

April __, 2011

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

Dear Secretary Sebelius:

We are writing today on behalf of the National Association of Insurance Commissioners. (Add standard intro paragraph).

As you are aware, the issue of producer compensation, and how it is affected by the medical loss ratio (MLR) standards under the Affordable Care Act (ACA) and its attendant interim final rule is the subject of much intense discussion. The new MLR requirements are having a deleterious effect on professional health insurance adviser compensation, as issuers are adjusting their administrative costs to the new standards and reducing producer compensation. As the nation's insurance commissioners who stand watch over the complex health insurance products and markets, we have previously expressed our concern over the immediate and long-term negative effect that reduced producer participation in the system will have on health insurance consumers.

It occurs to us that one way to ameliorate the immediate negative effect is to delay implementation that portion of the interim final rule that defines "[a]gents and brokers fees and commissions" as expenses for administrative services. The NAIC is pursuing Congressional legislation that would clarify that such expenses are taken out of the calculation of the MLR. If HHS were to delay the implementation of C.F.R. sec. 158.160(b)(2)(iv), that would give time for the Congress to act (or not), and the markets would have the ability to sort out this thorny issue over time as they adjust to the new realities of health insurance in 2014. The NAIC firmly believes this compromise is in the best interest of all parties concerned as the markets can slowly, and in a deliberative manner, adjust and sort through the various vagaries of the new federal requirements while taking into account the best way to serve the consumers whom the federal law was designed to assist.

Thank you for your consideration of this matter. If you have any questions, please contact any of us and we will be happy to assist you.

Sincerely,