May 5, 2011

The Honorable Kathleen Sebelius
Department of Health and Human Services
200 Independence Ave., SW
Washington, DC 20201
Via e-mail: MLRAdjustments@HHS.gov

Re: Nevada

Dear Secretary Sebelius:

As Consumer Watchdog wrote in our comments concerning New Hampshire's medical loss ratio waiver application, we believe exemptions from health reform's medical spending requirement should not be the rule, but the exception, granted only in extraordinary circumstances when a serious disruption to consumers' access to health insurance is likely.

No such disruption to Nevada's health insurance market is likely.

The state's application makes this clear. Commissioner Barratt writes: "Carriers licensed in Nevada have demonstrated their intent to comply with the MLR. The Division has received rate filings from carriers using the new 80% MLR standard to price their business issued or renewed in 2011."

Carriers have demonstrated their ability to comply with the MLR standard. This compliance makes it highly unlikely they plan to withdraw from the market. Other carriers, including Anthem, which has the largest share of the market and had a medical loss ratio of 77.3% using the federal calculation, were already very close to meeting the standard in 2009.

Nevada cites three companies that have already suspended sales of insurance in the individual market as evidence that implementing the MLR standard will cause destabilization. However these three insurers are all subsidiaries of the same company, and combined have just 419 enrollees. Though the companies state they have suspended sales in order to determine if they can comply with the provisions of the Affordable Care Act, it is also clear that none of the insurers are subject to the MLR standard because each insures less than one thousand lives.

The state also argues for a waiver because it anticipates that insurance agents and brokers will be forced to reduce staff in order for insurance companies to comply with the MLR standard. Reducing administrative costs is precisely the reason Congress enacted the MLR requirement, and insurance sales costs are administrative. Brokers' percentage commissions presumably kept pace with the rapid increase of premiums over the last decade. If insurers are scaling back broker commissions now, the reduction may be simply an overdue market correction. Nevada cites two

instances in which commission reductions were implemented, but does not report if staff reductions were also seen. Are consumers having a hard time accessing brokers or obtaining insurance as a result?

Based on 2009 data, Nevada's February 10 application letter estimates that five of the ten insurance companies subject to the MLR standard will owe consumers refunds amounting to $23 million, and would still owe $11 million if a waiver were granted to lower the MLR standard to 72%. This estimate contradicts data submitted by the state on April 15, which indicates eight of ten insurers failed to meet the standard in 2009, and an $11 million rebate would be owed by those companies under the 80% MLR standard. The insurance companies that have begun to improve performance to meet the 80% standard in 2011 will presumably avoid paying rebates on those policies, meaning an even lower refund. Whatever the amount, it appears that the sole impact of granting a waiver in Nevada would be to deny consumers millions in rebates they are due for 2011.

According to the application, Nevada insurance companies are well on their way to successful implementation of the MLR standard. A waiver would only encourage those companies to freeze progress, shifting premiums away from patient care to profit sheets. The state's waiver request should be denied.

Thank you for considering our views.

Sincerely,

Carmen Balber