.

With specific regard to the individual health insurance market, we are concerned that the current MLR requirement of 80 percent effective January 1, 2011 could create significant disruption in the market for the reasons outlined below:

**1. Some carriers may stop selling to new customers.**

Some newer carriers may conclude that their small scale will not allow them cover the costs of distribution and administration of new business. As you know, individual market business is priced to a lifetime loss ratio. As a practical matter, the loss ratio pattern for underwritten medical business is not level over the lifetime of any given policy because there are typically lower medical loss ratios in the early years of a policy followed by higher medical loss ratios in later years. At the same time, administration and commission costs are highest in the first year of a new health insurance policy. The combination of high first-year costs to underwrite new business and potential consumer rebates because of low loss ratios in the early years could lead some carriers to cease new business sales. Without a phase-in of the 80 percent requirement or the latitude to use a rolling year method to calculate loss ratios, there may be the unintended consequence of less competition in the market.

**2. Carriers could exit the market rather than maintain a book of business at a loss.**

Nationwide, our average individual premium rates are approximately half the cost of similar coverage in the group market, primarily because of individual underwriting. Administrative costs and commissions, however, are roughly equivalent on a per person basis. Therefore, as a percentage of premiums, individual product administrative costs are roughly twice as large as in the small group market. Consequently, compliance with the 80 percent loss ratio in the individual market will be very challenging relative to the small group market.

Phasing-in the MLR over time will give carriers time to adjust internal cost structures to meet these new requirements.

**3. Customers could lose important resources for information if brokers are forced out of the marketplace.**

Today, a significant proportion of individual health insurance in the market is purchased by consumers with the assistance of a professional licensed insurance broker. As a result, brokers are vital to the smooth functioning of the insurance market. Many consumers tell us they would not consider buying a complex product like health insurance without the help of an insurance professional.

Consumers rely upon brokers, as a single point of contact, to:

- a) Present them with a wide variety of carriers, plan designs, and prices;
- b) Help them select the best plan for them and navigate the enrollment and underwriting process; and,
- c) Provide assistance with service needs.

As millions of new entrants to the health insurance market obtain individual insurance coverage for the first time, the role of brokers will be even more important than it is today.

Because the price for individual health insurance is much lower, on average, than group insurance prices, and because of the considerable upfront investment in servicing new customers, broker commissions tend to be highest in the first year and much lower in the following years of a policy. For example, a typical schedule might feature a 20 percent first-year commission and 5 percent trailing commission.

Under an 80 percent MLR regime, 100 percent of first-year administrative and profit allowance will be consumed by the typical broker commission. Clearly this structure is unsustainable and will necessitate lower commission percentages than those used today. As a result, in July of this year we notified all our brokers that we may have to lower commissions on January 1, 2011 for all business sold after July 2010. Substantially lower commissions will mean fewer trusted advisors in the market to guide consumers.

In the absence of a robust broker distribution channel, consumers will be forced to contact each insurer, one at a time, to learn about all available options. Retaining these advisors is critical for those Missourians who rely on their services. By phasing-in medical loss ratios in the individual market, brokers and insurance companies will be able to adjust to the new market realities over a reasonable period of time and prevent an abrupt loss of services for Missouri consumers.

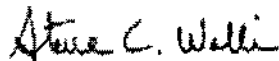
**4. Younger, healthier consumers could have fewer choices.**

Absent a transition period to the new MLR requirement, we are concerned that there will be fewer health insurance options available in the individual health insurance market for one of the largest segments of the uninsured population. At the lower commissions required to meet the new MLR rules, brokers may be unable to offer these products to consumers and, therefore, leave young, healthier consumers with fewer health insurance alternatives.

In conclusion, we believe that implementing the medical loss ratio requirements outlined in the new reform legislation without an appropriate transition period could unintentionally destabilize the Missouri individual health insurance market.

We appreciate the time and attention you have given to this issue and thank you for the opportunity to submit comments for your consideration. Should you have any questions about our positions, or need additional information, please feel free to call me or Jarrod Forbes, Vice President of Government Affairs at 314-592-7106.

Sincerely,



Steve C. Walli  
Chief Executive Officer  
UnitedHealthcare - Missouri and Central/Southern Illinois  
13655 Riverport Drive  
Maryland Heights, MO 63043



Testimony for the Mo. Dept. of Insurance  
12-28-'10

Missouri stands out for what it isn't doing. The State dropped another notch in health rankings this year while some other states improved their showings, according to a report by the United Health Foundation, the American Public Health Association and Partnership for Prevention. The study now says Missouri ranks 39th. Last year it was 38th per cent. The listing reflects health behaviors, public and private health policies and community and environmental conditions.

Medicare has 3 % administration costs. A lot of us in medical care wanted single payer, medicare for all, or another government run health care program for the recent Health Care Bill. Congress wanted the new health care bill to use private health care insurance companies. The latter are the second highest profitable businesses in our country.

Therefore it doesn't seem too much that we're asking for an MLR of 80-85 %.

Sincerely

Rea Beck MD - *Rea Beck MD*  
520 S. Brentwood Blvd. 1A  
Clayton, Mo. 63105-2553  
314-727-7374

Biography:

I graduated from Missouri University Medical School in Columbia, Mo. in 1961. I did an internship at Jewish Hosp from 1961-1962. My residency was in adult psychiatry at St. Louis University Medical School. My child psychiatry training was at Washington University Child Guidance Clinic. I worked for the St. Louis Public Health Dept., the John Cochran VA Hosp and for 35 years for the St. Louis Labor Health Institute and 12 years for the Cigna health Ins. Co.

I've been married for 50 years, have 4 daughters of whom 3 are nurses.



Testimony before the Missouri Department of Insurance, Financial Institutions, and  
Professional Registration

Opposing pursuit of an adjustment to the MLR for the State of Missouri without  
further evidence of need

Submitted by  
Professor Sidney D. Watson  
Center for Health Law Studies  
Saint Louis University School of Law  
December 28, 2010



My name is Sidney Watson I am professor of law in the Center for Health Law Studies of Saint Louis University School of Law. My research focuses on access to health care including access to private health insurance, Medicaid and Medicare. I have authored more than 60 articles on health policy and law.

Thank you for the opportunity to comment at this preliminary stage on whether the Missouri Department of Insurance, Financial Institutions and Professional Regulation should request that the Secretary of IHS grant the state an adjustment to the new minimum 80% medical loss ratio (MLR) for all insurers in the state's individual health insurance market.<sup>1</sup> The recently issued interim federal regulations provide that a request for such an adjustment must be made by the state's insurance department and will be granted only if there is a "reasonable likelihood" that the 80% MLR "may destabilize the individual market." The comments to the interim final regulations note that both the National Association of Insurance Commissioners and HHS recognize that the new MLR standard "may enhance the value of plans for consumers and improve carrier accountability for spending and pricing decision," but improper application "could threaten the solvency of insurers or significantly reduce competition in some insurance markets." See, MLR Interim Final Regulations, 75 Fed. Reg. 74864, 74886.

The federal regulations specify the supporting data the department must submit with its request, the criteria the Secretary may consider in assessing the application, and the process for public involvement in an adjustment request. The notice of today's hearing outlined the six criteria the Secretary may consider in making a determination whether there is a reasonable likelihood of market destabilization, factors such as the number of insurers likely to exit the market and the number of enrollees likely to be impacted if insurers leave the market.

#### INFORMATION NEEDED TO SUPPORT A REQUEST FOR ADJUSTMENT

I want to direct my comments to the information the Department of Insurance must provide to the Secretary of HHS if a request for an adjustment is made. The interim federal regulations require the state to provide very specific information to the Secretary of HHS. This information is designed to help HHS, the Department, the

public and the insurance industry understand the likely impact of the new MLR requirements on the individual market in Missouri, plan solvency and market competition.

Specifically, the interim final regulations provide that a state requesting an adjustment of the medical loss ratio for the individual market must provide, among other things, the follow information for each insurer in the individual market: (1) the number of enrolled enrollees, (2) individual premium data by product, and (3) the insurer's market share. See, 45 C.F.R. 158.321(d)(1), 75 Fed. Reg. 74930.

In addition, for each insurer covering more than 1,000 enrollees, the state must also provide: (1) the total earned premium in the individual market; (2) MLR reported pursuant to state law; (3) estimated Affordable Care Act MLR as determined using definitions set forth in the interim final regulations; (4) total brokers' commissions; (5) estimated rebates using definitions in the new regulations; (6) net underwriting profit for individual market and consolidated business in the state; (7) after-tax profit and profit margin for the individual market and consolidated business in the state; (8) risk-based capital level; (9) whether the issuer has provided a notice of exit to the department of insurance. See 45 C.F.R. 158.321(d)(2)(i)-(ix), 75 Fed. REg. 74930.

According to the 2009 Department of Insurance Supplemental Data Report for Accident and Health Individual Comprehensive Medical Expense there were 14 insurance companies in the individual market that enrolled at least 1,000 Missourians. The DOI Annual Report provides some, but not nearly all, the information that must accompany a request for adjustment. The DOI report provides no information about net underwriting profits, after-tax profits, profit margin, risk-based capital level or brokers' commissions. It is not clear whether the information in the DOI report on total earned premiums responds to the information requested by HHS about "individual premium data by product."

Just as importantly, the Affordable Care Act definitions for computing MLRs are differently from those used for the DOI Annual Reports. Relying on MLR data in the Annual Reports is helpful, but woefully incomplete. Before the department can make a fact-based determination about the impact of the new MLR rules on Missouri's individual insurance market, it needs to gather the all data required by the interim final regulations and calculate ACA MLR calculations using the definitions in the interim final rules.

This information needs to be made publicly available before the Department decides whether to request an adjustment. The public and the insurance industry deserve the opportunity to comment on the data that must justify an adjustment request before the department makes the decision whether to make such a request.

## ESTIMATES BASED UPON AVAILABLE DATA ABOUT THE IMPACT OF ACA MLR RULES ON MISSOURI'S INDIVIDUAL MARKET

ACA's medical loss ratio provision provides that health insurers, including grandfathered plans but not self-insured plans, are to report to HHS each year the percentage of their premium revenue that they spend on (1) clinical services for enrollees (2) "activities that improve health care quality" and (3) all other non-claims costs, excluding federal and state taxes and licensing or regulatory fees. ACA Section 2718. Beginning with 2011, insurers in the individual and small group market must spend at least 80% and insurers in the large group market at least 85% of their premium revenues, excluding federal and state taxes and licensing and regulatory fees, on health care and quality improvement activities. Insurers that fail to meet these medical loss ratios will have to rebate the difference to their enrollees. States can require higher minimum MLR percentages, and HHS can also adjust state MLR requirements downward where necessary to prevent destabilization of the individual market.

ACA's MLR definition differs from the one Missouri has used for MLR reporting because it includes quality improvement activities in the MLR numerator and excludes taxes, fees and licenses from the denominator. HHS estimates that these changes in MLR calculation combined with behavioral changes prompted by the rebate requirement will result in MLR increases of about four percent. MLR Interim Final Rules, 75 Fed. Reg. 74864, at 74900-74901.

It is also important to note that the new ACA MLR computing rules take "into account the special circumstances of smaller plans, different types of plans, and newer plans." MLRs, particularly for smaller insurers, can be highly volatile ping-ponging up and down from year to year, going from well below 80% one year to well above the next because of the presence or absence of a few large medical claims. Statistical averaging works well for large plans but not for small ones.

HHS's interim final regulations address these issues by treating very small insurers with fewer than 1,000 members in a state as so small as to be statistically "non-credible," deemed to meet the MLR standards and are not subject to paying rebates. Smaller plans with between 1,000 and 75,000 enrollees are given MLR "credibility" adjustments of up to 8.3 percentage points added to their reported MLR, if they fall below the MLR target for one or two years out of the next three. Smaller insurers with large deductibles may receive an additional adjustment of up to 6.1 percent on top of the 8.3 percent, recognizing that higher deductible plans are more volatile. New entrants into insurance markets are also given a break, allowing them a full year's experience before they must either meet MLR targets or pay rebates. See, MLR Interim Final Rules, 75 Fed. Reg. 74864, at 74886-74887.

The purpose of the ACA MLR rule is to drive insurance efficiency not to produce rebates. The costs analysis of the rule suggests that once the adjustments allowed by the rule are applied—excluding taxes from the denominator, adding quality

improvement expenses to the numerator, and making credibility adjustments—most insurers will make the target. HHS estimates that for 2011 the average MLR in the individual market will be 86.5% and for the small group market 90.8%. HHS estimates that 30% of enrollees in the individual market will receive an average rebate of \$164 for 2011, but this is only 2% of all premiums. MLR Interim Final Rules, 75 Fed. Reg. 74864, at 74909. The purpose of the law is to drive efficiency, greater transparency in administrative costs, and greater attention to quality improvement. If insurers raise premiums unreasonably in relation to their costs, they may well owe a rebate. The hope is that premiums will moderate.

Nationwide, a few very large insurers cover most Americans and the MLR rules are designed to primarily impact these insurers. HHS estimates that nationwide only 2 percent of insurers will be fully credible—large enough to have to fully comply with the new MLR rules in all states. However, these 2 percent of insurers cover 50 percent of individual insurance enrollees. Sixty-eight percent of insurers will be completely non-credible in at least one state but these insurers cover only 1 percent of enrollees. MLR Interim Final Rules, 75 Fed. Reg. 74864, at 74903.

The role of larger insurers holds true in Missouri. According to the Department of Insurance 2009 Supplemental Data Report for Accident and Health Individual Comprehensive Medical Expense, only one insurer in the Missouri individual market covered more than 75,000 enrollees and would be fully credible under the new HHS interim final rule: Healthy Alliance with 78,573 insureds and 50.5% of the individual market. Healthy Alliance is a fully owned subsidiary of Wellpoint, one of the country's largest and most profitable health insurers.

Thirteen other Missouri insurers cover between 1,000 and 43,539 people and will be partially credible under the MLR rules. These insurers range from Blue Cross & Blue Shield of Kansas City with 42,539 insureds and 22% of the individual market to Reserve National Insurance Company with 1,399 insured and 0.84% of the market. These thirteen insurers together cover 48 percent of the individual market. The remaining very small Missouri insurers cover only 2% of the Missouri insurance market and will, because of their size, be non-credible.

Seven of the thirteen smaller insurers that cover 48% of Missourians in the individual market report MLRs for 2009 that should allow them to meet the new ACA MRL ratios. Five reported MLRs at or above 80% and two reach that threshold once the 4% increase for quality improvement and behavior changes is added.<sup>2</sup> Two other insurers might be able to reach an 80% MLR if they are eligible for a high deductible adjustment on top of their credible adjustment. The insurers in this group that may not be able to make the MLR, account for only a small percentage of the individual market, about 10-15%.

The big MLR compliance risk in the Missouri individual market is Healthy Alliance, the state's largest individual insurer with 50.5% of the market. Healthy Alliance reported a MLR of only 67% in 2009, thirteen points lower than the 80.56% MLR

reported by Blue Cross and Blue Shield of Kansas City, the state second largest individual insurer with 22% of the market. Even with a quality improvement bump of 4% Healthy Alliance, still falls short of the 80% threshold with an MLR of only 71%. With 78,573 insureds, Healthy Alliance is too large to claim any credibility adjustments.

There is no data publicly available by which to judge why Healthy Alliance has such a low MLR, whether the ability to count quality improvement toward the MLR percentage will dramatically change it's ratio, or whether the new requirements put Healthy Alliance at financial risk. A prospect that some might question given that HA is a subsidiary of Wellpoint, one of the nation's largest and most profitable insurance companies.

However, the process that IIHS had put into place for requesting a MLR adjustment in the individual market demands the information that the Department of Insurance and the public need to know to better evaluate Healthy Alliance's performance, value and quality. Figures on Healthy Alliance's net underwriting profit, after-tax profit, profit margin, risk-based capital level, and brokers' commissions are needed to understand better why the state's largest individual health insurer seems to provide low value coverage. The Department should get the information this information, calculate MLR using the new definitions, and make that information available to the public prior to making a determination whether to request that the an adjustment from the Secretary of HHS.

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<sup>1</sup> Section 2718 of the Affordable Care Act, interim final rule issued December 1, 2010, 75 Federal Register 74864, et seq., to be codified at 45 C.F.R Part 158.

<sup>2</sup> Blue Cross and Blue Shield of Kansas City, the state second largest insurer in the individual market, reported a MLR of 80.56%.



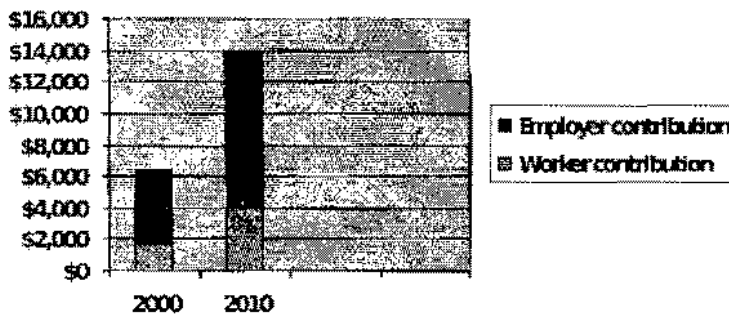
## Testimony provided to the Department of Insurance, Financial Institutions, and Professional Registration

### Re: Adjustment to Medical Loss Ratios in Missouri

December 28, 2010

My name is Ruth Ehresman. I am the Director of Health and Budget Policy for the Missouri Budget Project. Thank you for the opportunity to speak this morning. The Missouri Budget Project, a public interest organization whose mission is to advance public policy that creates economic opportunity for Missourians, particularly low and moderate income Missourians through independent research, analysis and advocacy. We believe that access to affordable health care is essential to the economic well being of Missourians, as well as to the well being of the state.

From 2000 to 2010, the average cost of health insurance premiums have increased by 114 percent. The portion of worker contribution to the cost of health insurance has increased by 147 percent.<sup>1</sup> The larger growth in worker contribution is a notable change from the steady share workers have paid over the past decade.<sup>2</sup>



One of the goals of the Affordable Care Act is to strengthen protection for consumers and to assure a good value for their health care dollar. Establishing a minimum Medical Loss Ratio is one way to accomplish this. It is also a way to bend the curve of health care costs by assuring that profits for insurance company are reasonable.<sup>3</sup>

<sup>1</sup> Employer Health Benefits Survey, 2010, the Kaiser Family Foundation and Health Research and Educational Trust.

<sup>2</sup> Ibid at 1.

<sup>3</sup> HHS Issues MLR Rules. Missouri Hospital Association issue Brief, November 29, 2010. Accessed at [www.mhanet.com](http://www.mhanet.com), December 23, 2010

### **Greater transparency would be good for Missouri consumers**

- Missouri currently has no requirements for a minimum Medical Loss Ratio. Thirty-four states, including 6 of Missouri's neighboring states (Illinois and Nebraska are the exceptions) have established minimum Medical Loss Ratios or other reporting requirements.<sup>4</sup> While these vary widely, based on competition and definitions of what constitutes "medical care", they do provide some consumer protection. By standardizing the definition of MLR, the ACA and HHS regulations will improve consumer protection
- Missouri, along with Georgia and Montana do not require health insurance companies to even file rate increases with the state
- Available information about Medical Loss Ratios on the Department of Insurance website is not readily understandable to the general public. Although numerous reports can be generated on the Department's web site, it is difficult to interpret the data. Consumers can only be smart shoppers if they have the data they need to make informed decisions

### **The HHS guidelines were developed in a thoughtful, balanced, bi-partisan manner and should not be easily dismissed or modified**

- The HHS guidelines follow model recommendations developed by the National Association of Insurance Commissioners .
- There are guidelines that give direction for the inclusion of expanded activities that improve health care quality in calculating the MLR<sup>5</sup> (e.g. disease management, wellness initiatives, 24 hour hotlines and health information technology)
- There are special rules to address mini-med policies, small plans, plans offered through associations or trusts, expatriate plans, and new plans to assure these are treated fairly

### **Achieving the required Medical Loss Ratios appears to be a reachable goal**

Data from the Department of Insurance website regarding "Individual Comprehensive Medical Expenses" show that 3 of the 5 companies with the higher market share report a MLR of near or above 80 percent. These 3 represent almost 86 percent of the market share.

One would expect that with the ACA changes that prohibit insurers from denying coverage or refusing to pay claims for anyone with pre-existing conditions, insurers should progressively spend less on underwriting and administration of refusals to pay, thus raising their MLR. The inclusion of activities that improve health care in the MLR should also provide a boost.

Improving claims accuracy could minimize administrative costs. Data from a report by W. Scott Bailey indicate that as many as one of every 5 health insurance claims is processed and paid inaccurately. Improving accuracy by every 1 percent would yield \$778 million per year in savings to insurance companies.<sup>6</sup>

<sup>4</sup> Health Policy Brief, November 12, 2010. Health Affairs/Robert Woods Johnson Foundation. Accessed at [www.healthaffairs.org](http://www.healthaffairs.org) on December 23, 2010

<sup>5</sup> A July 2010 Issue brief by Changes in Health Care Financing and Organization, part of the Robert woods Johnson Foundation, estimates that changes in the calculation of MLR in the ACA could boost some insurers MLR by as much as 5 percent.

<sup>6</sup> W. Scott Bailey, "Doctors say insurers can trim billions in health care costs," San Antonio Business Journal and Business Courier of Cincinnati, June 25, 2010. Accessed at: <http://www.bizjournals.com/cincinnati/othercities/sanantonio/stories/2010/06/28/story7.html?b=1277697600^3553221&s=industry&i=insurance> December 27, 2010

**The decision to ask for an adjustment to the MLR should be based on hard data that shows harm to consumers**

The Missouri Budget Project urges the Department to press for clear answers about:

- Why an insurer is unable to comply with the new law
- The pattern of the profits posted by insurance companies who seek an adjustment
- The impact of the loss of poorly performing insurance companies on consumers/a particular market
- The specific impact on brokers (how many)
- The impact on insurance companies who already meet the minimum MLR
- The financial loss to consumers who do not get the rebate citizens of other state will receive

If the Department seeks to request an adjustment of the MLR, we urge it to post that request publicly and provide a period of comment and/or a hearing to allow consumers to provide testimony that will be sent to IHHS along with the Department's request. We also request the Department to make public a list of insurance companies who have provided hard documentation that they will leave the market as a result of the MLR requirement.

Thank you for your consideration of our position.

Submitted by  
Ruth R. Ehresman, Director of Health and Budget Policy  
Missouri Budget Project  
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314.652.1400  
[www.mobudget.org](http://www.mobudget.org)



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Beian Colby	Health Alliance		colby@nchealthalliance.org

EXHIBIT #10



Missouri and Central/Southern Illinois  
13655 Riverport Drive  
Maryland Heights, MO 63043

December 28, 2010

The Honorable John M. Huff  
Director  
Missouri Department of Insurance, Financial Institutions,  
and Professional Registration  
Harry S Truman State Office Building  
301 West High Street, Room 530  
Jefferson City, MO 65101

*RE: Effect of the Medical Loss Ratio on the Individual  
Health Insurance Market in Missouri*

Dear Director Huff:

UnitedHealth Group appreciates the opportunity to provide written comments on the topic of the effect of the Medical Loss Ratio (MLR) on the individual health insurance market in Missouri.

UnitedHealth Group employs 2,400 people in Missouri, and provides health coverage to nearly 1 million residents. Recognized as America's most innovative health care company by *Fortune* magazine, UnitedHealth Group offers a highly-diversified and comprehensive array of health and well-being products and services, empowers individuals, expands consumer choice and strengthens patient-provider relationships.

Through our six businesses—UnitedHealth Care - Employer & Individual, UnitedHealthcare - Community & State, UnitedHealth Care - Medicare & Retirement, Ingenix, Prescription Solutions and OptumHealth—our 78,000 employees serve the health care needs of more than 75 million individuals, develop and advance new health technologies and enhance financial and operational connectivity across the care system. Our role as a national leader in both private and public health benefits programs enables us to continuously foster innovative health solutions aimed at creating a modern health care system that is more accessible, affordable and personalized.

The Patient Protection and Affordable Care Act is a large, highly complex piece of legislation that requires extensive federal rulemaking and substantial regulatory and process changes for states and insurance companies. Regulators and insurers have many questions that remain unresolved which make it difficult to answer all of the questions and concerns that consumers and our distribution partners have today.

While we welcome efforts by states and the federal government to gather detailed information about the practical application of new MLR standards that become effective on January 1, 2011, we remain concerned about unintended consequences and potential disruption for consumers.

Through Golden Rule Insurance Company, a subsidiary of UnitedHealthcare, we offer a wide range of quality health insurance options to individuals and families, including lower-cost high deductible plans, health savings accounts and traditional plans. In addition, we offer short term health insurance designed to bridge temporary gaps in health insurance coverage. Our products cover workers between jobs, new graduates who do not have insurance coverage through their parents, and others who purchase their own health insurance because they are retired, self-employed or because their employer does not offer employer-sponsored health insurance.

With specific regard to the individual health insurance market, we are concerned that the current MLR requirement of 80 percent effective January 1, 2011 could create significant disruption in the market for the reasons outlined below:

**1. Some carriers may stop selling to new customers.**

Some newer carriers may conclude that their small scale will not allow them cover the costs of distribution and administration of new business. As you know, individual market business is priced to a lifetime loss ratio. As a practical matter, the loss ratio pattern for underwritten medical business is not level over the lifetime of any given policy because there are typically lower medical loss ratios in the early years of a policy followed by higher medical loss ratios in later years. At the same time, administration and commission costs are highest in the first year of a new health insurance policy. The combination of high first-year costs to underwrite new business and potential consumer rebates because of low loss ratios in the early years could lead some carriers to cease new business sales. Without a phase-in of the 80 percent requirement or the latitude to use a rolling year method to calculate loss ratios, there may be the unintended consequence of less competition in the market.

**2. Carriers could exit the market rather than maintain a book of business at a loss.**

Nationwide, our average individual premium rates are approximately half the cost of similar coverage in the group market, primarily because of individual underwriting. Administrative costs and commissions, however, are roughly equivalent on a per person basis. Therefore, as a percentage of premiums, individual product administrative costs are roughly twice as large as in the small group market. Consequently, compliance with the 80 percent loss ratio in the individual market will be very challenging relative to the small group market.

Phasing-in the MLR over time will give carriers time to adjust internal cost structures to meet these new requirements.

3. **Customers could lose important resources for information if brokers are forced out of the marketplace.**

Today, a significant proportion of individual health insurance in the market is purchased by consumers with the assistance of a professional licensed insurance broker. As a result, brokers are vital to the smooth functioning of the insurance market. Many consumers tell us they would not consider buying a complex product like health insurance without the help of an insurance professional.

Consumers rely upon brokers, as a single point of contact, to:

- a) Present them with a wide variety of carriers, plan designs, and prices;
- b) Help them select the best plan for them and navigate the enrollment and underwriting process; and,
- c) Provide assistance with service needs.

As millions of new entrants to the health insurance market obtain individual insurance coverage for the first time, the role of brokers will be even more important than it is today.

Because the price for individual health insurance is much lower, on average, than group insurance prices, and because of the considerable upfront investment in servicing new customers, broker commissions tend to be highest in the first year and much lower in the following years of a policy. For example, a typical schedule might feature a 20 percent first-year commission and 5 percent trailing commission.

Under an 80 percent MLR regime, 100 percent of first-year administrative and profit allowance will be consumed by the typical broker commission. Clearly this structure is unsustainable and will necessitate lower commission percentages than those used today. As a result, in July of this year we notified all our brokers that we may have to lower commissions on January 1, 2011 for all business sold after July 2010. Substantially lower commissions will mean fewer trusted advisors in the market to guide consumers.

In the absence of a robust broker distribution channel, consumers will be forced to contact each insurer, one at a time, to learn about all available options. Retaining these advisors is critical for those Missourians who rely on their services. By phasing-in medical loss ratios in the individual market, brokers and insurance companies will be able to adjust to the new market realities over a reasonable period of time and prevent an abrupt loss of services for Missouri consumers.

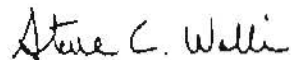
4. Younger, healthier consumers could have fewer choices.

Absent a transition period to the new MLR requirement, we are concerned that there will be fewer health insurance options available in the individual health insurance market for one of the largest segments of the uninsured population. At the lower commissions required to meet the new MLR rules, brokers may be unable to offer these products to consumers and, therefore, leave young, healthier consumers with fewer health insurance alternatives.

In conclusion, we believe that implementing the medical loss ratio requirements outlined in the new reform legislation without an appropriate transition period could unintentionally destabilize the Missouri individual health insurance market.

We appreciate the time and attention you have given to this issue and thank you for the opportunity to submit comments for your consideration. Should you have any questions about our positions, or need additional information, please feel free to call me or Jarrod Forbes, Vice President of Government Affairs at 314-592-7106.

Sincerely,



Steve C. Walli  
Chief Executive Officer  
UnitedHealthcare - Missouri and Central/Southern Illinois  
13655 Riverport Drive  
Maryland Heights, MO 63043

STATE OF Missouri )  
                                  ) SS  
COUNTY OF St. Louis )

**AFFIDAVIT**

Before me, the undersigned authority, personally appeared Steve C. Walli who being by me duly sworn, deposed as follows:

My name is Steve C. Walli, am of sound mind, capable of making this Affidavit, and personally acquainted with the facts herein stated.

Attached hereto are comments pursuant to the Missouri Department of Insurance, Financial Institutions & Professional Registration's (the "Department") Request for Comment on MLR Waiver received by UnitedHealth Group on December 17, 2010. These comments are on behalf of UnitedHealth Group and its affiliate company, Golden Rule Insurance Company that markets an individual product in the State of Missouri. The comments attached hereto are the original or exact duplicates of the original.

*Steve C. Walli*

\_\_\_\_\_  
AFFIANT

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal this 3rd day of January, 2011.

*Cynthia L. Dalpiaz*  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

5-12-2011

\_\_\_\_\_  
**"NOTARY SEAL"**  
Cynthia L. Dalpiaz, Notary Public  
St. Louis County, State of Missouri  
My Commission Expires 5/12/2011  
Commission Number 07389126

December 28, 2010

Department of Insurance, Financial Institutions, and Professional Registration

Testimony on the Application of Medical Loss Ratios in Missouri

Health care consumers in Missouri urge you to fully implement the federal medical loss ratio. If the state seeks a federal adjustment to the medical loss ratio, then health consumers in our state lose an important premium protection. And, they will be forced to forfeit rebates that are owed to them under federal law.

The medical loss ratio provision of the Affordable Care Act (ACA) is intended to ensure people get good value for their health care dollar. For the first time, employers and individuals purchasing insurance will have assurance premiums they pay for are actually applied for health care costs and keep waste or excess in the premium minimized and transparent. Insurers that don't spend at least 80 percent of the individual or small-group market premium on medical expenses (85 percent for large groups) will owe rebates to the plan's enrollees.

Under the federal law, states may seek an "adjustment" to the medical loss ratio for insurers in the individual group market if the state projects that application of the medical loss ratio will destabilize the market. This adjustment would reduce the percentage of premiums that must be spent on medical care and allow more money to be spent on administrative expenses.

Missouri consumers and small businesses absorbed shocking premium rate increases over the past years. The cost for health insurance grew 83 percent between 2000 and 2009. Median earnings in the state grew only 23 percent. One in five Missouri farmers reported health care costs contribute to their financial problems. The transparency of the medical loss ratio means for the first time we will know where all of our premium payments are going.

The insurance industry has made it difficult to sort out insurance policy pricing. Insurance information is not easily accessible for Missourians. Currently, Missouri does not even require health insurers to file their rate increases with the state. Only two other states have so diminutive transparency (Georgia and Montana). The state recently received a \$1 million grant to improve the information available to consumers about insurance rates. The grant can be used to expose and publicize insurer product pricing. The state must realize the application of a medical loss ratio as another important tool ensuring a fair deal for consumers.

Some insurers in Missouri have claimed that being required to spend 80 cents of every premium dollar on medical care and quality improvement would "force" them to stop selling insurance in the individual market. We believe that is nonsense.

Access to health insurance is one of our top priorities. It's important to preserve choice, including choice of insurers for rural folks. Several insurers are close to meeting the spending target. Other insurers would need to lower their administrative expenses or, rebate consumers the difference. Healthy Alliance holds the largest share of the individual market. The company spends only 70 percent of premiums on care. Where does the rest of the money go? As a subsidiary of the large for-profit company Wellpoint, what portion of premiums from Healthy

Alliance went toward the company's 91 percent profit increase or their CEO's 51 percent pay increase in 2009? The medical loss ratio helps Missourians understand whether the premiums pay for doctors and hospitals or pay for corporate jets and CEO perks.

Insurance providers must be able to answer basic questions. Why is the new law so difficult to comply with? Why are administrative health plan costs so high? If Colorado and Kansas can comply with medical loss ratios, then why can't Missouri? What amount of rebate dollars are at risk to lose for plan holders if this provision is not implemented? And, shouldn't the health plan providers in the state that already meet the new standards be rewarded instead of letting lower-value plans get a free pass?

Also, what is the state's assessment of which insurers will or will not meet the MLR requirements? The federal formula for calculating the medical loss ratio makes reasonable accommodations for new or smaller plans. Missouri's smaller insurer plans would be more competitive. It's essential to disclose which insurers fall into the gap. The state of Missouri must improve access to health coverage. We should not allow insurers to continue to threaten to leave families uninsured or deny them choices.

The cost of health insurance is high. Missouri families tighten their belts to afford health coverage and pay premiums. Insurance companies must cut the waste, be more efficient, and give consumers a fair deal. On behalf of GRO - Grass Roots Organizing and Missouri health care patrons, and groups signed below, we urge you not to request an adjustment to the medical loss ratio for our state.

*Respectfully Submitted By,*

Robin Acree  
Executive Director  
GRO - Grass Roots Organizing  
& Missouri Fix Our Healthcare Coalition  
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Mr. John Huff, Director  
Missouri Department of Insurance, Financial Institutions, and Professional Registration  
301 West High St., Room 630  
P.O. Box 716  
Jefferson City, Mo 65102

December 28, 2010

RE: opposing pursuit of an adjustment to the MLR for the State of Missouri

Dear Mr. Huff:

I write on behalf of over 600 Sisters of St. Joseph of Carondelet and Associates in the St. Louis Province. We have been in healthcare ministry for over a century! We are also active members of Missouri Health Care for All, a grassroots, non-partisan movement of faith and community leaders committed to securing quality, affordable health care for all Missourians. We join with a coalition of 120 organizations who have endorsed Principles for a just health care system, and more than 7300 grassroots members.

We believe it's a good thing to have this public process begin in Missouri on components of the Affordable Care Act. In addition, we see the questions of how to hold insurance companies accountable to Missouri families and consumers as fundamental to realizing the benefits of the new law.

**We strongly urge Director Huff and the Department of Insurance *not to request a waiver* lowering the Medical Loss Ratio standards for the State of Missouri.**

Missouri government and citizens have a moral obligation to make sure that every person and family in our state has access to the rich health care resources Missouri enjoys. We understand there is a long way to go until everyone has health care they can afford that is available to them in their home community, no matter where they live or how much money they make. Still, we are committed to that vision and to holding Missouri officials and companies that conduct business in Missouri accountable to that vision.

Investing in health care for all is both critically important for the well-being of all Missourians and a sound economic investment. Based on faith and ethical values, we affirm that all persons should have the opportunity for healthcare and healing. **Missouri should not seek an adjustment or waiver of the Medical Loss Ratio Standards for Insurance Carriers.**

The Medical Loss Ratio rules are *good for consumers and small businesses who purchase insurance. THE MLR assures that we receive value for our premium dollars by requiring 80% or more of premium dollars be spent on medical care versus administrative costs, such as profits, advertising, CEO pay, claims administration and lobbying.* If a health plan falls short of that standard, it must rebate the difference to consumers.

**Missouri consumers need more value for our premium dollars—and insurance companies must be required to deliver more value and more affordable premiums.** The MLR will put effective pressure on insurance companies—to do better, to decrease administrative costs and to deliver more value to Missouri consumers. It is one of the few cost containment provisions of the Affordable Care Act that will impact many insured families.

**The Medical Loss Ratio rule is sound public policy.**

Assuring that a reasonable percentage of our health insurance premiums benefit consumers and families is good public policy. We are concerned about compromising the consumer protections vital for Missouri families in order to benefit the health insurance industry. The top five for-profit health insurers alone recorded **\$12.2 billion in profits in 2009**. This is wrong! You know that without the minimum medical-loss ratios, which still are well below the average MLRs achieved in the 1990s, health plans would continue to spend excessively on profits, disproportionate CEO pay packages, lobbying and administrative activities designed that continue to harm consumers. **The MLR restores needed balance.**

*Missouri consumers need increased transparency to assure value of our premium dollars.*

*In Missouri we do not have sufficient data readily available to consumers to evaluate the effect on the marketplace. Georgia and Montana and Missouri are the only 3 states that have so little transparency with regard to insurance premiums and their medical loss ratios. It will be critically important for the Department of Insurance to improve information available to consumers about rate increases and medical loss ratio now that the State and federal government have greater capacity to protect consumer interests. Data available is from the insurance companies who will profit themselves – this doesn't make sense!*

*The cost of insurance grew by a startling 83% between 2000 and 2009 for Missouri Consumers. The transparency of the medical loss ratio means that for the first time, Missouri consumers can actually learn and understand what insurance companies are doing with our premium dollars, and to shop wisely with that knowledge.*

For Missouri consumers the medical loss ratio provisions are a significant opportunity and an important piece of the Affordable Care Act that makes coverage more affordable and makes the system more transparent. The new Medical Loss Ratio rules will insure that consumers get good value for their premiums. In addition, granting a waiver would deny Missourians their rebates from companies that failed to meet the MLR standard.

The MLR rule is sound public policy. If Missouri experiences adverse consequences due to the MLR, the solution is to modify state laws to protect consumers. Many tools are available including rate review, more stringent requirements on carriers who wish to sell policies in Missouri, and stronger consumer protections. **We strongly urge Director Huff and the Department of Insurance not to request a waiver lowering the Medical Loss Ratio standards for the State of Missouri.**

The favor of your prompt response would be appreciated.

Diana Oleskevich CSJA

*Justice Coordinator*

Sisters of St. Joseph of Carondelet

6400 Minnesota Ave

St. Louis, MO 63111

[justice@csjsl.org](mailto:justice@csjsl.org)

## Kempker, Mary

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From: mark.willse@americanenterprise.com  
Sent: Wednesday, December 29, 2010 10:49 AM  
To: Kempker, Mary  
Subject: MLR COMMENTS - American Republic Insurance Company

Dear Ms. Kempker,

We appreciate the opportunity to submit comments related to the MLR requirements for American Republic Insurance Company, as the implementation of the MLR regulations have the potential to significantly disrupt our individual major medical business. American Republic Insurance Company actively markets individual major medical insurance in Missouri and provides health insurance coverage to a significant number of insureds in Missouri.

In the absence of an MLR waiver, carriers may choose to terminate their existing blocks of business and leave the market, in an effort to avoid future losses and potential solvency concerns. This may leave many customers in Missouri without coverage and very personally disrupted if they are unable to find new coverage due to a health condition (before the consumer protections are in place in 2014 and due to ineligibility for the new high risk pools during the first six months after cessation of coverage).

For individual major medical policies that are individually underwritten, MLR's are much lower in the early years after a policy is issued and increase over time as underwriting "wears off" and more health problems develop. Continuing to issue significant amounts of newly underwritten policies over the next few years will only make it more difficult for us to achieve an 80 percent annual MLR across our block of individual medical business. This could serve as an incentive for us and other carriers who remain in the individual market to minimize their marketing activity prior to 2014, creating a potential lack of product availability for Missouri consumers over the next few years.

As a result of these issues, we respectfully ask that Missouri strongly consider requesting a waiver of the Individual Market MLR until 2014 to avoid disruption in the individual market and the negative impact the MLR requirement will have on Missouri residents, individual insurance carriers, and insurance agents and American Republic and its employees.

**I. Whether Missouri should request an adjustment to the MLR for the individual market in the state.**

Yes, American Republic Insurance Company strongly believes that an MLR waiver is needed to avoid significant disruption to the individual market in Missouri, ensuring that Missouri customers continue to have choice in the market and the ability to retain their existing coverage.

**II. If so, the appropriate adjusted MLR and suggestions for the length of the transitional period in Missouri.**

American Republic Insurance Company is in favor of a full waiver of the MLR requirement during the transition period from 2011 to 2013. While a full waiver would still require us to be prepared for the 2014 MLR requirement, it would allow us more flexibility in designing the best transition. Note that even with a full MLR waiver, we will still have to reduce expenses and agent compensation each year during the transition period as we approach 2014 (since business issued during the transition period from 2011 to 2013 will be subject to an 80% MLR in 2014), however these expense and commissions reductions would be much less drastic, allowing for a smoother, more orderly transition.

One concern we have is that the credibility adjustments contained in the MLR regulation will not adequately smooth out the state-by-state loss ratio variations we see in our results. In any given year, we have a few states with very low loss ratios, a few states with very high loss ratios, and the majority with loss ratios that are within a reasonable range of the nationwide average. Due to this natural variation in state-by-state loss ratio results, we'll likely end up owning rebates in several states even if all states adopted a transitional MLR schedule.

In lieu of a full MLR waiver, a reasonable MLR transition schedule such as 60-65% in 2011, 65-70% in 2012, and 70-75% in 2013, would work for our business model and allow for a smoother transition as we approach 2014. This schedule will still require us to be prepared for the 2014 MLR requirement, but it would allow us more flexibility in designing the best transition. Anything higher than this transition schedule would likely cause significant disruption to our business model.

### **III. The consequences to companies offering individual coverage in Missouri if an adjustment is not sought.**

The MLR regulations will have a significant financial impact on our Company. We operate with very narrow margins and the MLR requirement will likely result in losses, with limited possibility of future profitability. Our Company had strong sales results in 2010, resulting in a higher proportion of recently sold business with lower loss ratios. For individual major medical policies that are individually underwritten, MLR's are much lower in the early years after a policy is issued and increase over time as underwriting "wears off" and more health problems develop. Due to our inforce business being more weighted towards newer business, it will be very difficult for us to achieve an 80 percent annual MLR in 2011, and puts us at a disadvantage relative to companies that have more mature books of business and a more steady mix of older and newer policies (and a correspondingly higher MLR). Continuing to issue significant amounts of newly underwritten policies over the next few years from 2011 to 2013 will only make it more difficult for us to achieve an 80 percent annual MLR across our block of individual medical business. This could serve as an incentive for us and other carriers who remain in the individual market to minimize their marketing activity prior to 2014, creating a potential lack of product availability for Missouri consumers over the next few years.

Applying an 80 percent MLR requirement to existing individual business that had originally been priced under lower MLR expectations will most likely result in losses on this business, with little or no ability to recover those losses. Materially reducing the administrative (non-claims) costs associated with existing business in order to reduce financial losses is unlikely to be feasible. We have a large number of vendor contracts related to administration and claims management, as well as a large number of agent compensation contracts related to marketing, distribution, and servicing of policies. Our commission contracts generally cannot be changed retroactively for policies issued prior to the enactment of the new MLR requirements. Many of our other vendor contracts are "locked" in and require a few years to adjust. As a result, this will put significant pressure on our operating expenses, as it will not be possible to reduce the contractually agreed upon compensation related to these contracts on a timely basis. This will expose our Company to significant financial losses.

Additionally, it is more difficult to meet the 80% MLR in the individual market (especially for companies that focus exclusively on the individual market) due to the higher administrative expenses associated with marketing and servicing policies at an individual level, coupled with the lower average premiums in the individual market due to the higher average deductibles being sold in this market for affordability reasons. Further, the rebate mechanism will create a significant cost that cannot be offset by the margin in the business. Due to this combination, carriers may choose to terminate their existing blocks of business and leave the market, in an effort to avoid future losses and potential solvency concerns. This may leave many customers in Missouri without coverage and very personally disrupted if they are unable to find new coverage due to a health condition (before the consumer protections are in place in 2014 and due to ineligibility for the new high risk pools during the first six months after cessation of coverage). We believe that an MLR waiver is very important

to allow for continued availability of coverage options (competition) and for the ability of insureds to retain the coverage they currently have in the private market.

We believe that an MLR waiver during the transition period, rather than an abrupt shift to an 80% MLR, will allow for a smoother and less disruptive transition period as we approach 2014. This will also allow for continued availability of coverage options and for the ability of insureds to retain the coverage they currently have in the private market. In addition, a full waiver will result in a greater likelihood of us being able to maintain a significant market presence throughout the transition period and be in a better position to compete in the market in 2014. An MLR waiver would still require us to be prepared for the 2014 MLR requirement, but it would allow us more flexibility in designing the best transition.

#### **IV. Consequences to brokers or agents offering products in the individual market if an adjustment is not sought.**

We anticipate significant disruption to our distribution partners without a MLR waiver and anticipate substantially lower sales volume if the waiver is not obtained. Our organization relies on an agent model for distribution of our products and advising our customers, and we are not positioned to market directly to consumers at this time. Our customers work closely with their insurance agents to obtain the best possible coverage for their personal needs, and we believe our agents are compensated fairly for the services they provide. In the absence of a waiver, the compensation we pay to our agents will need to be significantly reduced, resulting in a business model that may no longer be viable for them to continue operating in this business. If our agents are forced to find alternative ways to make a living, this will cause significant disruption to our customers who rely on their expertise. Note that with an MLR waiver, we will still have to reduce agent compensation each year during the transition period as we approach 2014 (since business issued during the transition period from 2011 to 2013 would be subject to an 80% MLR in 2014), however the compensation reduction would be much less drastic, allowing for a smoother, more orderly transition.

#### **V. Any other matter bearing on the six criteria HHS has identified, as set forth above, that impact the risk of market destabilization.**

**i. Continuation of Sales:** We are hopeful that Missouri and other states will request an MLR waiver. We anticipate significant disruption to our distribution partners without a MLR waiver and anticipate substantially lower sales volume if the waiver is not obtained. Our organization relies on an agent model for distribution of our products and advising our customers, and we are not positioned to market directly to consumers at this time. Also, without an MLR waiver, continuing to issue significant amounts of newly underwritten policies over the next few years from 2011 to 2013 will only make it more difficult for us to achieve an 80% annual MLR across our block of individual medical business. This could serve as an incentive for us and other carriers who remain in the individual market to minimize their marketing activity prior to 2014, creating a potential lack of product availability in the individual market over the next few years and reducing consumer choice in Missouri.

**ii. Exiting the Individual Market:** We are continuing to evaluate the financial viability of our major medical line of business in light of Health Care Reform and the MLR regulation to ensure that we discharge our fiduciary duty to our Policyholders. Lack of an MLR waiver will significantly impact our decisions regarding new business and the likelihood that our distributions will remain viable. Limited selling activities by us and other similarly positioned carriers will create less choice and competition in Missouri. In addition, the lack of new business within the block will continue to put pressure on our management decisions as it relates to the ability to keep the block active and could increase the likelihood of a decision to cancel the existing business.

**iii. Potential impact on premiums paid by current policyholders -** We believe that medical trends

will increase from current levels primarily due to billed charges increasing and a more difficult negotiating environment with providers. We also expect increased utilization due to provider behavior under the new mandates. Further, we expect increased provider cost-shifting due to continued government cuts in public medical insurance programs, as well as more cost-shifting from the increasing population of uninsured and under-insured patients. As we approach a guarantee issue environment in 2014 with modified community rating, we expect premiums to increase significantly as younger, healthier insureds choose to opt out of coverage due to the prohibitive cost.

Initially, when considered in isolation, an 80% MLR will result in more dollars of premium being paid out in benefits and may result in lower initial premiums (if the new PPACA benefits don't offset all of this). However, due to the items noted above, our view is that premiums will increase at a faster pace in the new environment, and will be significantly higher than they would have otherwise been as we reach 2014.

We believe an MLR waiver is critical to maintain as much competition in the market as possible, so that Missouri consumers continue to have choices in the individual market and the ability to retain their existing coverage.

**iv. Potential impact on benefits and cost-sharing of existing products** - The absence of an MLR waiver could result in carriers minimizing their marketing activity prior to 2014, creating a potential lack of product availability for Missouri consumers over the next few years. Carriers may also choose to terminate their existing blocks of business and leave the market, in an effort to avoid future losses and potential solvency concerns associated with the MLR requirement. This will result in a lack of product availability and choice for Missouri consumers. In addition, if premium trends increase as indicated above, Missouri consumers may be forced to purchase coverage that has lower benefits and higher cost-sharing components, due to affordability issues.

**v. Potential impact on consumer access to agents and brokers** - We anticipate significant disruption to our distribution partners without a MLR waiver. Our organization relies on an agent model for distribution of our products and advising our customers. Our customers work closely with their insurance agents to obtain the best possible coverage for their personal needs. In the absence of a waiver, the compensation we pay to our agents will need to be significantly reduced, resulting in a business model that may no longer be viable for them to continue operating in this business. If our agents are forced to find alternative ways to make a living, this will cause significant disruption to our customers who rely on their expertise. The result will be less choice and availability of coverage options for consumers in Missouri.

As a result of these issues, we respectfully ask that Missouri strongly consider requesting a waiver of the Individual Market MLR until 2014 to avoid disruption in the individual market and the negative impact the MLR requirement will have on Missouri residents, individual insurance carriers, and insurance agents. We believe that an MLR waiver during the transition period, rather than an abrupt shift to an 80% MLR, will allow for a smoother and less disruptive transition period as we approach 2014. While a full waiver or graded MLR would still require us to be prepared for the 2014 MLR requirement, it would allow us more flexibility in designing the best transition, and enable us to minimize disruption for our agents and customers. This will also allow for continued availability of coverage options and for the ability of insureds to retain the coverage they currently have in the private market.

Please let me know if you have questions or need any additional information.

Sincerely,

Mark A Willse, FSA  
Vice President and Actuary  
American Enterprise Group  
515-245-2253

\*\*\*\*\*  
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**Kempker, Mary**

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**From:** mark.willse@americanenterprise.com  
**Sent:** Wednesday, December 29, 2010 10:43 AM  
**To:** Kempker, Mary  
**Subject:** MLR COMMENTS - World Insurance Company

Dear Ms. Kempker,

We appreciate the opportunity to submit comments related to the MLR requirements for World Insurance Company (including the recently assumed policies from Continental General Insurance Company and Central Reserve Life Insurance Company), as the implementation of the MLR regulations have the potential to significantly disrupt our individual major medical business. World Insurance Company actively markets individual major medical insurance in Missouri and provides health insurance coverage to a significant number of insureds in Missouri.

In the absence of an MLR waiver, carriers may choose to terminate their existing blocks of business and leave the market, in an effort to avoid future losses and potential solvency concerns. This may leave many customers in Missouri without coverage and very personally disrupted if they are unable to find new coverage due to a health condition (before the consumer protections are in place in 2014 and due to ineligibility for the new high risk pools during the first six months after cessation of coverage).

For individual major medical policies that are individually underwritten, MLR's are much lower in the early years after a policy is issued and increase over time as underwriting "wears off" and more health problems develop. Continuing to issue significant amounts of newly underwritten policies over the next few years will only make it more difficult for us to achieve an 80 percent annual MLR across our block of individual medical business. This could serve as an incentive for us and other carriers who remain in the individual market to minimize their marketing activity prior to 2014, creating a potential lack of product availability for Missouri consumers over the next few years.

As a result of these issues, we respectfully ask that Missouri strongly consider requesting a waiver of the Individual Market MLR until 2014 to avoid disruption in the individual market and the negative impact the MLR requirement will have on Missouri residents, individual insurance carriers, and insurance agents and World and its employees.

**I. Whether Missouri should request an adjustment to the MLR for the individual market in the state.**

Yes, World Insurance Company strongly believes that an MLR waiver is needed to avoid significant disruption to the individual market in Missouri, ensuring that Missouri customers continue to have choice in the market and the ability to retain their existing coverage.

**II. If so, the appropriate adjusted MLR and suggestions for the length of the transitional period in Missouri.**

World Insurance Company is in favor of a full waiver of the MLR requirement during the transition period from 2011 to 2013. While a full waiver would still require us to be prepared for the 2014 MLR requirement, it would allow us more flexibility in designing the best transition. Note that even with a full MLR waiver, we will still have to reduce expenses and agent compensation each year during the transition period as we approach 2014 (since business issued during the transition period from 2011 to 2013 will be subject to an 80% MLR in 2014), however these expense and commissions reductions would be much less drastic, allowing for a smoother, more



orderly transition.

One concern we have is that the credibility adjustments contained in the MLR regulation will not adequately smooth out the state-by-state loss ratio variations we see in our results. In any given year, we have a few states with very low loss ratios, a few states with very high loss ratios, and the majority with loss ratios that are within a reasonable range of the nationwide average. Due to this natural variation in state-by-state loss ratio results, we'll likely end up owning rebates in several states even if all states adopted a transitional MLR schedule.

In lieu of a full MLR waiver, a reasonable MLR transition schedule such as 60-65% in 2011, 65-70% in 2012, and 70-75% in 2013, would work for our business model and allow for a smoother transition as we approach 2014. This schedule will still require us to be prepared for the 2014 MLR requirement, but it would allow us more flexibility in designing the best transition. Anything higher than this transition schedule would likely cause significant disruption to our business model.

### **III. The consequences to companies offering individual coverage in Missouri if an adjustment is not sought.**

The MLR regulations will have a significant financial impact on our Company. We operate with very narrow margins and the MLR requirement will likely result in losses, with limited possibility of future profitability. Our Company had strong sales results in 2010, resulting in a higher proportion of recently sold business with lower loss ratios. For individual major medical policies that are individually underwritten, MLR's are much lower in the early years after a policy is issued and increase over time as underwriting "wears off" and more health problems develop. Due to our inforce business being more weighted towards newer business, it will be very difficult for us to achieve an 80 percent annual MLR in 2011, and puts us at a disadvantage relative to companies that have more mature books of business and a more steady mix of older and newer policies (and a correspondingly higher MLR). Continuing to issue significant amounts of newly underwritten policies over the next few years from 2011 to 2013 will only make it more difficult for us to achieve an 80 percent annual MLR across our block of individual medical business. This could serve as an incentive for us and other carriers who remain in the individual market to minimize their marketing activity prior to 2014, creating a potential lack of product availability for Missouri consumers over the next few years.

Applying an 80 percent MLR requirement to existing individual business that had originally been priced under lower MLR expectations will most likely result in losses on this business, with little or no ability to recover those losses. Materially reducing the administrative (non-claims) costs associated with existing business in order to reduce financial losses is unlikely to be feasible. We have a large number of vendor contracts related to administration and claims management, as well as a large number of agent compensation contracts related to marketing, distribution, and servicing of policies. Our commission contracts generally cannot be changed retroactively for policies issued prior to the enactment of the new MLR requirements. Many of our other vendor contracts are "locked" in and require a few years to adjust. As a result, this will put significant pressure on our operating expenses, as it will not be possible to reduce the contractually agreed upon compensation related to these contracts on a timely basis. This will expose our Company to significant financial losses.

Additionally, it is more difficult to meet the 80% MLR in the individual market (especially for companies that focus exclusively on the individual market) due to the higher administrative expenses associated with marketing and servicing policies at an individual level, coupled with the lower average premiums in the individual market due to the higher average deductibles being sold in this market for affordability reasons. Further, the rebate mechanism will create a significant cost that cannot be offset by the margin in the business. Due to this combination, carriers may choose to terminate their existing blocks of business and leave the market, in an effort to avoid future losses and potential solvency concerns. This may leave many customers in Missouri without coverage and very personally disrupted if they are unable to find new coverage due to a health condition (before the consumer protections are in place in 2014 and due to ineligibility for the new high risk

pools during the first six months after cessation of coverage). We believe that an MLR waiver is very important to allow for continued availability of coverage options (competition) and for the ability of insureds to retain the coverage they currently have in the private market.

We believe that an MLR waiver during the transition period, rather than an abrupt shift to an 80% MLR, will allow for a smoother and less disruptive transition period as we approach 2014. This will also allow for continued availability of coverage options and for the ability of insureds to retain the coverage they currently have in the private market. In addition, a full waiver will result in a greater likelihood of us being able to maintain a significant market presence throughout the transition period and be in a better position to compete in the market in 2014. An MLR waiver would still require us to be prepared for the 2014 MLR requirement, but it would allow us more flexibility in designing the best transition.

#### **IV. Consequences to brokers or agents offering products in the individual market if an adjustment is not sought.**

We anticipate significant disruption to our distribution partners without a MLR waiver and anticipate substantially lower sales volume if the waiver is not obtained. Our organization relies on an agent model for distribution of our products and advising our customers, and we are not positioned to market directly to consumers at this time. Our customers work closely with their insurance agents to obtain the best possible coverage for their personal needs, and we believe our agents are compensated fairly for the services they provide. In the absence of a waiver, the compensation we pay to our agents will need to be significantly reduced, resulting in a business model that may no longer be viable for them to continue operating in this business. If our agents are forced to find alternative ways to make a living, this will cause significant disruption to our customers who rely on their expertise. Note that with an MLR waiver, we will still have to reduce agent compensation each year during the transition period as we approach 2014 (since business issued during the transition period from 2011 to 2013 would be subject to an 80% MLR in 2014), however the compensation reduction would be much less drastic, allowing for a smoother, more orderly transition.

#### **V. Any other matter bearing on the six criteria HHS has identified, as set forth above, that impact the risk of market destabilization.**

**i. Continuation of Sales:** We are hopeful that Missouri and other states will request an MLR waiver. We anticipate significant disruption to our distribution partners without a MLR waiver and anticipate substantially lower sales volume if the waiver is not obtained. Our organization relies on an agent model for distribution of our products and advising our customers, and we are not positioned to market directly to consumers at this time. Also, without an MLR waiver, continuing to issue significant amounts of newly underwritten policies over the next few years from 2011 to 2013 will only make it more difficult for us to achieve an 80% annual MLR across our block of individual medical business. This could serve as an incentive for us and other carriers who remain in the individual market to minimize their marketing activity prior to 2014, creating a potential lack of product availability in the individual market over the next few years and reducing consumer choice in Missouri.

**ii. Exiting the Individual Market:** We are continuing to evaluate the financial viability of our major medical line of business in light of Health Care Reform and the MLR regulation to ensure that we discharge our fiduciary duty to our Policyholders. Lack of an MLR waiver will significantly impact our decisions regarding new business and the likelihood that our distributions will remain viable. Limited selling activities by us and other similarly positioned carriers will create less choice and competition in Missouri. In addition, the lack of new business within the block will continue to put pressure on our management decisions as it relates to the ability to keep the block active and could increase the likelihood of a decision to cancel the existing business.

**iii. Potential impact on premiums paid by current policyholders** - We believe that medical trends will increase from current levels primarily due to billed charges increasing and a more difficult negotiating environment with providers. We also expect increased utilization due to provider behavior under the new mandates. Further, we expect increased provider cost-shifting due to continued government cuts in public medical insurance programs, as well as more cost-shifting from the increasing population of uninsured and under-insured patients. As we approach a guarantee issue environment in 2014 with modified community rating, we expect premiums to increase significantly as younger, healthier insureds choose to opt out of coverage due to the prohibitive cost.

Initially, when considered in isolation, an 80% MLR will result in more dollars of premium being paid out in benefits and may result in lower initial premiums (if the new PPACA benefits don't offset all of this). However, due to the items noted above, our view is that premiums will increase at a faster pace in the new environment, and will be significantly higher than they would have otherwise been as we reach 2014.

We believe an MLR waiver is critical to maintain as much competition in the market as possible, so that Missouri consumers continue to have choices in the individual market and the ability to retain their existing coverage.

**iv. Potential impact on benefits and cost-sharing of existing products** - The absence of an MLR waiver could result in carriers minimizing their marketing activity prior to 2014, creating a potential lack of product availability for Missouri consumers over the next few years. Carriers may also choose to terminate their existing blocks of business and leave the market, in an effort to avoid future losses and potential solvency concerns associated with the MLR requirement. This will result in a lack of product availability and choice for Missouri consumers. In addition, if premium trends increase as indicated above, Missouri consumers may be forced to purchase coverage that has lower benefits and higher cost-sharing components, due to affordability issues.

**v. Potential impact on consumer access to agents and brokers** - We anticipate significant disruption to our distribution partners without a MLR waiver. Our organization relies on an agent model for distribution of our products and advising our customers. Our customers work closely with their insurance agents to obtain the best possible coverage for their personal needs. In the absence of a waiver, the compensation we pay to our agents will need to be significantly reduced, resulting in a business model that may no longer be viable for them to continue operating in this business. If our agents are forced to find alternative ways to make a living, this will cause significant disruption to our customers who rely on their expertise. The result will be less choice and availability of coverage options for consumers in Missouri.

As a result of these issues, we respectfully ask that Missouri strongly consider requesting a waiver of the Individual Market MLR until 2014 to avoid disruption in the individual market and the negative impact the MLR requirement will have on Missouri residents, individual insurance carriers, and insurance agents. We believe that an MLR waiver during the transition period, rather than an abrupt shift to an 80% MLR, will allow for a smoother and less disruptive transition period as we approach 2014. While a full waiver or graded MLR would still require us to be prepared for the 2014 MLR requirement, it would allow us more flexibility in designing the best transition, and enable us to minimize disruption for our agents and customers. This will also allow for continued availability of coverage options and for the ability of insureds to retain the coverage they currently have in the private market.

Please let me know if you have questions or need any additional information.

Sincerely,

Mark A Willse, FSA  
Vice President and Actuary  
American Enterprise Group  
515-245-2253

\*\*\*\*\*  
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## Kempker, Mary

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**From:** Ronald Kotowsk [ron.kotowski@gmail.com]  
**Sent:** Wednesday, December 29, 2010 3:25 PM  
**To:** Kempker, Mary  
**Cc:** Dale Turvey  
**Subject:** MLR

Hello Ms. Kempker. For your consideration, Dale Turvey and I have the following comments to offer regarding the MLR.

We would strongly encourage you to apply for waivers from the MLR for insurers. We are aware of insurers, specifically smaller insurers, who will exit the major medical market as they do not believe they will be able to survive meeting the MLR requirements. We have heard from insurers that they will discontinue marketing major medical type products and instead, offer supplemental type products, which are not subject to the MLR. By obtaining a waiver for the insurers, they would have more opportunity to adjust to the MLR requirements in a more reasonable manner and perhaps continue in the major medical market. As we are sure you are aware, a number of state insurance departments are applying for such a waiver.

Regarding producer compensation limitations, we are concerned that producers may gravitate toward marketing products not subject to the limitations and thereby, possibly doing a disservice to consumers.

Ms. Kempker, we truly appreciate the opportunity to provide our comments to you. We would also welcome the opportunity to assist you in any manner you deem appropriate in your deliberations regarding the MLR.

Ms. Kempker, please accept our wishes to you for a very Happy New Year.

Respectfully submitted,

Dale Turvey and Ron Kotowski



**ASSURANT**  
Health

501 West Michigan  
P.O. Box 3050  
Milwaukee, WI 53201-3050  
T 800.800.1212

December 30, 2010

John M. Huff, Director  
Missouri Department of Insurance, Financial  
Institutions, and Professional Registration  
P.O. Box 690  
Jefferson City, MO 65102

VIA E-MAIL: [Mary.Kempker@insurance.mo.gov](mailto:Mary.Kempker@insurance.mo.gov)

Re: MLR Waiver Survey  
Assurant Health

Dear Director Huff:

We respectfully submit comments in response to the Notice of Hearing we received from your office on December 17, 2010. Information was requested to assist your Department in determining the need to request the Secretary of the U.S. Department of Health and Human Services (HHS) for a waiver of the 80% Medical Loss Ratio (MLR) in the individual health insurance market, pursuant to PPACA. We appreciate the opportunity to provide our comments on this issue.

Assurant Health, through its underwriting companies John Alden Life Insurance Company and Time Insurance Company, currently markets and issues health insurance products in the individual market in Missouri.

Assurant Health is in favor of Missouri requesting a full waiver of the MLR requirements until 2014 with the MLR for this period being consistent with NAIC Model Law 134-1.

In response to the MLR requirements, we have already reduced our agent and broker commissions for individual market products. In addition, as the individual health insurance market evolves under the changing regulatory environment, we continually evaluate and adjust business plans, consistent with the best interests of our company and our customers. Without a waiver, we will be forced to make some difficult decisions regarding our future plans. The options to be reviewed will include discontinuing sales of certain products and/or exiting selected markets.

Assurant Health markets products underwritten by Time Insurance Company, Union Security Insurance Company and John Alden Life Insurance Company.

Page 2

We recognize your request included several other categories of information. However, as a public company, we are constrained from disclosing projections that may impact stock prices. Therefore, we will not respond to some of the questions posed in your request.

We thank you for your consideration in this matter. Please do not hesitate to contact me if you have any further questions or concerns.

Yours truly,

A handwritten signature in black ink, appearing to read "Julia M. Hix". The signature is fluid and cursive, with a large initial "J" and "H".

Julia M. Hix  
Vice President, Regulatory Compliance  
Assurant Health Compliance Officer  
julie.hix@assurant.com  
(T) (414) 299-7830  
(F) (414) 299-6168

## Kempker, Mary

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**From:** Robledo, AnaLisa [analisa.robledo@healthmarkets.com]  
**Sent:** Thursday, December 30, 2010 9:42 AM  
**To:** Kempker, Mary  
**Cc:** DeTuro, Virginia  
**Subject:** MLR COMMENTS  
**Attachments:** MLR Letter to Carriers FINAL.docx

**Importance:** High

Ms. Kempker,

On behalf of Virginia A. DeTuro, Manager of Regulatory Affairs, please accept this correspondence as HealthMarkets response regarding the Missouri Medical Loss Ratio ("MLR") Hearing.

- Whether Missouri should request an adjustment to the MLR for the individual market in the state;

**Company Response:** Our Company supports the request for a waiver and movement to a transitional MLR. For existing business we believe that the MLR requirement will cause a financial strain to many blocks of business that have been sold previously under commission arrangements and administrative assumptions that were supported by a MLR lower than 80%. The move to an 80% MLR could place these blocks of individual market plans in a loss situation which could result in carriers withdrawing from the individual market and non-renewing existing blocks of business. If this occurs prior to the introduction of the Exchange in 2014 there could be a shortage of access of insurance for prospective members.

- If so, the appropriate adjusted MLR and suggestions for the length of the transitional period in Missouri;

**Company Response:** Current minimum MLR in the individual market is 55%. We would suggest a transition period between 2001 and 2014 starting at the current minimum and increasing annually with 2013 around 70% and 2014 at 80%.

- The consequences to companies offering individual coverage in Missouri if an adjustment is not sought;

**Company Response:** Our Company's in-force block of business was priced to and has always run at a MLR lower than the 80% MLR requirement, and the move to an 80% MLR will have a negative impact to profitability and likely surplus. We are still analyzing to determine the possible financial impact on the Company.

- The consequences to brokers or agents offering products in the individual market if an adjustment is not sought; and

**Company Response:** For new business, the move to the 80% MLR will force the commission levels payable to brokers and agents down and will possibly cause many brokers and agents out of business.

- Any other matter bearing on the six criteria HHS has identified, as set forth above, that impact the risk of market destabilization.

**Company Response:** This is still being analyzed and we plan to make rate filings related to PPACA shortly. Since our Company has priced its product at an MLR lower than the 80% requirement in the past, in whole the requirement will cause premiums to be lower than they would have been either through lower premium increases, decreases in premiums or through premium rebates.

Our Company faces several challenges including but not limited to understanding exactly how the law applies to our block of individual market business, maintaining the block at a MLR that is higher than the product was originally priced to achieve, meeting reporting requirements and determining and filing for rate changes.

If you should have any questions or require additional information, please do not hesitate to contact [Virginia DeTuro](mailto:Virginia.DeTuro@healthmarkets.com) by email or by telephone at 817-255-5236.



Respectfully,

**AnaLisa Robledo**  
Business Analyst, Regulatory Affairs  
Corporate Compliance

## HealthMarkets®

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## Kempker, Mary

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**From:** Anderson, Marta [mkanderson@cvty.com]  
**Sent:** Thursday, December 30, 2010 10:51 AM  
**To:** Kempker, Mary  
**Subject:** MLR COMMENTS  
**Attachments:** MLR COMMENTS.pdf

<<MLR COMMENTS.pdf>>

*Marta Anderson*

Administrative Assistant to  
Roman Kulich, President  
Coventry Health Care/GHP  
550 Maryville Centre Drive, Ste. 300  
St. Louis, MO 63141  
314-506-1887

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December 30, 2010

John M. Huff, Director  
Department of Insurance, Financial Institutions,  
and Professional Registration  
P.O. Box 690  
Jefferson City, MO 65102

Dear Director Huff:

On behalf of Coventry Health Care of Kansas, Inc. (CHCKS) and Group Health Plan, Inc. (GHP), we appreciate the opportunity to submit comments to the record of the public hearing by the Missouri Department of Insurance, Financial Institutions and Professional Registration (DIFP) on minimum medical loss ratio standards in the individual market held on December 28, 2010.

To avoid instability and disruptions in the market for individual health insurance and the harmful impact on consumers who rely on such policies for their health coverage, we recommend that Missouri should seek a federal adjustment (waiver) to the 80% minimum medical loss ratio requirement under the new health reform law, also known as the Affordable Care Act (ACA). As important affiliates of a diversified national managed healthcare company, GHP and CHCKS engaged in the debate over health reform and now are engaged in the process of implementation. Like many others, we believe in the importance of expanding access to coverage, improving the quality of health care in Missouri, and in lowering costs. We would support a decision by the State of Missouri to seek a waiver to the 80% minimum MLR requirement in 2011 for the individual market and the development of an orderly transition period until 2014 to ensure continued and stable access by Missourians to health coverage through individual health insurance plans.

**Potential for Instability in the Individual Market**

Individual health insurance plays an important role in providing high-quality, cost-effective health coverage in the State of Missouri. Based on the most recent data from the U.S. Census Bureau (2009), over 400,000 Missourians under age 65 were covered by

individual insurance.<sup>1</sup> This represents 7.9 percent of our under age 65 state population and exceeds the U.S. average of 6.3 percent.<sup>2</sup>

Based on the National Association of Insurance Commissioners' (NAIC) database of annual statement filings, almost half of all enrollees covered under individual plans (from almost 70 insurers) operate below the 80% MLR threshold in the ACA.<sup>3</sup>

The individual market has unique characteristics that differentiate it from the group or employer-based insurance market. While some individual market policyholders are long-time customers, most policies are purchased to provide interim health coverage and protect consumers against catastrophic financial loss until they obtain group coverage through an employer. In the U.S. Department of Health & Human Services' (HHS) interim final rule (IFR) on grandfathered plans, the government cited studies that estimate 40 to 67 percent of individual policies are in effect for less than one year.<sup>4</sup> Prior to the establishment of state exchanges in 2014, it is likely that individual plans outside of guaranteed issue markets will continue to exhibit many of the characteristics of the pre-ACA market—i.e., short duration and coverage only for medical conditions that emerge after the purchase of the policy.

While the individual market characteristics noted above may persist until 2014, the new insurance requirements enacted under the ACA have fundamentally changed the market dynamics and economics of individual insurance. Yet, the ACA provides almost no accommodation for these significant market changes and no recognition of the need for an orderly transition period other than the possibility of a "federal adjustment"—presumably through a waiver process—in states where the application of the 80% minimum MLR standard "may destabilize the individual market."<sup>5</sup>

To avoid instability and disruptions in the individual market and the harmful impact on consumers who rely on such policies for their health coverage, GHP and CHCKS would support an effort by Missouri to seek a federal adjustment to the 80% minimum MLR requirement under the ACA. In the absence of a waiver, we believe that the individual market would experience significant upheaval in 2011 through 2014. Further, without a thoughtful and well-planned transition period to adjust to the new minimum MLR rules, consumers could face the potential loss of coverage and difficulties finding a replacement policy. At a time when the economic climate in Missouri is already filled with challenges for consumers and businesses, the addition of new uncertainty in the individual market would not be welcomed.

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<sup>1</sup>U.S. Census Bureau: Income, Poverty, and Health Insurance Coverage in the United States (2009), Annual Social and Economic Supplement, Table HI05. [http://www.census.gov/hhes/www/cpstables/032010/health/h05\\_000.htm](http://www.census.gov/hhes/www/cpstables/032010/health/h05_000.htm). Accessed September 20, 2010.

<sup>2</sup>Ibid.

<sup>3</sup>National AIC: Health Care Reform (PPACA) - Master Issue Resolution Document, IRD041, 15 Sept 2010.

<sup>4</sup>U.S. Department of Health & Human Services: Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan Under the Patient Protection and Affordable Care Act; Interim Final Rule and Proposed Rule, Federal Register, Vol. 75, No. 116, 17 June 2010.

<sup>5</sup>P.L. 111-148: The Patient Protection and Affordable Care Act, Section 2718.

### **Other State Actions to Seek an Individual Waiver**

In response to the challenges on the horizon in the individual market and recognizing the likely disruption, some states have already requested a federal waiver to the new individual MLR requirements. For example, on July 1, 2010, the Superintendent of Insurance for the State of Maine sent a letter to the HHS Secretary that made two specific requests: (1) a waiver of the 80% minimum MLR requirement for the individual health insurance market until 2014; and (2) a federal determination that prior to 2014, implementation of an 80% MLR may destabilize the individual insurance market in that state.<sup>6</sup> More recently, the Commissioner of Insurance for the State of Iowa made similar requests of HHS.<sup>7</sup> While there are important characteristics that distinguish the individual market in Missouri from those in Maine and Iowa, it is clear that others states have made a determination that the application of minimum MLR standards will have a deleterious effect on consumers in those states—and the same concepts and logic would apply in Missouri.

### **State Rationale for Waiver and Transition Period**

While instability in the market is a critical factor in the decision by the State of Missouri to request a federal waiver, there are other key reasons why a waiver and transition period and plan are important to consumers in our State. The following section outlines some of those reasons:

1. Impact on Carriers, Jobs, and Competition: From a broad perspective, the application of an 80% MLR to existing individual business without an appropriate state-determined transition period could lead some insurers to exit the market or face unsustainable losses. This could result in insolvent carriers, significant job cuts, and more limited competition and add to our State's economic challenges.
2. Difficulties Finding Replacement Coverage and Limited High Risk Pool Funding: Consumers who rely on individual policies but lose their coverage due to market exits may find it difficult or impossible to find replacement coverage at any price. While the ACA created a temporary high risk health insurance pool program under the now-called "pre-existing coverage insurance program" (PCIP), it provided only limited funding. Under the PCIP, Missouri's share of federal funding is capped at \$81 million until the program ends on December 31, 2013.<sup>8</sup> The PCIP could eventually be an option for some Missourians, but such individuals would be ineligible for PCIP coverage for at least 6 months, assuming program funding is still available and no waiting list has developed.
3. Discourage New Entrants and Potential Negative Impact on Competition: As noted earlier, the individual market differs from the group market because many

<sup>6</sup> Letter from Maine Superintendent of Insurance Mila Kofman to Secretary of Health and Human Services Kathleen Sebelius, 1 July 2010.

<sup>7</sup> Letter from Iowa Commissioner of Insurance Susan E. Voss to Secretary of Health and Human Services Kathleen Sebelius, 21 September 2010.

<sup>8</sup> HHS Office of Consumer Information & Insurance Oversight (OCIO): Fact Sheet – Temporary High Risk Pool Program. [http://www.hhs.gov/ocio/initiative/hi\\_risk\\_pool\\_facts.html](http://www.hhs.gov/ocio/initiative/hi_risk_pool_facts.html). Accessed Sept 20, 2010.

Missourians who participate are looking for temporary coverage until employer-based coverage is available. Further, individual policies tend to run at lower MLR levels, especially in the early years of the policy, because coverage is targeted at future medical conditions. Consequently, insurers whose individual book of business has a higher proportion of newer policies will find it very difficult to meet the 80% MLR requirement. This could create an uneven competitive playing field that actually discourages new market entrants and increases premium volatility.

4. Eliminate Consumer Choice and Potential Increase in Uninsured: Consumers in the individual market often have preferences for different products compared to the group market. These preferences result in the voluntary selection of plans that tend to run below an 80% MLR, even over the plan's lifetime. For example, individual market plans frequently have higher cost sharing features in exchange for lower monthly premiums. Requiring individual plans to operate at an 80% MLR with no transition period could make policies unaffordable to consumers and lead them to go without coverage—actually increasing the rate of uninsured. The rate of uninsured for the population under age 65 in Missouri is 13.5%. Almost 800,000 of our fellow citizens went without coverage for some part of 2009. Adopting an individual market MLR policy that could potentially increase the rate of uninsurance would be counterproductive to efforts aimed at reduced the number of the uninsured.<sup>9</sup>
5. Maintaining Brokers as an Important Source of Health Insurance: While some believe that reducing insurer administrative costs by eliminating brokers is an easy solution to attain the minimum MLR, brokers continue to play a valuable role in the individual market. Brokers help consumers sift through and understand highly complex health information, compare plans, and assist consumers with negotiations with insurers. Providing a waiver and transition period would allow brokers to maintain their key role in assisting consumers in the purchase of individual insurance plans that best meet their specific needs.

#### Recommendation

To avoid instability and disruption in the market for individual health insurance and the potential harmful impact on consumers who rely on such policies for their health care coverage, GHP and CHCKS believe that Missouri should seek a 3-year federal adjustment to the 80% minimum MLR requirement. Further, we recommend that Missouri propose to adjust the MLR by moving the individual market gradually over the 3-year period to the 80% MLR requirement until the new state-based insurance exchanges begin in 2014.

Under the HHS rule, Missouri must develop an adjustment proposal. We recommend a "glide path" approach that adjusts the individual MLR in equal annual increments. We recommend the following glide path to minimize market disruption, allow carriers to make the necessary adjustments to their business and contracts, and to ensure a continued competitive environment in the individual market:

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<sup>9</sup> U.S. Census Bureau: Income, Poverty, and Health Insurance Coverage in the United States (2009), Annual Social and Economic Supplement, Table HI05. [http://www.census.gov/hhes/www/cpstables/032010/health/h05\\_000.htm](http://www.census.gov/hhes/www/cpstables/032010/health/h05_000.htm).

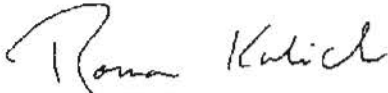
2011 - 65% MLR  
2012 - 70% MLR  
2013 - 75% MLR  
2014 - 80% MLR

In the absence of a federal adjustment to the 80% MLR requirement, we are deeply concerned about the continued viability of the competitive market for individual health insurance business in Missouri.

**Conclusion**

Again, GHP and CHCKS appreciate the opportunity to submit written testimony to the record on this important issue. In sum, we support a decision to seek a waiver to the 80% minimum MLR for the individual market in 2011 and the development of an orderly transition period until 2014 to ensure continued and stable access by Missourians to health coverage through individual health plans.

Respectfully Submitted,



Roman Kulich  
President

## Kempker, Mary

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**From:** Breidenthal, Linda [LSBreidenthal@cvty.com] on behalf of Dillard, Cheryl [ckdillard@cvty.com]  
**Sent:** Thursday, December 30, 2010 11:08 AM  
**To:** Kempker, Mary  
**Cc:** Murphy, Michael (Kansas City); Kulich, Roman; Eyles, Matthew; Dillard, Cheryl  
**Subject:** MLR Comments  
**Attachments:** MO-MLR waiver testimony-FINAL DRAFT-12 29 2010 (2) doc

<<MO-MLR waiver testimony-FINAL DRAFT-12 29 2010 (2).doc>>

Linda Breidenthal  
Administrative Specialist  
Coventry Health Care of Kansas, Inc.  
8320 Ward Parkway  
Kansas City, MO 64114  
816-460-4982  
[lsbreidenthal@cvty.com](mailto:lsbreidenthal@cvty.com)

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December 30, 2010

John M. Huff, Director  
Department of Insurance, Financial Institutions,  
and Professional Registration  
P.O. Box 690  
Jefferson City, MO 65102

Dear Director Huff:

On behalf of Coventry Health Care of Kansas, Inc. (CHCKS) and Group Health Plan, Inc. (GHP), we appreciate the opportunity to submit comments to the record of the public hearing by the Missouri Department of Insurance, Financial Institutions and Professional Registration (DIFP) on minimum medical loss ratio standards in the individual market held on December 28, 2010.

To avoid instability and disruptions in the market for individual health insurance and the harmful impact on consumers who rely on such policies for their health coverage, we recommend that Missouri should seek a federal adjustment (waiver) to the 80% minimum medical loss ratio requirement under the new health reform law, also known as the Affordable Care Act (ACA). As important affiliates of a diversified national managed healthcare company, GHP and CHCKS engaged in the debate over health reform and now are engaged in the process of implementation. Like many others, we believe in the importance of expanding access to coverage, improving the quality of health care in Missouri, and in lowering costs. We would support a decision by the State of Missouri to seek a waiver to the 80% minimum MLR requirement in 2011 for the individual market and the development of an orderly transition period until 2014 to ensure continued and stable access by Missourians to health coverage through individual health insurance plans.

**Potential for Instability in the Individual Market**

Individual health insurance plays an important role in providing high-quality, cost-effective health coverage in the State of Missouri. Based on the most recent data from the U.S. Census Bureau (2009), over 400,000 Missourians under age 65 were covered by

individual insurance.<sup>1</sup> This represents 7.9 percent of our under age 65 state population and exceeds the U.S. average of 6.3 percent.<sup>2</sup>

Based on the National Association of Insurance Commissioners' (NAIC) database of annual statement filings, almost half of all enrollees covered under individual plans (from almost 70 insurers) operate below the 80% MLR threshold in the ACA.<sup>3</sup>

The individual market has unique characteristics that differentiate it from the group or employer-based insurance market. While some individual market policyholders are long-time customers, most policies are purchased to provide interim health coverage and protect consumers against catastrophic financial loss until they obtain group coverage through an employer. In the U.S. Department of Health & Human Services' (HHS) interim final rule (IFR) on grandfathered plans, the government cited studies that estimate 40 to 67 percent of individual policies are in effect for less than one year.<sup>4</sup> Prior to the establishment of state exchanges in 2014, it is likely that individual plans outside of guaranteed issue markets will continue to exhibit many of the characteristics of the pre-ACA market—i.e., short duration and coverage only for medical conditions that emerge after the purchase of the policy.

While the individual market characteristics noted above may persist until 2014, the new insurance requirements enacted under the ACA have fundamentally changed the market dynamics and economics of individual insurance. Yet, the ACA provides almost no accommodation for these significant market changes and no recognition of the need for an orderly transition period other than the possibility of a "federal adjustment"—presumably through a waiver process—in states where the application of the 80% minimum MLR standard "may destabilize the individual market."<sup>5</sup>

To avoid instability and disruptions in the individual market and the harmful impact on consumers who rely on such policies for their health coverage, GHP and CHCKS would support an effort by Missouri to seek a federal adjustment to the 80% minimum MLR requirement under the ACA. In the absence of a waiver, we believe that the individual market would experience significant upheaval in 2011 through 2014. Further, without a thoughtful and well-planned transition period to adjust to the new minimum MLR rules, consumers could face the potential loss of coverage and difficulties finding a replacement policy. At a time when the economic climate in Missouri is already filled with challenges for consumers and businesses, the addition of new uncertainty in the individual market would not be welcomed.

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### **Other State Actions to Seek an Individual Waiver**

In response to the challenges on the horizon in the individual market and recognizing the likely disruption, some states have already requested a federal waiver to the new individual MLR requirements. For example, on July 1, 2010, the Superintendent of Insurance for the State of Maine sent a letter to the HHS Secretary that made two specific requests: (1) a waiver of the 80% minimum MLR requirement for the individual health insurance market until 2014; and (2) a federal determination that prior to 2014, implementation of an 80% MLR may destabilize the individual insurance market in that state.<sup>6</sup> More recently, the Commissioner of Insurance for the State of Iowa made similar requests of HHS.<sup>7</sup> While there are important characteristics that distinguish the individual market in Missouri from those in Maine and Iowa, it is clear that others states have made a determination that the application of minimum MLR standards will have a deleterious effect on consumers in those states—and the same concepts and logic would apply in Missouri.

### **State Rationale for Waiver and Transition Period**

While instability in the market is a critical factor in the decision by the State of Missouri to request a federal waiver, there are other key reasons why a waiver and transition period and plan are important to consumers in our State. The following section outlines some of those reasons:

1. Impact on Carriers, Jobs, and Competition: From a broad perspective, the application of an 80% MLR to existing individual business without an appropriate state-determined transition period could lead some insurers to exit the market or face unsustainable losses. This could result in insolvent carriers, significant job cuts, and more limited competition and add to our State's economic challenges.
2. Difficulties Finding Replacement Coverage and Limited High Risk Pool Funding: Consumers who rely on individual policies but lose their coverage due to market exits may find it difficult or impossible to find replacement coverage at any price. While the ACA created a temporary high risk health insurance pool program under the now-called "pre-existing coverage insurance program" (PCIP), it provided only limited funding. Under the PCIP, Missouri's share of federal funding is capped at \$81 million until the program ends on December 31, 2013.<sup>8</sup> The PCIP could eventually be an option for some Missourians, but such individuals would be ineligible for PCIP coverage for at least 6 months, assuming program funding is still available and no waiting list has developed.
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#### **Recommendation**

To avoid instability and disruption in the market for individual health insurance and the potential harmful impact on consumers who rely on such policies for their health care coverage, GHP and CHCKS believe that Missouri should seek a 3-year federal adjustment to the 80% minimum MLR requirement. Further, we recommend that Missouri propose to adjust the MLR by moving the individual market gradually over the 3-year period to the 80% MLR requirement until the new state-based insurance exchanges begin in 2014.

Under the HHS rule, Missouri must develop an adjustment proposal. We recommend a "glide path" approach that adjusts the individual MLR in equal annual increments. We recommend the following glide path to minimize market disruption, allow carriers to make the necessary adjustments to their business and contracts, and to ensure a continued competitive environment in the individual market:

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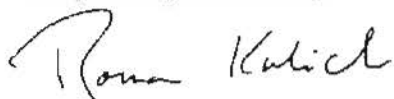
2011 - 65% MLR  
2012 - 70% MLR  
2013 - 75% MLR  
2014 - 80% MLR

In the absence of a federal adjustment to the 80% MLR requirement, we are deeply concerned about the continued viability of the competitive market for individual health insurance business in Missouri.

**Conclusion**

Again, GHP and CHCKS appreciate the opportunity to submit written testimony to the record on this important issue. In sum, we support a decision to seek a waiver to the 80% minimum MLR for the individual market in 2011 and the development of an orderly transition period until 2014 to ensure continued and stable access by Missourians to health coverage through individual health plans.

Respectfully Submitted,



Roman Kulich  
President

## Kempker, Mary

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From: Conrad, Kyle [KConrad@unitrin.com]  
Sent: Thursday, December 30, 2010 11:13 AM  
To: Kempker, Mary  
Subject: MLR COMMENTS

Ms. Kempker:

We hereby submit the following comments on the question of whether Missouri should request an adjustment to or waiver of the medical loss ratio rules promulgated by the U.S. Department of Health and Human Services:

1. We strongly request that the Missouri Department of Insurance, Financial Institutions, and Professional Registration seek, for the individual market in Missouri, an adjustment to or waiver of the medical loss ratio (MLR) rules promulgated by the U.S. Department of Health and Human Services (HHS).
2. We believe that the medical loss ratio should be no more than 65% for the period January 1, 2011, to December 31, 2013. We believe this would give the individual market adequate time to transition to the new MLR requirements and enable consumers to continue to have access to current types of coverage until the "exchange plans" become available on January 1, 2014. If a 65% loss ratio is not acceptable to HHS, we believe a "graduated phase-in" for that 3-year period would at least be more beneficial to the individual market in Missouri rather than an immediate 80% medical loss ratio requirement beginning January 1, 2011.
3. In the absence of any relief from the requirements of the MLR rules, we believe it will not be feasible to continue offering individual health benefit plans. Therefore, we would in effect be forced to cease offering individual health benefit plans. We note that we have not made a final decision in this regard.
4. In the absence of any relief from the requirements of the MLR rules, we believe it will be necessary for us to reduce commissions payable to agents on in-force individual health benefit plans as well as any new business on such plans (assuming we were able to continue writing new business in that market). The effect of this would most likely reduce consumers' access to agents in the individual market. We note that we have not made a final decision in this regard.
5. As of 9/30/2010, our records show that we had 1,515 individuals covered by individual health benefit plans in Missouri that are impacted by the MLR rules. Generally, our market and insureds are individuals in rural areas who do not have access to employer-provided coverage, HMOs, networks, etc. These individuals' access to meaningful and affordable health insurance coverage would be severely impacted in the absence of an adjustment to or waiver of the 80% MLR requirement until January 1, 2014, at which time "exchange plans" become available.

Thank you for considering our comments on this critical issue. If you need any additional information, please contact me.

Respectfully submitted,

**Kyle D. Conrad**  
Senior Vice President  
and Associate Corporate Counsel  
Reserve National Insurance Company  
601 East Britton Road  
Oklahoma City, OK 73114  
Telephone: (405) 848-7931 or (800) 874-1431

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**America's Health  
Insurance Plans**

601 Pennsylvania Avenue, NW  
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Suite Five Hundred  
Washington, DC 20004

202.778.3200  
www.ahip.org



December 30, 2010

Mr. John M. Huff  
Director  
Department of Insurance, Financial Institutions and Professional Registration  
PO Box 690  
Jefferson City, MO 65102

Dear Director Huff:

On behalf of America's Health Insurance Plans (AHIP), I am pleased to respond to your request for comments from individuals and groups interested in new federal medical loss ratio (MLR) rules as they apply to the health insurance marketplace in Missouri. AHIP is the national trade association representing approximately 1,300 health insurance plans (including 79 with business in Missouri) that provide coverage to more than 200 million Americans. AHIP members offer a broad range of health insurance products in the commercial marketplace and also demonstrate a strong commitment to participation in public programs.

The health plan community is strongly committed to working with you and the Department of Insurance, Financial Institutions, and Professional Registration as you carry out your responsibilities to implement the federal Patient Protection and Affordable Care Act (ACA). We are confident that you share our interest in ensuring that such implementation will involve synchronizing state reforms with federal requirements, bending the cost curve, and avoiding market disruption and destabilization. It is a particular concern regarding a potential for such market destabilization that prompts us to write this letter in response to your request for input regarding whether Missouri should request an adjustment to the MLR requirements for the individual market, the consequences to companies offering individual coverage in Missouri if an adjustment is not sought, and other related questions.

Simply stated, we are concerned that not seeking a transition period for implementation of the MLR requirements in the individual market in Missouri could jeopardize the solvency of companies, reduce consumer choice, and diminish competition in the state.

The independent American Academy of Actuaries (AAA) shares these concerns and expressed them in a letter to the National Association of Insurance Commissioners regarding ways in which the MLR standard could cause disruption to consumers in the individual market (emphasis added):

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“Applying an 80 percent MLR requirement to existing individual business that had originally been priced under different (lower) MLR expectations may require a company to reduce the premiums it ultimately retains (i.e., collected premiums less rebates) to levels that create losses, with little to no ability to recover those losses. Materially reducing the non-claims costs associated with existing business in order to reduce financial losses is unlikely to be feasible. Such a situation might lead some companies currently active in the individual market to terminate the existing blocks of business and leave the market, in an effort to avoid those future losses and the potential solvency concerns associated with those future losses. If some companies do exit the individual market, then those companies’ former policyholders may find themselves unable to find new coverage in the individual market for a period of years (noting that guaranteed issue requirements do not take effect until 2014), and would not be eligible for the new high risk pools created by PPACA §1101 during the first six months after cessation of coverage.

“Individual policies underwritten and issued prior to the introduction of guaranteed issue requirements in 2014 will continue to exhibit traditional patterns of having loss ratios that increase by policy duration. Issuing new underwritten policies over the next few years would therefore tend to make it more difficult for an insurer to achieve an 80 percent annual MLR across its entire block of individual medical business. This could serve as an incentive for carriers who remain in the individual market to minimize their marketing activity prior to 2014, creating a potential lack of product availability in the individual market over the next few years.”

*(From a letter from the AAA Medical Loss Ratio Regulation Work Group to Lou Felice, Chair, NAIC Health Care Reform Solvency Impact Subgroup, and Steven Ostlund, Chair, NAIC Accident and Health Working Group.)*

The National Association of Insurance Commissioners echoed this in an October 13, 2010 letter to Health and Human Services Secretary Kathleen Sebelius (emphasis added):

‘Health insurance companies in some markets will need a transitional period to comply with the 80 percent MLR limit. In the absence of the transitional period, the markets of some states are likely to be ‘destabilized.’ Section 2718(b) of PPACA states that ‘the secretary may adjust [the MLR] percentage with respect to a State if the Secretary determines that the application of such 80 percent may destabilize the individual market in such state.’ As consumer representatives noted during NAIC deliberations, consumers will not benefit if



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companies are forced out of the market and individuals are left without coverage.”

In closing, while considering whether to seek an adjustment to the medical loss ratio requirements for Missouri, we respectfully request that you weigh carefully the potential for market disruption in the individual market should you opt not to seek a waiver. In addition, while we thank you for holding the December 28 public hearing regarding the medical loss ratio requirements, the relatively short notice of a hearing held during the holiday season might well have reduced the number of respondents and valuable data that you might otherwise have received. We urge you to continue to reach out to health insurers and other valued stakeholders as you work to implement federal health reform in the weeks and months to come.

Should you have any questions regarding this letter or would like to discuss it further, please feel free to contact me at 202-861-6378 or [dbricker@ahip.org](mailto:dbricker@ahip.org). Thank you and congratulations on your election as treasurer of the Interstate Insurance Product Regulation Commission.

Sincerely,

//s//

Dianne Bricker  
Regional Director – State Advocacy

## Kempker, Mary

---

From: Jim Hill [jimhill@thechurchnet.org]  
Sent: Thursday, December 30, 2010 4:04 PM  
To: Kempker, Mary  
Subject: Thank You

Mary,

I wanted to express my appreciation to you and Director Huff for conducting the public hearing regarding the Medical Loss Ratio. I was grateful for the opportunity to represent Missouri Health Care for All. I serve on the steering committee of MHCFA. MHCFA is a grassroots, non-partisan movement of faith and community leaders committed to securing quality, affordable health care for all Missourians. We have 120 organizations who have endorsed our Principles for a just health care system. In addition, we have more than 7300 grassroots members.

We are very glad to see a public process begin in Missouri on components of the Affordable Care Act. In addition, we see the questions of how to hold insurance companies accountable to Missouri families and consumers as fundamental to realizing the benefits of the new law.

Missouri Health Care for All firmly believes that we have a moral obligation to make sure that every person and family in our state has access to quality, affordable health care within their community. We strongly assert that investing in health care for all is both critically important for the well-being of all Missourians and a sound economic investment. Based on faith and ethical values, we affirm that all persons should have the opportunity for healthcare and healing.

As I indicated in my testimony, we believe strongly Missouri should not seek an adjustment or waiver of the Medical Loss Ratio Standards for Insurance Carriers. We believe the Medical Loss Ratio rules are good for consumers and small businesses who purchase insurance. The MLR assures that we receive value for our premium dollars. Missouri consumers need more value for our premium dollars—and insurance companies must be required to deliver more value and more affordable premiums. The MLR is intended to put effective pressure on insurance companies—to do better, to decrease administrative costs and to deliver more value to Missouri consumers. It is one of the few cost containment provisions of the Affordable Care Act that will impact many insured families.

The Medical Loss Ratio rule is sound public policy. Assuring that a reasonable percentage of our health insurance premiums benefit consumers and families is good public policy. We are concerned about compromising the consumer protections vital for Missouri families in order to benefit the health insurance industry. Missouri consumers need increased transparency to assure value of our premium dollars. The Department of Health and Human Services identifies six criteria that will be used to determine the risk of destabilization in the insurance market. However, here in Missouri we do not have sufficient data readily available to consumers to evaluate the effect on the marketplace. It will be critically important for the Department of Insurance to improve information available to consumers about rate increases and medical loss ratio now that the State and federal government have greater capacity to protect consumer interests.

Thank you for hearing our concerns.

Jim Hill  
Executive Director



*A ministry of the Baptist General Convention of Missouri*

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## AFFIDAVIT OF KEVIN S. WREGE, ESQUIRE

1. My name is Kevin S. Wrege and I reside at 3812 Fordham Road, NW, Washington, DC 20016. I currently serve as Regional Director of State Affairs for the Council for Affordable Health Insurance or CAHI;

2. CAHI is a national research organization and trade association whose members include insurance carriers, actuaries, agents and brokers, physicians and small business owners. Our member companies are active in the individual, small group, health savings account and senior markets;

3. CAHI member companies can generally be categorized as smaller carriers operating in multiple states throughout the country, with relatively modest market share in any given state's individual market;

4. Upon information and belief, the medical loss ratio (MLR) requirements as published in the Federal Register, 75 Fed. Reg. 74864, et seq. (Dec. 1, 2010) (45 FRC Part 158) will have a significant financial impact on our member companies operating in the individual market in the State of Missouri;

5. Upon information and belief, many of our member companies operate with modest profit margins in the individual market segment and the new MLR requirements will likely result in losses, at least leading up to later implementation of federal health insurance reforms beginning in 2014;

6. Upon information and belief, the MLRs for major medical policies that are individually underwritten tend to be significantly lower in the early years following issuance and also tend to increase over time as underwriting "wears off" and more health issues develop;

7. Upon information and belief, many of our members have inforce business weighted toward newer business, making it actuarially difficult for them to achieve an 80 percent annual MLR in 2011;

8. Upon information and belief, the 80 percent annual MLR puts these member carriers at a regulatory disadvantage relative to competitors that have more mature

books of business and a more steady mix of older and newer policies -- and correspondingly higher MLRs;

9. Upon information and belief, applying an 80 percent MLR requirement to existing individual business that had originally been priced under lower MLR expectations will most likely result in losses on this business, with little or no ability to recover these losses;

10. Upon information and belief, some of our member carriers have a number of sizable vendor contracts related to administration and claims management, as well as a large number of agent compensation contracts for marketing, distribution, and servicing of policies;

11. Upon information and belief, these vendor and commission contracts generally cannot be modified or amended retroactively for policies issued prior to the enactment of the new MLR requirements, placing significant pressure on many of our member companies' operating expenses;

12. Upon information and belief, it is even more difficult for those CAHI member companies who focus exclusively on the individual market to meet the 80% MLR in that market due to the higher administrative expenses associated with marketing and servicing policies at an individual level, coupled with lower average premiums in the individual market due to the higher average deductibles being sold for affordability reasons;

13. Upon information and belief, the MLR rebate mechanism poses a significant cost that cannot be offset by current margins;

14. Upon information and belief, as a result of the combined impact of all of the market, regulatory and legal factors discussed above, some of our member carriers may choose to terminate their existing blocks of business and leave the market in an effort to avoid future losses and resulting solvency concerns, potentially leaving many customers in the State of Missouri without coverage and potentially limited replacement coverage options in the pre-2014 marketplace due to pre-existing health conditions;

15. Upon information and belief, CAHI member companies that continue to issue significant amounts of newly underwritten policies over the period from January 1, 2011 through December 31, 2013 will find it harder to achieve an 80 percent annual MLR across their block of individual medical business, providing an

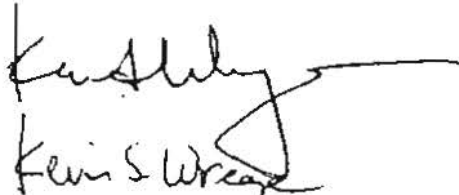
unfortunate incentive for member carriers that remain in the individual market in the State of Missouri to minimize their marketing activities in the state prior to 2014;

16. Upon information and belief, the 80 percent annual MLR standards could result in a potential lack of individual market product availability – and resulting market disruption -- for Missouri consumers between now and January 1, 2014.

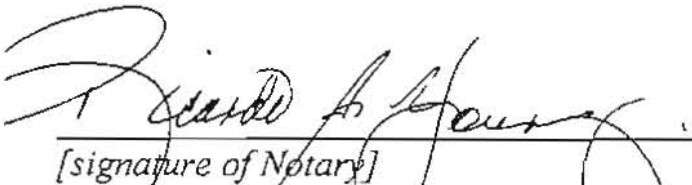
17. Upon information and belief, a liberalizing adjustment to the 80 percent MLR waiver will help to ensure that the maximum number of Missouri residents will be able to retain their existing individual market coverage, while providing relief sufficient to provide the continued availability of the greatest range of coverage options and overall competition in the individual market in the State of Missouri.

Subscribed and sworn to before me, this 30<sup>th</sup> [day of month] day of DECEMBER [month], 2014.

[Notary Seal:]



Kevin S. Wray  
CAH Regional Director of State  
Affairs



[signature of Notary]

RICARDO A. YOUNG

[typed name of Notary]

NOTARY PUBLIC

My commission expires: FEBRUARY 28, 2015.



John M. Huff, Director  
Department of Insurance, Financial Institutions, and Professional Registration  
P.O. Box 690  
Jefferson City, MO 65102

Dear Director Huff:

The American Cancer Society Cancer urges that the regulations carefully define Medical Loss Ratio to ensure that as much spending as possible by insurers goes to services intended to improve patient health rather than to company profits and administrative expenses.

The Affordable Care Act for the first time requires health insurance companies to disclose information that is intended to help consumers understand the value they are getting for the premiums they pay. This strong rule will help to ensure that patients are accurately informed about the portion of their premiums that are spent on medical care instead of company profits, broker commissions or administrative costs. It signifies the start of a critical consumer-education process that will finally help people with cancer or at risk for cancer to make informed decisions about the plans they purchase.

The current rule mostly adheres to the recommendation made by the National Association of Insurance Commissioners (NAIC) and supported by NAIC's consumer representatives to adopt a careful definition of insurance company spending on patient health. For example, the regulation excludes broker commissions from the medical loss ratio calculation. It also rejects requests by large insurers to aggregate the medical loss ratio of their plans on a nationwide basis, a move that would have allowed insurers to offset high-quality plans sold in one region of the country with low-quality plans sold in another. By instead limiting aggregation to plans sold within a given state, the regulation will help to reduce the potential for abuse and ensure that consumers receive information that is accurate and useful for plans in their market.

Unfortunately, the rule also gives an exemption to limited-coverage health plans, also called 'mini-med' plans, which will not have to comply with the MLR calculation for one year. ACS acknowledges that to maintain stability in the insurance market, all plans may not be able to immediately conform to the MLR calculation under the rule. Immediate compliance with the MLR calculation could result in termination of coverage for people who would otherwise have no other coverage alternative. ACS will monitor consumer experiences and encourage the administration to develop a comprehensive plan to bridge the transition to 2014, when all plans will be required to be in full compliance with the rule. All families affected by cancer need meaningful coverage that will guarantee them access to the full spectrum of evidence-based care.

The American Cancer Society is the leading voice of patients in the health care debate and is working to ensure that the Affordable Care Act is implemented as strongly as possible for cancer patients, survivors, and caregivers.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Misty Snodgrass  
Legislative/Government Relations Director -- Missouri  
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573.635.4839 (o)  
573.268.9046 (c)  
[misty.snodgrass@cancer.org](mailto:misty.snodgrass@cancer.org)

Missouri  
Health Advocacy  
**ALLIANCE**   
*Many Voices. One Mission.*

December 30, 2010

John M. Huff, Director  
Department of Insurance, Financial Institutions, and Professional Registration  
P.O. Box 690  
Jefferson City, MO 65102

*Via email to Mary Kempker*

Please accept the following comments related to whether the Department of Insurance, Financial Regulation and Professional Registration (the Department) should request an adjustment to the new Medical Loss Ratio standards published in the Federal Register, 75 Fed. Reg. 74864, *et seq.* (December 1, 2010) (45 C.F.R. Part 158). The regulations specify that the Secretary of Health and Human Services may grant adjustments to Medical Loss Ratio requirements on a statewide basis in certain situations and based on specific information and submissions by the state insurance regulator.

These comments are respectfully submitted to the Department by the Missouri Health Advocacy Alliance, a statewide organization of about 40 organizations in Missouri. The mission of the Alliance is to provide a united consumer voice for quality, affordable health care choices in Missouri. During the past two years, the Alliance and its members have worked hard to make certain meaningful health reform was passed by Congress. We joined many comparable consumer advocacy organizations throughout the states and at the national level to make certain the medical loss ratio provisions passed as part of the Affordable Care Act. The medical loss ratio requirements were included in the final bill as a way to begin to change the health insurance climate in our country. Consumers want more of our premium dollar spent on health care and health improvement. We want less of our premium dollar spent on administrative costs, Executive salaries and bonuses. We want companies to be rewarded who move from the business model of selecting and avoiding risk to one of improving care and health outcomes, while keeping costs down.

Once the ACA passed, consumer groups again fought for a strong regulation defining the MLR provisions in the proposed regulation which was developed by the National Association of Insurance Commissioners. The insurance industry sought to weaken the MLR requirements throughout the NAIC process, but consumer groups worked to maintain our position that premium dollars should be spent on health and health care. As the Department staff knows, in





the final plenary meeting, the NAIC voted unanimously to approve the proposed MLR regulation that was sent to HHS.

Now insurers in Missouri seek to delay the changes the MLR requirements represent by asking the Department to seek and adjustment from HHS. The regulations allow for such an adjustment to the MLR for the individual market only, if the department finds that the market will be destabilized with full implementation of the 80% ratio. But the regulation and HHS require certain information and plans from states who seek such adjustments.

The Department has asked the carriers for the information it needs to determine whether a destabilization in the individual market would occur. The Department held a hearing on December 28, 2010, in another attempt to obtain the data it needs. Only one carrier testified and did not at that time submit the necessary information.

The Alliance would like to state for the record that we believe an adjustment is not warranted at this time, that carriers have not provided adequate information for the department to decide otherwise, and we would request that the Department decline to request an adjustment in the MLR from HHS, unless and until carriers present sufficient data and information to cause the department to believe that the market will be destabilized without the adjustment. If such data is presented by the carriers, the Alliance requests that the data be made available to the public so that it can be examined and scrutinized.

We believe the adjustment is not warranted at this time for three reasons:

1. Accommodations to ensure continued access to coverage by consumers has already been put into the existing regulation;
2. The process by which the MLR requirements were developed was public, researched and unanimously accepted by the members of the NAIC and certified by HHS; and,
3. The purpose of the MLR provision is to incentivize insurers to move to a business model that spends more of the premium dollar on patient care, improving health outcomes, and improving the quality of health care.



1. Accommodations to ensure continued access to coverage by consumers has already been put into the existing regulation.

In order to guard against market destabilization, the Affordable Care Act stipulates that the reporting requirements and methodologies for calculating the medical loss ratio "be designed to take into account the special circumstances of small plans, different types of plans, and new plans."

#### Adjustments for Smaller Plans.

- An insurer that has less than 1,000 people enrolled are deemed non-credible and will not be required to provide rebates.
- An insurer with 1,000 to 75,000 people enrolled for an entire calendar year is considered to have "partially credible" experience, and, accordingly, the regulation adds a "credibility adjustment" to its medical loss ratio.
- An insurer with 75,000 or more people enrolled in a plan for an entire calendar year is considered to have "fully credible" experience and will pay rebates based on its actual medical loss ratio without any credibility adjustment.

The NAIC commissioned an extensive analysis by a well-known national actuarial consulting firm, and relied on these findings to develop its credibility adjustment calculation.

By our research it appears that just shy of half of the Missouri market covers less than 75000 lives and will receive some sort of an adjustment and that the only company that will be "fully credible" under this regulation is Healthy Alliance, a subsidiary of Wellpoint. Wellpoint is a well capitalized and highly profitable public traded company with an estimated market capitalization of \$22.5 billion dollars and showing retained earnings of \$10.5 billion dollars on its last quarterly report of September 2010. Absent more data provided to the Department, it is difficult to see that Wellpoint paying rebates, spending more on health care, or decreasing administrative costs to meet the MRL would result in market destabilization in Missouri.

#### Barriers to Entry for Newer Plans.

Some industry representatives have argued that the MLR creates a "barrier to entry" because of the nature of the market that sees a "front loading" of administrative cost due to cost of customer acquisition and the experience of claims in outer years.

We believe that the ACA anticipated this potential disruption and mitigated its impact by allowing newer plans an adjustment. Consistent with NAIC recommendations, certain insurers that have newly joined the insurance market may be able to delay reporting their medical loss ratio until the next year. Allowing insurance companies to defer reporting newer business reduces barriers to market entry by reducing the risk of failing to meet the MLR standard and having to pay a rebate.



**2. The Process by which the MLR provisions were developed was public, researched and unanimously accepted by the NAIC and approved by HHS.**

Congress asked the National Association of Insurance Commissioners, a nonprofit organization representing the nation's state and territorial insurance commissioners, to "establish uniform definitions of the [MLR activities] and standardized methodologies for calculating measures for such activities." Section 2718 of the ACA requires HHS to "certify" the NAIC recommendations.

Given the NAIC's expertise in insurance regulation, the NAIC was a natural partner for HHS in taking on this complex task. The NAIC promptly appointed two working groups to draft its response. One group, headed up by Lou Felice of New York, was given the task of devising a form for insurers to use to report the components of the MLR. This group was responsible for drafting the definitions to be used for the reports, including the definition of "quality improvement activities." A second group, headed by Steven Ostlund of Alabama, was asked to establish the methodologies to be used for calculating the MLRs. Both groups hosted conference calls up to twice a week and lasting for one to two hours, which reportedly sometimes involved several hundred regulators and "interested parties." The "form" group finished first, with its results approved unanimously (after minor amendments) by the full NAIC at its August meeting. The methodology group took longer, but the regulation it devised (which incorporated the earlier approved definitions) was **approved unanimously, after considerable debate, by the NAIC at its October meeting.** The rule then went to HHS for its certification.

This process was open and public with many opportunities for industry input.

**3. The Purpose of the MLR Provision is to incentivize insurers to move to a business model that spends more of the premium dollar on patient care, improving health outcomes, and the improving the quality of health care.**

In a Letter to Commissioner Jane Cline, President of the National Association of Insurance Commissioners, dated May 7, 2010, Senator Jay Rockefeller, chair of the Senate Commerce Committee, made clear the purpose and intent this provision of the law. Below is a quote from that letter:

Missouri  
Health Advocacy  
**ALLIANCE**   
*Many Voices. One Mission.*

Letter to Jane L. Cline  
May 7, 2010

Data analyzed by the Senate Commerce Committee staff and others show that many insurers already meet the newly established medical loss ratio requirements in the group and individual markets that go into effect next January. But the data also show that in some markets and some product lines, insurers are not yet meeting the new requirements.<sup>2</sup> The purpose of the legislation is to provide health insurance companies falling below the requirements a new incentive to spend more of every premium dollar on patient care and the quality of that care. To the extent insurers try to invent ways to “game” the minimum medical loss ratio requirement without changing their actual business practices, they are defeating the purpose of the medical loss ratio provision.

This demonstrates the intent of the provision is to change insurers’ behavior,

In summary, the Missouri Health Advocacy Alliance reminds the Department that the Medical Loss Ratio was put into the Affordable Care Act as a response to consumer concerns that insurance companies spend too many premium dollars on administrative costs, including executive bonuses, etc. while not spending enough on actual health care and health improvement. At a time when health insurance premiums continue to rise exponentially, consumers will no longer tolerate inefficiencies, high administrative costs, and large executive bonuses and salaries. Consumer groups know that Medicaid and Medicare operate with far less administrative costs than private insurance. We know there are ways to cut administrative costs and change business models to be more efficient and produce better health outcomes. Consumers fought for changes in the health care system that will reward insurance companies which improve health outcomes and decrease costs. No longer will we reward companies which avoid and select risk as a way of making their profit. Insurers must now develop these new business models and the MLR requirement sets the stage for that and provides the incentives, without micromanaging how the companies meet the ratio.

The Alliance is counting on the Department to weigh the public interests involved in the decision to seek an MLR adjustment or not, and to base the decision on real data and dollars, not on general statements of carriers. We are counting on the regulators to obtain the data, analyze it, and do what is right for Missouri’s marketplace. Without such real data supplied and analyzed, companies should be required to meet the new MLR standards without an adjustment.

Respectfully submitted,

*Andrea J. Routh*

Andrea J. Routh  
Executive Director



Aetna  
6901 Glen Ridge Drive  
Austin, Texas 78731

December 30, 2010

**Shannon P. Meroney**  
Senior Manager,  
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Law & Regulatory Affairs  
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Mr. John M. Huff  
Director  
Department of Insurance, Financial Institutions and Professional Registration  
PO Box 690  
Jefferson City, MO 65102

Re: Written Comments to December 28, 2010 - PUBLIC HEARING -- MEDICAL LOSS RATIO IN INDIVIDUAL MARKET

Dear Director Huff:

Aetna is one of the nation's leaders in health care, dental, pharmacy, and other employee benefits, serving almost 20 million Americans in fifty states, including Missouri. As such, we appreciate the opportunity to express our concerns about the potential negative impact of immediately moving to full implementation of 80% Medical Loss Ratio (MLR) requirements upon the Missouri individual insurance market.

First, it is critical that Missouri act to preserve competition and choice for consumers and employers.

In many states, the individual and small group markets already experience competitive challenges, with the federal General Accounting Office (GAO) reporting that the five largest carriers in the small group market represent at least 90% of the market in 23 of 39 states surveyed.<sup>i</sup> Furthermore, the NAIC reported that, for the individual market, 20 states had less than three carriers in the market.<sup>ii</sup>

The market reforms outlined in the *Affordable Care Act*, including the establishment of an 80% MLR requirement for the individual market, have the potential to destabilize an already challenged business if they are not implemented thoughtfully and with full and careful appreciation for the impact they may well bring.

Undue haste to require full compliance with the 80% federal MLR prior to 2014 is likely to create competitive issues. It will be difficult for many insurers to continue to provide coverage in the Missouri individual and small group markets during the transition because:

- Most of these products were priced and sold prior to the new MLR rules thus making a “cold turkey” conversion challenging for the market to absorb. These products still carry the same administrative requirements associated with underwriting, rating and distributions – with many insurers involved with multi year contracts with brokers and other distribution mechanisms that cannot be modified overnight. A phase in that gradually raises the current standards every year would allow time for insurers and brokers to adjust to the new rules and would help assure continued competition.
- The health care reform transition years – now through 2014 – will see a transformation of the insurance business as insurers re-invent their products to come into compliance with the *Affordable Care Act*. This includes benefit redesign to add 100% coverage for preventive services, new appeals processes, eligibility expansions and other initiatives intended to help consumers. While these initiatives add value for consumers, they will in the short term also require some intensive administrative operations to implement. Existing law has already imposed unusual administrative expenses during this time period because of the federally mandated – and previously scheduled – adoption of a new coding system called ICD-10, thus complicating even more our efforts to reduce administrative costs.

Common sense practical application of health care reform is critical as is the need to move deliberately. As insurers gain experience with the new requirements of the *Affordable Care Act*, Missouri can use this experience to make fact-based decisions about the MLR as well as other statutory provisions. Until then, Aetna urges Missouri to seek federal permission to slowly phase-in these requirements.

As always, please don't hesitate to call should you have any questions for us on this issue.

Sincerely,

Shannon Phillips Meroney

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[i] Government Accountability Office, “Private Health Insurance: 2008 Survey Results on Number and Market Share of Carriers in the Small Group Health Insurance Market,” February 2009.  
ii [ii] NAIC unaudited information, 2009.