



SOCIETY OF ACTUARIES

Article from:

Health Watch

September 2010 – Issue 64

Soundbites

from the American Academy of Actuaries' Health Practice Council

by Heather Jerbi and Tim Mahony

What's New

On March 23, President Obama signed the *Patient Protection and Affordable Care Act (PPACA)* into law, bringing to a close the legislative portion of the health care reform debate. With the enactment of PPACA, and the *Health Care and Education Reconciliation Act* that made a number of adjustments to PPACA, the Academy's Health Practice Council (HPC) turned its attention to the regulatory phase. After a broad call for volunteers, the HPC established a number of work groups charged with identifying areas in the law that need clarification through regulation. The objective of these groups has been to work with and provide input to the Department of Health and Human Services (HHS), the National Association of Insurance Commissioners (NAIC), and other relevant organizations as regulations to implement PPACA are being developed.

The HPC has focused immediate attention to those provisions in PPACA that go into effect in 2010 and 2011 including medical loss ratio and reporting, the new rate review process, grandfathering provisions, the temporary high risk pool, the early retiree reinsurance program, and many of the near term benefit and eligibility changes (e.g., prohibition on lifetime limits and extension of dependent coverage to age 26).

In April, the Academy began its outreach by meeting with representatives of HHS on several issues of interest including medical loss ratios, the premium review process, the creation of a temporary reinsurance program for early retirees, and the creation of a new voluntary long-term care program (commonly referred to as the CLASS Act). In June, the Medicaid Work Group also met with representatives of CMS regarding the Medicaid Managed Care program and offered assistance as CMS develops new regulations based on PPACA. The initial, formal communications from the Academy to HHS and the NAIC on some of these issues are highlighted below.

Medical Loss Ratio Reporting and Rebates

The Academy's Medical Loss Ratio Regulation (MLR) Work Group has been active since the

enactment of PPACA, providing input to both HHS and NAIC. The group's work began with a letter¹ to Lou Felice, chair of the NAIC Accident and Health Working Group, which identified eight key questions related to medical loss ratios under the new Public Health Services Act (PHSA) Section 2718 that was created by PPACA. The issues identified in the letter were singled out because the work group felt they would be fundamental to the NAIC charge. They included discussion of the type of health insurance products subject to Sec. 2718, implications of "plan year," and whether there is some discretion to define if the requirements apply on a nationwide or state-by-state basis. On April 28, the work group sent another letter² to the NAIC that addressed statutory minimum MLR considerations and the potential disruptive impact that certain approaches to implementation could have on the individual market.

On May 12, the work group provided comments³ to the NAIC in response to a specific request for input on defining an appropriate way to maintain statistical validity within the rebate process. The work group outlined three potential approaches for maintaining greater validity that could be used independently or in combination: aggregation of multiple blocks of business to enhance credibility, application of adjustments for statistical tolerance, and application of large claim pooling mechanisms. After considering the work group's initial letter, the NAIC asked for additional information related to the meaning of the confidence interval referenced in the first letter. As such, the work group submitted a second letter⁴ on the issue of statistical credibility in response to that request.

In response to a public request for comments from the departments of HHS, Labor and the Treasury

¹ http://www.actuary.org/pdf/health/letter_medical_loss_ratio_provisions_042110.pdf

² http://www.actuary.org/pdf/health/letter_academy_mlr_individual_market.pdf

³ http://www.actuary.org/pdf/health/aaa_statistical_credibility_to_naic_051210_final.pdf

⁴ http://www.actuary.org/pdf/health/aaa_statistical_credibility_response_100520_final.pdf

on the MLR provisions in PPACA, the work group submitted a detailed letter⁵ on May 14. Some of the major issues explored in the 45-page comment letter include the dimensions of loss ratio variation, issues that are specific to the individual market, confusion regarding the statutory language used to define MLR for reporting and rebate calculations, aggregation and credibility issues, and timing concerns.

On June 7, the work group provided another comment letter⁶ to the NAIC regarding the potential inclusion of a change in contract reserves in the numerator of the MLR rebate calculation. The letter discusses the need to consider contract reserves as a component of MLR to account for durational MLR variation in a market in which pricing is often based on lifetime rather than annual MLR.

Premium Review

Sec. 2794 of PHSA, which was created by the enactment of PPACA, requires the HHS secretary to work with states to establish an annual review of unreasonable rate increases, to monitor premium increases, and to award grants to states to carry out their rate review processes. In response to a request for comments from the HHS, the Academy's Premium Review Work Group submitted a letter⁷, outlining a number of issues that need to be considered as HHS develops regulations to implement the new rate review process. Specifically, it highlights the need for any premium oversight mechanisms to be based on actuarial principles. Those principles include ensuring health insurance premiums are adequate to pay projected claims, expenses, and supporting risk charges; ensuring premium oversight is done in conjunction with insurer solvency oversight; and recognizing the need for appropriate risk-based capital levels. On May 8, the work group sent a similar letter⁸ to the NAIC and included a proposed approach for defining reasonable/unreasonable rate increases.

Prior to the enactment of health reform, the Academy's HPC and Individual Medical Market Task Force released a new statement that addressed the potential for a new premium oversight mechanism. The *Critical Issues in Health Reform* paper, *Premium Setting in the Individual Market*⁹, provided an overview of premium components, solvency requirements, the factors

influencing premium increases, and the implications of additional premium oversight.

Early Retiree Reinsurance

The Academy's Joint Committee on Retiree Health provided comments¹⁰ on June 3 to HHS on the interim final rule that implemented the new temporary reinsurance program for early retirees (Sec. 1102 of PPACA). The letter offered comments on the data requirements to file a reinsurance program, the requirement to project expected reimbursements for the first two years of the program, and the allocation of funding on a first-come, first-served basis.

Risk Adjustment

At the end of May, the HPC released a new issue brief, *Risk Assessment and Risk Adjustment*.¹¹ The issue brief provided an overview of risk adjustment, outlined how it is currently used in the health care industry, and discussed general issues for consideration when determining how to implement risk adjustment under PPACA. The risk-sharing mechanisms in PPACA will be addressed in more detail during the next phase of the Academy's work related to the implementation of health reform.

Other NAIC activities

On June 11, the Solvency Work Group submitted a letter to the NAIC's Capital Adequacy Task Force, responding to the task force's request that the group evaluate the current health risk-based capital covariance formula calculation for potential changes to the calculation or methodology.

The risk-sharing mechanisms in PPACA will be addressed in more detail during the next phase of the Academy's work related to the implementation of health reform.

⁵ http://www.actuary.org/pdf/health/aaa_mlr_rfi_response_051410_final.pdf

⁶ http://www.actuary.org/pdf/health/AAA_Contract_Reserves_060710_final.pdf

⁷ http://www.actuary.org/pdf/health/aaa_premium_preview_rfi_response_051410_final.pdf

⁸ http://www.actuary.org/pdf/health/aaa_prem_review_ltr_to_naic_050710.pdf

⁹ http://www.actuary.org/pdf/health/premiums_mar10.pdf

¹⁰ http://www.actuary.org/pdf/health/AAA_letter_on_retiree_reinsurance_060310_final.pdf

¹¹ http://www.actuary.org/pdf/health/Risk_Adjustment_Issue_Brief_Final_5-26-10.pdf

CONTINUED ON PAGE 38

On May 21, the Health Practice Financial Reporting Committee sent a comment letter¹² to the chair of the NAIC's Blanks Working Group on the proposed changes to the Health Annual Statement Instructions related to actuarial opinions.

On May 17, the MLR work group provided comments¹³ to the NAIC Health Care Reform Solvency Impact Subgroup on the exposure draft of a new proposed financial reporting exhibit—the Supplemental Health Care Exhibit. One of the purposes in exposing the exhibit is to delineate the NAIC's stance on appropriate definitions to be used in calculating MLR for federal rebate purposes.

Ongoing Activities

The Academy's Health Practice Council has many ongoing activities. Below is a snapshot of some current projects.

Health Practice Financial Reporting Committee (Darrell Knapp, chairperson) – The committee currently has one practice note on contract reserves under review.

Long-Term Care Principles-Based Work Group (Bob Yee, chairperson) – This work group has formed a joint Academy/SOA task force to develop and recommend valuation morbidity tables for long-term care insurance at the request of the NAIC's Accident and Health Working Group. The group is working with a company to help solicit the data for and determine the structure of the morbidity tables.

Stop-Loss Work Group (Eric Smithback, chairperson) – This work group is continuing to update a 1994 report to the NAIC on stop-loss factors, and is currently checking data calculations prior to re-starting the modeling phase of their work.

Disease Management Work Group (Ian Duncan, chairperson) – This work group is in the final stages of developing a public statement on evaluating wellness programs.

Medicare Supplement Work Group (Michael Carstens, chairperson) – This work group has submitted recommended changes to the Medicare Supplement

Refund Formula to the NAIC's Medicare Supplement Refund Formula Subgroup, of the Accident and Health Working Group, and continues to work with the NAIC to develop a refund formula.

Solvency Work Group (Donna Novak, chairperson) – The work group has been representing the health perspective for a joint project with the life and casualty councils on deferred tax assets (DTA). The purpose of the project is to review the risks associated with DTA in all three RBC formulas and evaluate the need for a risk charge for health DTA. The group submitted a preliminary report on June 15 and the final report is expected to be completed by September 15.

Academy/SOA Cancer Claims Cost Tables Work Group (Brad Spenny, chairperson) – The work group has been charged with evaluating and updating the 1985 cancer claims cost tables.

Health Practice International Task Force (April Choi, chairperson) – A subgroup of the task force will publish an article in the September issue of *Contingencies* on risk adjustment.

If you want to participate in any of these activities or you want more information about the work of the Academy's Health Practice Council, contact Heather Jerbi at Jerbi@actuary.org or Tim Mahony at mahony@actuary.org. ■

¹² http://www.actuary.org/pdf/health/Academy_letter_on_NAIC_Statement_of_Health_Actuarial_Opinion.pdf

¹³ http://www.actuary.org/pdf/health/aaa_mlr_naic_letter_on_exhibit_051710_final.pdf