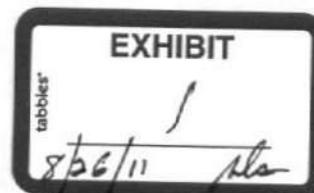


Missouri Department of Insurance

Jay Nixon, Governor
 John M. Huff, Director
[Insurance Home](#) » [Consumers](#) » [Hearings and Meetings](#)



Hearings and Meetings

Date and Time	Place *	Agenda **
August 26, 2011 09:00 am to 12:00 pm	Room 490	<p><u>NOTICE OF HEARING - MEDICAL LOSS RATIO IN INDIVIDUAL MARKET</u></p> <p>The Director of the Department of Insurance, Financial Institutions and Professional Registration will hold a public hearing on August 26, 2011 at 9:00 a.m. in Room 490 of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. The purpose of this hearing will be to solicit testimony and comments related to the effect of the Medical Loss Ratio on the individual health insurance market in Missouri.</p> <p>FORM OF COMMENTS</p> <p>The Director is requesting comment from individual consumers, insurers or carriers, HMOs, producers, business entity producers, professional associations, public interest groups, and from any other person or entity with an interest in the Medical Loss Ratio ("MLR") rules as they apply to the health insurance marketplace in Missouri.</p> <p>Comments should specifically and in detail address the following issues:</p> <ul style="list-style-type: none"> • Whether Missouri should request an adjustment to the MLR for the individual market in the state; <ul style="list-style-type: none"> ◦ If so, the appropriate adjusted MLR and suggestions for the length of the transitional period in Missouri; • The consequences to insurance companies offering individual coverage in Missouri if an adjustment is not sought, specifically related to the following issues: <ul style="list-style-type: none"> ◦ Will the company withdraw from the individual market if an MLR adjustment is not sought? Companies are asked to be specific: definitely will withdraw; withdrawal is under serious consideration; withdrawal is probable; withdrawal is possible; withdrawal is unlikely; will not withdraw? ◦ Is there sufficient capacity in the individual market to absorb additional enrollees if one or more companies were to withdraw from the individual market?

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Agenda **

- What impact will the 80% MLR have on the financial performance of companies in the individual market and how would financial performance be impacted if an adjusted MLR is sought by the State?
- How many Missourians would be affected if one or more companies were to exit the individual market in Missouri?
- How will premiums charged, benefits, and cost-sharing provided to consumers be affected if one or more companies were to withdraw from the market?
- What is the likelihood that the company will reduce commissions paid to producers as a result of the 80% MLR?
- The consequences to producers and business entity producers offering products in the individual market if an adjustment is not sought, specifically related to the following issues:
 - What is the likelihood of companies making reduced payments to producers as a result of the 80% MLR and how would reduced commission payments impact the ability to serve consumers?
 - Will the application of the 80% MLR result in reduced access to producers by consumers, including but not limited to producers leaving the industry?
- The consequences of the imposition of the 80% MLR to consumers, specifically related to the following issues:
 - How many Missouri consumers would be impacted if one or more companies were to withdraw from the market absent an adjustment to the MLR?
 - Is there capacity in the individual market to absorb consumers if one or more companies withdraw from the market?
 - What other alternate coverage options are available in the State to consumers in the individual market in the event a company withdraws from the market?
 - How will consumers be affected in terms of premium charged and benefits and cost-sharing provided, if one or more companies were to withdraw from the market?
- Any other matter bearing on the six criteria HHS has identified, as set forth below, that impact the risk of market destabilization.

Comments may address the impact of Medical Loss Ratios on individuals, insurers, or producers, as well as any other individual or entity. Comments should be brief, specific, fact-based, and focused on the Missouri health insurance marketplace. Supporting data must 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

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to the Medical Loss Ratio rules from the U.S. Department of Health and Human Services.

BACKGROUND

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:

1. 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;
2. The number of individual market enrollees covered by issuers that are reasonably likely to exit the State absent an adjustment to the 80% MLR;
3. Whether absent an adjustment to the 80% MLR standard consumers may be unable to access agents and brokers;
4. The alternate coverage options within the State available to individual market enrollees in the event an issuer withdraws from the market;
5. 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
6. Any other relevant information submitted by the State's insurance commissioner, superintendent, or comparable official in the State's request.

WRITTEN COMMENTS

In lieu of or in addition to providing testimony or comments at the hearing, interested parties may also submit written comments. Such comments shall be submitted no later than 5:00 p.m. CDT on September 2, 2011 and shall be submitted via U.S. Mail, e-mail, or delivered in person as outlined below.

Mailing Address:

John M. Huff, Director

Department of Insurance, Financial Institutions and Professional
Registration

Date
and
Time

Place
*

Agenda **

P.O. Box 690
Jefferson City, MO 65102

Physical Address:
Department of Insurance, Financial Institutions and Professional
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Harry S Truman State Office Building
301 West High Street, Room 530
Jefferson City, MO 65101

E-Mail: MLR-Comments@insurance.mo.gov

Questions may be directed to:
MLR-Comments@insurance.mo.gov
Amy Hoyt, 573-751-1953

***SPECIAL NEEDS:**

If you have special needs addressed by the Americans with Disabilities Act, please notify us by calling (573) 751-2619 at least three (3) working days prior to the hearing.



Testimony regarding Medical Loss Ratio in Individual Market
On August 26, 2011 before
Department of Insurance, Financial Institutions and Professional Registration

My name is Ed Anderson from Edina, Missouri on behalf of the members of the National Association of Insurance and Financial Advisors known as NAIFA Missouri.

I am the President-Elect of our state association which has the largest membership of licensed insurance producers in our state. We appreciate the opportunity to again voice our concern on this issue raised over a year ago in our letter of July 15, 2010 to the department. We support in the strongest terms possible the proposal for Missouri to request an adjustment to the Medical Loss Ratio for the individual market. We are encouraged by the NAIC Health Insurance and Managed Care Committee report on June 7, 2011 regarding producer compensation in the Affordable Care Act. NAIFA supports the recommendations being studied to completely exclude producer compensation from the MLR calculation. Should this recommendation or legislation introduced in Congress by Rep Mike Rogers (R-MI) and John Barrow (D-GA) be adopted we would withdraw our objection to the MLR as enacted.

There are specific questions in the notice we would like to address. With regard to "The consequences to insurance companies offering individual coverage in Missouri if an adjustment is not sought, specifically related to the follow issues:

"o What is the likelihood that the company will reduce commissions paid to producers as a result of the 80% MLR?"

Realizing the implementation on January 1, 2011 of the MLR, we urged support by Missouri at the NAIC of pass-thru producer commissions from the calculation. Since that did not occur, effective 1/1/11, insurance producers in Missouri were dealt a severe reduction in commissions. An April 2011 survey of NAIFA members in the health insurance business found that 75 percent had seen the level of their commissions decrease and another 13 percent had received notices from insurance companies that commissions would be going down in the near future. Six in 10 agents reported their commissions had dropped by 25 percent or more since that date. 17% percent said their commissions had decreased by 50 percent or more. My personal experience was a 27 percent drop in commissions.



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July 15, 2010

John Huff, Director
Missouri Department of Insurance
P.O. Box 690
Jefferson City, MO 65102

Dear Director Huff:

There is an issue coming before the National Association of Insurance Commissioners (NAIC) which is a direct concern not just to our members, but to all licensed health insurance producers in Missouri. The Affordable Care Act placed a requirement on the NAIC to develop a report establishing uniform definitions and standardized methodologies for calculating the medical loss ratio (MLR). With health plans required to spend a minimum of 85% of premiums (80% for individual and small group) on medical claims and rebate any excessive overhead to enrollees.

We strongly support the goals of reducing health care costs, providing better value for consumers and improving health outcomes for patients. We strongly believe that the definition of MLR should recognize the wide spectrum of insurer activities that contribute to better health outcomes and care delivery efficiency. The adoption of a narrow and static definition will adversely impact spending on certain important health plan activities including the availability of insurance producers.

It is imperative that residents in Missouri continue to have access to professional health insurance advisors. Our members spend a vast amount of time assisting their clients and the general public in obtaining medical services. Already several insurance companies have sent advance notice of reductions to our income. If this is permitted to proceed there will be a substantial decrease in the availability of insurance professionals who will be available to assist residents of our state. The limited availability of producers to assist Medicare beneficiaries with Part D is becoming a chronic problem now, and is a specter of what is likely to occur on all health insurance unless commission paid to agents is a "pass-through" that should not be reduced or eliminated as a result of MLR calculations.

Our national association and other industry group met with a small group of regulators including your colleagues in Kansas, New Hampshire, Alaska and Florida. They understand the cost-efficient role of the producer. We urge you to join with them in supporting the exclusion of pass-thru producer commissions from the MLR calculation.

Regards,

David Haymes
NAIFA-MO President

PENGAD 800-431-4030
W

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

Submitted by Jim Hill on behalf of Missouri Health Care for All on August 26, 2011.

My name is Jim Hill, and I serve on the board of Missouri Health Care for All. I am here today on behalf of our board and our Executive Director, Rebecca McClanahan. I am also here today as a self-employed, small business owner. I own a consulting firm which works with non-profit organizations and faith-based ministries. Missouri Health Care 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 grateful to see a public process in Missouri related to the 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 access to health care they can afford which 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. On the basis of these convictions we believe...

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 which 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. The rules indicate 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 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. We are grateful your department has been seeking to gather additional information from health insurance providers in our state, such as the information released in the April 2011 report, "Medical Loss Ratio Estimates, by Segment." However, we still believe we lack adequate information and sufficient data to evaluate the effect on the marketplace.

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 we will be able to shop wisely with that knowledge.

As a personal example health insurance premiums for my wife and me purchased through my small business more than doubled in the last ten years. Both of us are healthy with no serious health issues. Our provider is one of Missouri's big three insurance providers. When our premiums were raised to nearly \$19,000 a year we were forced to move to high deductible plans where we each have \$5,000 annual deductibles. Even with these deductibles our health insurance premiums are nearly \$10,000 a year. Individuals and small businesses are literally at the mercy of the insurance carriers.

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, 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.

CONSUMERS COUNCIL OF MISSOURI

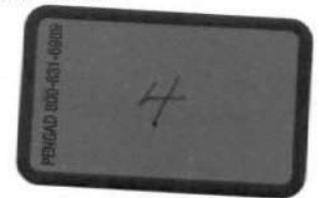


www.moconsumers.org

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

Re: Adjustment to Medical Loss Ratios in Missouri

August 26, 2011



My name is Joan Bray. I am the chair of the board of the Consumers Council of Missouri. Thank you for the opportunity to present testimony this morning.

The Consumers Council of Missouri (CCM) was organized to educate and empower consumers statewide and to advocate for their interests. Health insurance is one of the areas in which we work. Health insurance is one of the most stressful items in a household budget. Many individuals and families have no health insurance because it is too expensive. Many who pay health insurance premiums are under-insured and when they need to use the insurance it may not cover their needs. And people who are covered by health insurance often find it difficult to know what their premiums are buying or to know the value of the money they are spending.

The Consumers Council believes purchasers of health insurance should know what their options are, what they are buying and the comparative value of the health insurance products. For too long the industry has been veiled in mysterious and dense language and complex numbers and calculations. This veil must be removed. Terms of the agreement between insurer and insured must be presented in clear and transparent layperson language.

The new Medical Loss Ratio requirements (MLR) are a step toward accomplishing such a goal. They give consumers a straightforward calculation of how their premium dollars are spent by setting a minimum level of spending on medical benefits and quality improvement at 80 percent in the individual and small group markets. Congress, with the support of the Congressional Budget Office, concluded that efficient insurers could achieve an 80 percent minimum MLR in the individual market. However, HHS may grant an adjustment to the 80 percent MLR over the next few years if a state demonstrates that there is a "reasonable likelihood" that application of the requirement "may destabilize the individual market in the state" and that "harm to consumers, will occur."

The department has asked for public comment on whether Missouri should request an adjustment to the MLR for the individual market in the state. The Missouri Consumer Council says no. We are unaware of enough evidence that would support a request for a waiver of the 80 percent MLR at this time.

In April of this year, the department prepared and has now posted on its website MLR estimates for each insurer in the individual, small group and large group market. Consumers Council commends the department for making this information available. I do believe, however, that more progress needs to be made in presenting the data in

(over)

clear and transparent layperson language.

The department's report shows that 7 of the 17 insurers in the individual market subject to the 80 percent MLR requirement met or came close to that mark. These insurers' adjusted MLRs, as reported by the department, ranged from 77.2 percent to 97.4 percent. However, the department's data do not show historical trends, nor does the department provide any explanation of why other insurers did not meet the 80 percent goal or how difficult it would be for other insurers to comply or pay rebates to consumers.

The department needs more information before it – or anyone -- can assess the impact of the 80 percent MLR on Missouri's individual market. The information that the department needs to monitor the impact of the MLR is information that consumers need to make more informed choices about their health insurance. It is also information that HHS indicates should be included in a state's analysis.

HHS has specified that states seeking a waiver of the 80 percent MLR in the individual market are to submit information about the MLRs for each insurer. In addition, HHS also asks states to provide:

- For each issuer who offers coverage in the individual market in the state the number of individual enrollees by insurance product and individual premium data by product;
- Total agents' and brokers' commission expenses on individual health insurance products;
- Estimated rebates for those insurers who do not meet the 80 percent MLR;
- Net underwriting profit for the individual market business and consolidated business in the state for each insurer and their after-tax profit and profit margin for the individual market business and consolidated business in the state; and their risk-based capital level.

Information about profits and capital reserves provides a clearer picture of where our premium dollars are going. It may be that the companies that fall below the 80 percent MLR are making exorbitant profits rather than using our premium dollars to pay for medical care. The data the department has published comparing MLR across carriers, tells part of the story. We need the rest.

The Consumers Council supports transparency and accountability. We support the department's effort to learn more about how carriers in the individual market are spending premium dollars and to make that information public.

We urge you issue another public report that compares the profits and capital levels of all health insurers in Missouri, but particularly those in the individual market as part of the department's due diligence in determining the likely impact of the 80 percent MLR on Missouri's individual market. Until the data are made available and the public has an opportunity to comment, we believe it is premature for Missouri to request a waiver of the 80 percent MLR rule.

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The Honorable John M. Huff, Director
Missouri Department of Insurance, Financial Institutions and Professional Development
301 West High Street – Room 530
Jefferson City, Missouri 65101

Dear Commissioner Huff,

This letter is being presented on behalf of the 26,128 licensed Accident & Health agents and brokers in the state of Missouri. Our associations include **The Missouri Association of Insurance Agents, the Missouri Association of Health Underwriters (MOAHU), The St Louis Association of Health Underwriters (SLAHU) and the Springfield Association of Health Underwriters (SAHU).**

Accident & Health agents in Missouri educate, communicate, deliver and service individual health insurance policies. We do not control price or plan design but we help our customers navigate an imperfect marketplace. Our members are not on the other end of a long distance telephone line like many health insurance carrier “customer service representatives.” We are across the table, in their office, in their church and in their lives. We have a very good perspective on healthcare reform and are in favor of many major components. However, the MLR requirements are going to be extremely harmful to the individual health insurance market if not successfully appealed.

We formally request that the State seek a waiver from the U.S. Department of Health and Human Services (HHS) on the implementation of the medical loss ratio (MLR) requirements contained in the new federal health reform law.

As you know, one of the provisions of the Affordable Care Act (ACA) required health insurance carriers to comply with new rules regarding administration costs on January 1, 2011. Such rule requires that carriers spend no more than twenty percent (20%) in the individual market. It is clear that this restriction will erode carrier and agent competition in Missouri.

In Missouri the insurance market destabilization has already begun. The withdrawal of Mercy Health Plans as a result of its acquisition by GHP/Coventry and the takeover of Guardian’s & Principal Mutual’s group medical business by United Healthcare has resulted in fewer choices for Missouri’s citizens and our employers.

Inaction on the MLR Waiver will clearly lead to less choice and less competition in Missouri. This is a fact about which we are educating our 26,128 agents and our hundreds of thousands of individual and business clients.

HHS has given states the authority to request a waiver on implementation of MLR. HHS has approved a number of waivers and there are more state waiver requests pending at HHS. We respectfully request you also apply for a MLR waiver which if approved, would preserve competition and choice for Missourians until the full effect of healthcare reform can take effect.

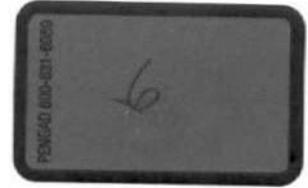
Yours truly,

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

Re: Adjustment to Medical Loss Ratios in Missouri

August 26, 2011

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 is a public interest organization that provides independent research, analysis and advocacy in order to advance public policy that creates economic opportunity for all Missourians, particularly low and moderate income Missourians.

The Missouri Budget Project appreciates the Department's open process in holding these hearings. I appreciated the opportunity to speak to you in December, 2010, and my testimony this morning builds on that. In the December testimony I emphasized four key points:

- **The HHS guidelines were developed in a thoughtful, balanced, bi-partisan manner and should not be easily dismissed or modified.**
- **Achieving the required Medical Loss Ratios appears to be a reachable goal.**
- **Greater transparency would be good for Missouri consumers.**
- **The decision to ask for an adjustment to the MLR should be based on hard data that shows an adjustment does no harm to consumers.**

Adjustments to the MLR requirement may be granted if the 80 percent MLR may destabilize the individual market in a state. The criteria HHS must consider in determining the likelihood of market instability are set forth at 45 C.F.R 158.330:

- (a) The **number of issuers reasonably likely to exit the State** or to cease offering coverage in the State absent an adjustment to the 80 percent MLR and the resulting impact on competition in the State, **including each issuer's solvency and profitability, as measured by factors such as surplus levels, risk-based capital ratio, net income, and operating and underwriting gain.**
- (b) The **number of individual market enrollees** covered by issuers that are reasonably likely to exit the State absent an adjustment to the 80 percent MLR.
- (c) Whether absent an adjustment to the 80 percent MLR standard consumers may be **unable to access agents and brokers.**
- (d) The **alternate coverage options** within the State available to individual market enrollees in the event an issuer exits the market,
- (e) 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.
- (f) Any other relevant information.

To better understand the range of insurance options in the individual market across the state, the Missouri Budget Project utilized the www.healthcare.gov web site, which allows individuals to view their plan choices and understand their options. This site allows individuals to enter their gender, age, zip code, medical status and ability to pay for health insurance, and then search an array of policy options.¹ We assumed that searching this site would give us a picture of available products and their costs across the state.

Our research showed that individuals have a substantial number of choices of products sold in the individual market. We were surprised by several findings:

- The sheer volume of products available in the individual market. A summary of the products available by zip code is attached.
- According to the web site, individuals in rural areas actually had more choices than those in urban areas, particularly in the St. Louis region.
- Plans tended to be more expensive in rural areas. For a young, healthy woman, premiums for the plans with the lowest deductibles were about twice as expensive in Howell and Sullivan Counties as in zip code 63113 in St. Louis. Premiums for plans with the highest deductibles were four times more expensive in Dunklin County than in Jackson and Achison Counties, and three times more expensive than in Springfield (Greene County).
- By combining data from the Department regarding MLR with data from healthcare.gov, it appears that the company with the largest market share (Healthy Alliance/Anthem Blue Cross Blue Shield) lists their products only in rural counties on the web portal; and the companies with the second and fifth largest market shares (Golden Rule/United Healthcare and Mercy/Coventry respectively) do not list any of its products on the portal.

The incomplete picture that this data provides leads to many questions, including the extent to which brokers are relied upon to drive traffic to these larger companies, and whether higher broker fees perhaps contribute to lower MLRs. We simply do not have sufficient data to answer that question, nor to determine the impact of the MLR requirement on brokers.

The HHS rulings² in the six states that have completed the waiver adjustment process and have received a determination indicate that some of the differences in MLRs may be due to higher commissions paid to brokers by particular companies. The adjustment applications to HHS indicated that this is the case with some companies. If multi-year contracts with brokers are in place, is additional time needed to allow business plans to be adjusted? Or can companies more immediately adjust their business model to achieve the required MLR, as some insurance companies in other states have stated is their intent? Additional information is needed to determine which might be the case.

We value the services insurance brokers provide to individuals, and need **comparative data agents' and brokers' commissions for individual health insurance products** to allow HHS will to determine the impact of the MLR requirement on brokers as well as on consumers.

The data indicate that we do not have a complete picture of which insurers serve various segments of the market, and that geographic information about market share is critically important. Without this full understanding, it is difficult to determine the impact of a company withdrawing from the market.

¹http://finder.healthcare.gov/about_me/results?state=MO&audience=cond&nojs=n&situation=need&age=3&medical_condition=y&no_afford=n&x=42&y=16

²<http://cciio.cms.gov/programs/marketreforms/mlr/index.html>

The data also show that although the individual market is dominated by three companies (Healthy Alliance with 30.9 percent of market share, Golden Rule with 17.8 percent of market share; and BCBS Kansas City with 17.2 percent of market share), there are a robust number of other companies offering plans in Missouri.

In the conclusion of its adjustment determination to Iowa, HHS asserts that based on information from the states that have requested a waiver, it is usual for a small number of companies to account for the larger market share, with smaller companies that are local or regional holding smaller share³. This appears to be true to a lesser extent in Missouri, as shown in attachment 2. Missouri has a larger number of companies offering products in the individual market than other states that have received determinations for an MLR adjustment. Compared with data on the HHS website, it appears the market share in Missouri is not as concentrated as in other states.⁴ The impact of any company leaving the market would have to take that into account. Again, additional information is necessary to understand the ramifications for consumers.

The Missouri Budget Project urges the DIFP to take four actions as it moves forward in considering the request for an adjustment of the MLR:

- 1) To make public the response of insurers in the individual market about what action, if any, the MLR requirement will lead them to take regarding the sale of their products in Missouri. In addition, any formal notice of intent to leave the individual market should be made public.
- 2) Make public and available for comment all of the data required to accompany an adjustment request prior to making a decision about submitting the request.
- 3) To the extent that the DIFP does not have the required data, it should require insurers to submit by **zip code**: the number of enrollees **by product** and individual **premium** data by product. In addition, we urge the DIFP to collect information annually by zip code from companies that are required to meet the federal MLR requirements. This data includes: total agents' and brokers' commission expenses on individual insurance products; net underwriting profit for the individual market business and consolidated business in the state; after-tax profit and profit margin; and risk-based capital.
- 4) If an adjustment is requested, any multi-year transitions requested should move substantially toward the 80 percent MLR as soon as possible to assure consumers a good value for their dollar.

The need for data that will allow more transparency is clear. Missouri is at a disadvantage in determining the impact of the MLR requirement because we have no historical data for comparison. DIFP should take actions within its sphere of authority to obtain and make public the data it needs to make an informed decision about MLR adjustment requests in the short term, and which will allow consumers to make better informed choices over time.

Thank you for your consideration of our position.

Submitted by
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³ http://cciio.cms.gov/programs/marketreforms/mlr/states/iowa/ia_mlr_adj_determination_letter.pdf

⁴ Ibid at 2.

CATEGORY A

(3) Number of Plans Offered by Each Insurance Company per County

	63108; CWE STL City	63105; Clayton	63113; North STL City	64110; KC; Jackson County	63702; Cape Girardeau	63845; East Prairie; Mississippi County	63857; Kennett; Dunklin County	65548; Mountain View; Howell County	65808; Springfield	64802; Joplin	64491; Tarkio; Atchison County	63556; Milan; Sullivan County	63537; Edina, MO; Knox County
Aetna	6	6	6	6	0	0	0	0	6	6	6	6	6
BlueCross BlueShield	0	0	0	25	0	0	0	0	0	0	25	0	0
Celtic	31	31	31	31	31	31	31	31	31	31	31	31	31
Coventry	0	0	0	22	0	0	0	22	22	22	22	22	0
Group Health Plan	16	16	16	0	19	19	19	0	0	0	0	19	19
Healthy Alliance Life Co. (Anthem BCBS)	0	0	0	0	55	65	65	65	65	65	0	65	65
Humana	19	19	19	19	19	19	19	19	19	19	19	19	19
John Alden Life Ins. Co.	3	3	3	3	3	3	3	3	3	3	3	3	3
Time Ins. Co.	3	3	3	3	3	3	3	3	3	3	3	3	3
TOTAL:	78	78	78	109	130	140	140	143	149	149	109	168	146

Number of insurance companies offering products in the individual market		
<i>State</i>	<i>Lives covered</i>	<i>Number of companies</i>
Maine	37,000	6
New Hampshire	33,000	5
Nevada	86,000	10
Kentucky	143,000	4
North Dakota	45,000	4
Iowa	174,000	7
Missouri	244,000	17

Data source for all states except Missouri:

<http://cciio.cms.gov/programs/marketreforms/mlr/index.html>

Missouri data source: "Medical Loss Ratios Estimates, by Segment , Data from the 2010 Financial Annual Statement, Supplemental Health Care Exhibit, Missouri Experience, 4/18/11. DIFP

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

Re: Adjustment to Medical Loss Ratios in Missouri

Submitted by
Professor Sidney D. Watson
Center for Health Law Studies
Saint Louis University School of Law
August 28, 2011



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

I thank the department for the opportunity to comment again on the Affordable Care Act's Medical Loss Ratio (MLR) requirements. The medical loss ratio (MLR) gives consumers a straightforward calculation of how their premium dollars are spent and sets a minimum level of spending on medical benefits and quality improvement at 80 percent in the individual and small group markets. Congress, with the support of the Congressional Budget Office, concluded that an 80 percent minimum MLR in the non-group market is attainable by efficiently operated insurers.

However, adjustments to the MLR for a particular year, and up to three years, may be granted if "the Secretary [of HHS] determines that the application of the 80% minimum may destabilize the individual market" in a state. PHSA § 2718(b)(1)(A)(ii). HHS regulations implementing this provision of the law provide that the Secretary may adjust the MLR standard in a state only "if there is a reasonable likelihood that application of the requirement will do so." 42 C.F.R. §158.301. The standard is ultimately whether imposing the minimum MRL will result in "harm to consumers." See, MLR Interim Final Regulations, 75 Fed. Reg. 74864, 74886.

HHS regulations set out the information that states are to submit to HHS if they decide to request a waiver of the 80% MLR. 42 C.F.R. §158.321. Much of this data has not historically been collected by DIFP so in December 2010, when the Department last asked for comments, we did not have good data about MLRs in Missouri's individual market. To gather information on MLRs, DIFP required insurers to submit the Supplemental Health Care Exhibit (SHCE) Form as part of their 2010 financial annual statement. In April 2011, DIFP issued a report, "Medical Loss Ratio Estimates, by Segment," which includes the names of the carriers, number of insureds, total premiums, and MLRs determined using the formula in the Affordable Care Act. See, <http://insurance.mo.gov/Contribute%20Documents/MLREstimates2010.pdf>. The table below draws and these two data sources.

Individual Insurers subject to 80% MLR Rule, Missouri

Name	# of insured	Market Share	MLR Credibility Adjusted	Brokers Fees as % of Premiums
Healthy Alliance Life Insurance Co. (Parent Co: Anthem)	77,036	30.9%	71.0%	6%
Golden Rule Insurance Company Parent Co: United Healthcare)	44,394	17.8%	63.8%	10%
BCBS Kansas City	43,115	17.2%	77.2%	7%
Time Insurance Company	20,363	8.2%	68.4%	10%
Coventry Health & Life Insurance	13,480	5.4%	67.7%	9%
Mercy Health Plan (Parent Co: Coventry)	12,435	5.0%	88.0%	9%
Cox Health Systems (Parent: Cox Health Plans)	5,735	2.2%	71.3%	2%
Humana Insurance Company	5,518	2.2%	63.6%	3%
Aetna Life Insurance Company	5,458	2.1%	89.8%	2%
American Family Mutual Insurance	2,925	1.1%	72.2%	5%
Celtic Insurance Company Parent Co: (Centene)	2,449	0.9%	78.2%	15%
John Alden Life Insurance Company	2,199	0.8%	59.8%	6%
American Republic Life Insurance Co.	2,167	0.8%	85.7%	11%
World Insurance Company	1,765	0.7%	97.4%	18%
American Medical Security Life Ins.	1,739	0.6%	81.0%	5%
Mega Life & Health Ins. Co.	1,527	0.6%	63.1%	4%
Metropolitan Life Insurance Co.	1,214	0.4%	64.3%	n/a
52 other insurers sell in the individual market but are not subject to the MLR rule because each one covers less than 1,000 insureds	6,084	2.4%		
Total	249,603	100%		

Source: DIFP MLR Estimates, April 2011, 2010 Supplemental Health Care Exhibit Form (SHCE) as extracted by DIFP; Parent companies identified via web search; Market shares calculated by dividing number of insured by total number in individual market; rounding results in market shares in column equaling 99.3.

This data provides some interesting information about Missouri's individual health insurance market.

(1) Market Concentration

Missouri does not have as much market concentration state wide as many states where one or two insurers may control as much as 85% of the individual market. The three largest insurers together have a 66% market share: Healthy Alliance has 31%, Golden Rule has 18%, and BCBS/KC has 17%. Altogether, though, there are seventeen insurers that cover at least 1,000 people in the individual market and provide insurance to 97.6% of the individual market. This means that if one or more insurers should decide to leave the Missouri market because of the new MLR requirements that are likely to be other insurers available, thus protecting against a disruption of the market.

However, these statewide figures do not tell us about local markets. For example, BCBS/KC only sells in the Kansas City area so other insurers may be dominate in a particular geographic area, something that state-wide statistics do not show. One cannot tell from these statewide figures how important a particular insurer is in a particular community.

I urge DIFP to collect information on policies sold by zip code so that we can understand if there are particular communities in the state that are dependent on a particular insurers and particular insurance products. It is this kind of detailed data that the state needs to assess whether the imposition of the MLR rules may destabilize Missouri's individual market in way that may harm consumers.

(2) Medical Loss Ratios in 2010

Of the seventeen (17) insurers subject to the 80% MLR rule, seven (7) met or came close to the 80% MRL standard for 2010, using the ACA formula including its credibility adjustment. With only one year of data it is hard to know how representative these MLRs are over a period of years. Many states have data that shows trends over time.

Neither does one year of MLR numbers tell us how difficult it will be for the companies that fell short of the 80% MLR minimum in 2010 to meet that goal. The SHCE provide additional data about how much each company spends on medical and quality of care expenditures. More detailed evaluation of this data is necessary to determine whether it will be burdensome for other companies meet the minimum standard.

(3) Brokers' Fees

One factor that HHS considers when a state requests a waiver of the MLR is whether absent an adjustment of the 80% MLR standard consumers may be unable to access agents and brokers. Access could be restricted if, in order to comply with the MLR standards, issuers reduce compensation to brokers to the point where brokers are not available to assist consumers in finding coverage. Thus, one item that HHS requires

states to report as part of a waiver request is broker commissions as a percentage of premiums.

According to the data submitted on the SHCE forms, broker fees in the individual market in Missouri range from 2% paid by Cox Health Systems and Aetna to highs of 18% paid by World Insurance and 15% by Celtic (which is owned by Missouri-based Centene Corporation). Among the state's three largest individual insurers Healthy Alliance reports fees of 6%, BCBS/KC reports 7%, and Golden Rule reports spending 10% on broker fees.

The 2010 data is helpful as a baseline, but it does not tell us how the new MLR will impact broker commissions or access to brokers. Some insurers may be locked into binding agent commission agreements. In Kentucky, Anthem (the parent company of Healthy Alliance) actually raised its broker fees after passage of ACA. See, http://cciio.cms.gov/programs/marketreforms/mlr/states/Kentucky/ky_mlr_adj_determination_letter.pdf.

(4) Profits and Risk-Based Capital Levels

In determining whether the MLR minimum is reasonably likely to destabilize a state's individual health insurance market, HHS looks at each insurer's (1) net underwriting profit for the individual market business and consolidated business in the State; (2) after-tax profit and profit margin for the individual market business and consolidated business in the State; and (3) risk-based capital level. In evaluating requests for waivers HHS determines how paying rebates to consumers will impact a company's profits and capital levels. I urge the DIFP to issue a report making this information available to the public in a format that is accessible and transparent.

(5) Information on Individual Products

Federal regulations also specify that states requesting a waiver submit data for each issuer that offers coverage in the individual market indicating (1) the number of individual enrollees by product, and (2) available premium data by product. 45 C.F.R. 158.321(d)(1).

Among the criteria that HHS considers in evaluating a state request for an MLR adjustment are (1) the nature, terms and price of the products that are offered by issuers who remain in the market; and (2) the impact on premiums, benefits and cost-sharing if some issuers withdraw from the market. See, 45 C.F.R. 158.330. HHS uses data on product premiums, benefits and cost-sharing to determine how the potential market withdrawal of a particular insurer may impact consumers' access to certain types of insurance products since some insurers specialize in certain types of plans. See, HHS Determination of Main MLR Adjustment Request, http://cciio.cms.gov/programs/marketreforms/mlr/states/maine/maine_decision_letter_3_8_11.pdf.

I encourage the DIFP to make available to the public data on the products offered in the individual market so that consumers can better understand what products are available and how the minimum MLR requirement may impact access to specific products.



Hello my name is Andrea Routh. I am with the Missouri Health Advocacy Alliance, a foundation funded collaboration of advocacy organizations that has as its mission to unite the consumer voice. The Alliance would like to state for the record that we do not believe with the information that is now available to the public and to the Department that an adjustment is warranted and if new information or data is made available that it be made public and scrutinized.

We have testified previously that we believe that an adjustment is unwarranted for three reasons:

1. Accommodations to ensure continued access to coverage by consumers have already been put into the existing regulation by protecting smaller insurers through the three tiered credibility classification. As the department data shows, almost all participants in the market are deemed to have "partially credible" experience and therefore receive a "credibility adjustment" in their MLR calculation. The NAIC created this credibility adjustment calculation after commissioning an extensive analysis by a well-known national actuarial consulting firm, relying on their findings.
2. The process by which the MLR provision was derived was public, researched and unanimously accepted by the members of the NAIC and certified by HHS. This is a rigorous process with input by hundreds of regulators, industry representatives and other interested parties.
3. Maybe most importantly, 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 and the quality of that care. We know that was the intent of the law because, as we have testified previously, Senator Rockefeller, chair of the Senate Commerce Committee, stated in a letter to Commissioner Jane Cline, President of the National Association of Insurance Commissioners, dated May 7, 2010, that changing the way insurance companies do business was the clear purpose and intent this provision of the law.

Because the intent of the law is to see that insurers seek a different business model, we think that if the department contemplates an adjustment the department should actively seek the data that HHS has asked of other states that have sought adjustments.

Some of the data that HHS has requested of other states are the following:

"(1) For each issuer who offers coverage in the individual market in the State its **number of individual enrollees by product, available individual premium data by product, and individual health insurance market share within the State; and**

(2) For each issuer who offers coverage in the individual market in the State to **more than 1,000 enrollees**, the following additional information:

(i) Total earned premium on individual market health insurance products in the State;

(ii) Reported MLR pursuant to State law for the individual market business in the State;

(iii) Estimated MLR for the individual market business in the State, as determined in accordance with §158.221 of this part;

(iv) **Total agents' and brokers' commission expenses on individual health insurance products;**

(v) **Estimated rebate** for the individual market business in the State, as determined in accordance with §158.221 and §158.240 of this part;

(vi) **Net underwriting profit for the individual market business and consolidated business in the State;**

(vii) **After-tax profit and profit margin for the individual market business and consolidated business in the State;**

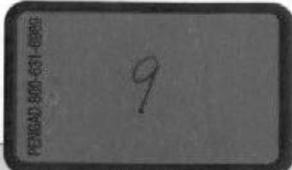
(viii) **Risk-based capital level;** and

(ix) Whether the issuer has provided **notice of exit** to the State's insurance commissioner, superintendent, or comparable State authority."

We know that HHS has required this data from other states. It might bode well for Missouri to expedite the process by requiring that data call be made before making a decision of whether to ask for an adjustment.

Another consideration the department could undertake is whether or not any of the participants in the market have a history of requesting "extraordinary dividends" to be remitted to their parent company. This would give an indication of whether the difficulty in meeting the requirement of the MLR is due to a business model that relies too much on administrative cost or rather is a product of unusually high profits derived from fortuitous conditions.

WITNESS



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