The State of New Hampshire
Insurance Department
21 South Fruit Street, Suite 14
Concord, NH 03301

Roger A. Sevigny
Commissioner

Alexander K. Feldvebel
Deputy Commissioner

January 6, 2011

The Honorable Kathleen Sebelius
Secretary of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Sebelius:

Under Section 2718 of the Public Health Service Act, the state of New Hampshire hereby submits a request for a waiver of the 80% minimum loss ratio (MLR) requirement for individual health insurance market policies in New Hampshire until 2014. The waiver application is enclosed herein. As reported in the most recent New Hampshire supplement to the annual report for calendar year 2009, the medical loss ratio for individual health insurance in New Hampshire is approximately 60%.

In 2010, New Hampshire amended its insurance rating rules to adopt a medical loss ratio requirement of 65% in the individual market. Before amending its rating rules, New Hampshire did not require a specific loss ratio standard for individual health insurance. The current MLR standard, under the amended rules, Ins 4100, for individual major medical policies is 65% where MLR is defined as the ratio of incurred claims to earned premiums. The State is proposing a rule modification that would change the MLR to 70% where MLR is defined in the same manner as the Secretary defines MLR. Functionally, although the amendment raises the loss ratio standard, the amendment of the definition of the medical loss ratio standard to the same definition used federally will produce a similar standard. This standard is significantly higher than the actual loss ratio that has been reported in the individual market over the past several years.

Absent a waiver, the application of the federal MLR to New Hampshire will disrupt the individual health insurance market. New Hampshire's individual insurance market is dominated by a single insurance carrier. The size of New Hampshire's market makes the market relatively unattractive to insurance carriers. Recently, in response to a Bulletin issued by the New Hampshire Insurance Department that prohibited carriers in the individual market from refusing to issue child-only individual health insurance, several of the smaller carriers stated their intention to refrain from participating in the market. The loss of carriers providing individual insurance in New Hampshire will have a destabilizing effect on the market.

New Hampshire requests that the 80% federal MLR standard be replaced with New Hampshire's 70% MLR standard until 2014. My staff and I are available to answer any questions and look forward to receiving your approval of this request.

Very truly yours,

Roger A. Sevigny

RAS:slb
Attachment - template

Template for Requesting Adjustment of Individual Market Medical Loss Ratio

State:

If the Secretary determines that there is a reasonable likelihood that application of the 80% MLR to a state's individual market will destabilize the market, she may adjust the required MLR for the individual market for up to 3 reporting years. This adjustment must be requested by the state's insurance commissioner.

In requesting an MLR adjustment, the state must submit the following information to the Secretary, along with any additional information that would support its request. If data are unavailable, or their collection is unduly burdensome, the state may notify the Secretary of that fact.

Information regarding the State's individual health insurance market.

a) Current MLR standard in the individual market, including formula used to assess compliance:

New Hampshire's current MLR standard, pursuant to NHCAR Part INS 4100, for the individual market is 65% where MLR is defined as the ratio of incurred claims to earned premiums. The State is proposing a rule modification that would change MLR to 70% where MLR is defined in the same manner as the Secretary defines MLR.

b) Market withdrawal requirements

Describe any requirements with respect to withdrawals from the individual health insurance market. Such requirements include, but are not limited to, any notice that must be provided and any authority the State regulator may have to approve a withdrawal plan or ensure that enrollees of the exiting issuer have continuing coverage, as well as any penalties or sanctions that may be levied upon exit or limitations on re-entry.

RSA 420-G:6 VII. provides as follows: " Where a health carrier decides to discontinue all of its health coverage in the individual market, small employer market, large employer market or any combination thereof, the health carrier must provide at least 180-days notice of such discontinuation to the commissioner, to each individual or employer with such health coverage and to all covered persons; and

(a) The health carrier may not renew any health coverages issued, or delivered for issuance, in such discontinued market or markets; and
(b) The health carrier may not provide health coverage in such discontinued market or markets during the 5-year period beginning on the date of the discontinuation of the last health coverage not so renewed except that the commissioner may waive or otherwise reduce the 5-year period in which the health carrier may not provide coverage in the discontinued market for good cause shown.

c) Mechanisms to provide options to consumers

Describe the mechanisms available to the State to provide consumers with options in the event an issuer withdraws from the individual market. Such mechanisms include, but are not limited to, a guaranteed issue requirement, limits on health status rating, an issuer of last resort, or a State-operated high-risk pool.

New Hampshire has an alternative mechanism approved pursuant to HIPAA. The New Hampshire Health Plan (NHHP) is a high risk pool that provides guaranteed issue access to NH residents who have been denied coverage in the individual market. NHHP offers seven plan options. (http://www.nhhp.org/_downloads/NHHP-Plan_Comparison_Summary.pdf)

Enrollment limitations are delineated in the eligibility criteria. (http://www.nhhp.org/nhhp/eligibility.asp).

Total NHHP enrollment is approximately 1600.

Pre-existing condition exclusion periods are nine months in length; however, any prior creditable coverage, including prior individual coverage serves as an offset to the exclusion period. So, an applicant with nine months of prior coverage would not be subject to any pre-existing condition waiting period.

Mechanism	**Description**

In describing each mechanism, include detail on the issuers participating in and products available under such mechanism, as well as any limitations with respect to eligibility, enrollment period, total enrollment, and coverage for pre-existing conditions.

Mechanism	**Issuers Participating**	**Products Available**	**Limitations**			
			Eligibility	Enrollment Period	Total Enrollment	Pre-existing Conditions

d) Issuers in the State's individual market

1) For every issuer who offers coverage in the individual market, please provide its number of individual enrollees by product, available individual premium data by product, and individual health insurance market share within the state.

See attached Spreadsheet.

Issuer:		Share of state individual market:
Product	Number of enrollees	Premium data

Issuer:		Share of state individual market:
Product	Number of enrollees	Premium data

2) For each issuer who offers coverage in the individual market with ***more than 1,000 enrollees***, please provide 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.

See attached spread sheet

Issuer	**i) Earned Premium**	**ii) Reported MLR**	**iii) Estimated PPACA MLR**	**iv) Total commissions**	**v) Estimated individual market rebate**	**vi) Net underwriting profit**	**vii) After-tax profit for individual market**	**vii) After-tax profit margin for individual market**	**viii) RBC level**	**ix) Provided notice of exit?**

NOTE: HHS/OCIIO may require the information in (d)(1) and (d)(2) to be filed in Excel.

Proposal for adjusted medical loss ratio
A State must provide its own proposal as to the adjustment it seeks to the MLR standard. This proposal must include:

(a) An explanation and justification of how the proposed adjustment to the MLR was determined;

New Hampshire proposes an MLR standard of 70% for 2011, 70% for 2012 and 70% for 2013.

(b) An explanation of how an adjustment to the MLR standard for the State's individual market will permit issuers to adjust current business models and practices in order to meet an 80 percent MLR as soon as is practicable;

New Hampshire has been in contact with all of the carriers that write individual health insurance. The carriers have expressed concern over a number of the ACA reforms. The carriers asked the department to take whatever steps it could to allow them to make the changes required by the ACA. The carriers stated that they were evaluating their business plans in New Hampshire and their interest in continuing to provide individual coverage.

New Hampshire has experienced a collapse of its individual market. In 1998, after an emergency hearing regarding the availability of health insurance in NH's individual market, the Commissioner implemented a risk subsidy mechanism to encourage carriers to continue writing individual policies in New Hampshire. The risk sharing mechanism compensated carriers for risks that they were required to write in New Hampshire's guaranteed issue individual insurance market. By 2001, individual carriers found the risk sharing mechanism unacceptable and simply started withdrawing from New Hampshire's individual insurance market. The carriers simply did not want these risks on their books. In response, New Hampshire repealed guaranteed issued and created a high risk pool as a state alternative mechanism.

In New Hampshire, there is permeability between the small group market and the individual market. New Hampshire's small group market allows groups of one to purchase insurance on a guaranteed issue basis during two limited open enrollment periods. The permeability between markets has created anti-selection issues with high medical loss ratios in New Hampshire's small group market and relatively low medical loss ratios in New Hampshire's individual market. The variation in market rules between the markets has helped make New Hampshire's individual market a viable option for many consumers, while causing price increases in the small group market. New Hampshire market rules require that small employer group health insurance be guaranteed issue, while individual market coverage is underwritten. Loss ratios for groups of one (a subset of the small group market) are being reported in excess of 100%; while individual market loss ratios are being reported at approximately 60%. To comply with the federal MLR standards, carriers may have to decrease individual rates causing even more of a pricing gap between the two markets. This has the potential to accelerate the anti-selection spiral among the self-employed.

At the other end of the small group market, the Department has seen more companies offering stop loss coverage to groups with 25 or more employees. Stop loss coverage is underwritten and tends to attract the healthier groups. To the extent self employed individuals select against the small group market, small group carriers will have to increase small group rates to compensate. This will create more anti-selection opportunities at the other end of the small group market, as stop loss carriers won't have to carry this burden on its books.

New Hampshire has been in contact with its neighboring states. All of New Hampshire's neighboring States are applying for waivers. If New Hampshire's MLR standard differs from those of its neighbors, New Hampshire's individual carriers may be put at risk for anti-selection. Similarly, anti-selection issues may occur among the different New England states as New Hampshire residents may elect to purchase insurance in the state where they work rather than reside.

The State's current MLR standard, pursuant to NHCAR Part INS 4100, for the individual market is 65% where MLR is defined as the ratio of incurred claims to earned premiums. The State is proposing a rule modification that would change the MLR to 70% where the MLR is defined in the same manner as the Secretary defines MLR.

Markets are connected in ways we are just beginning to understand. While the discussion has focused on possible disruptions to the small employer market, there will be rippling effects on neighboring markets, including the individual market. This waiver is important to avoid destabilization in all of New Hampshire's insurance markets.

New Hampshire is also concerned about how changing MLR standards may impact the producer community and the services they provide to which New Hampshire consumers are accustomed. These proposed MLR adjustments give both the producer community and the issuing carriers the necessary time to adjust their businesses to succeed in the future.

(c) An estimate of the rebates that would be paid if the issuers offering coverage in the individual market in the State must meet an 80 percent MLR for the applicable MLR reporting years; and

(d) An estimate of the rebates that would be paid if the issuers offering coverage in the individual market in the State must meet the adjusted MLR proposed by the State for the applicable MLR reporting years.

See rows 24 & 25 in the attached spreadsheet.

State contact information.

Please provide contact information for the person the HHS may contact regarding the request for an adjustment to the MLR standard.

Name: David Sky
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603-271-7973 x239
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OR

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Leslie.ludtke@ins.nh.gov

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21 South Fruit Street, Suite 14
Concord, NH 03301

Additional Information: *If a state holds a public hearing, the report from that hearing should be attached to the request.*

Section 158.321 (d) (1)	NOTES	Enrollees				Premium			
Issuer	(3)	PPO	FFS	Total	Share	PPO	FFS	Total	Share
Anthem Health Plans of NH		22,862	520	23,382	72%	$ 74,839,337	$ 1,548,794	$ 76,388,131	75%
John Alden Life Ins Co		868	556	1,424	4%	$ 2,208,696	$ 709,623	$ 2,918,319	3%
Time Ins Co		2,918	1,068	3,986	12%	$ 7,398,645	$ 1,441,483	$ 8,840,128	9%
Chesapeake Life Ins Co	(1)	3,539	-	3,539	11%	$ 13,526,766		$ 13,526,766	13%
Celtic Ins Co	(2)	-	-	-	0%			$ -	0%
TOTALS		30,186	2,144	32,330	100%	97,973,444	3,699,900	$ 101,673,344	100%

(1) 2008 Data. Company did not file 2009 data.
(2) Company has an approved product; but no reported sales.
(3) Source NH Ins Dept Supplemental Reports

Section 158.321 (d) (2)	NOTES	Anthem Health Plans of NH	John Alden Life Ins Co	Time Ins Co	Chesapeake Life Ins Co
Earned Premium	(3), (6)	$ 76,165,358	$ 2,918,319	$ 8,840,128	$ 13,526,766
Incurred Claims		$ 47,941,019	$ 2,082,647	$ 7,828,352	$ 5,256,463
Est. Quality Improvement	(1)	$ 479,410	$ -	$ -	$ -
Est. Taxes and Fees	(2)	$ 4,464,419	$ 111,412	$ 144,583	$ (231,991)
MLR (State Law)		63%	71%	89%	39%
Est MLR (Federal Law)		68%	74%	90%	38%
Commission Expense		N/R			
Credibiilty Adjustment		2%	7.4%	4.3%	4.6%
Estimated Rebate (w/o Waiver)		$ 7,943,213	$ -	$ -	$ 5,034,481
Estimated Rebate (w/ Waiver)		$ -			$ 3,681,804
Underwriting Gain Indiv Mkt (Est)	(5)	$ 5,395,895	$ 27,813	$ (494,466)	$ (2,116,282)
Earned Premium Consolidated		$ 239,852,031	$ 482,241,395	$ 1,307,658,072	$ 17,624,143
Underwriting Gain Consolidated	(4)	$ 16,992,193	$ 4,595,979	$ (73,142,837)	$ (2,757,323)
After Tax Profit Indiv (Est)		$ 3,597,264	$ 18,542	$ (329,644)	$ (1,410,855)
After Tax Profit Consolidated		$ 11,328,129	$ 1,028,165	$ (47,128,958)	$ (484,737)
RBC Level		506%	440%	465%	2067%
Exit Notice Provided		No	No	No	No

(1) Anthem 1%
(2) 2% Premium tax; .2% Dept Assessment; .5% NHHP; .8% Vaccine Fund; Federal Tax 1/3 of U/W Gain
(3) Source Annual Stmt Pages or Supplemental Report depending on reasonability of the Numbers
(4) Annual Statement Summary of Operations
(5) Indiv Mkt U/W Gain estimate based on portion of revenue
(6) Chesapeake individual numbers based on 2008 against consolidated numbers from 2009