



UnitedHealth Group

April 25, 2011

Center for Consumer Information and Insurance Oversight
Center for Medicare and Medicaid Services
Department of Health & Human Services
Hubert H. Humphrey Building, Room 445-G
200 Independence Avenue, SW
Washington, DC 20201

*Submitted Via Federal Rulemaking Portal:
<http://www.regulations.gov>*

**RE: CMS-10373: Proposed Quarterly Minimum Loss Ratio Reporting
Forms For Mini-Meds & Expatriate Plans**

Dear Sir or Madam:

UnitedHealth Group is pleased to provide the Department of Health and Human Services (the "Agency" or "HHS") with our comments on the Proposed Quarterly Minimum Loss Ratio Reporting Forms for mini-med plans and expatriate plans ("Proposed Forms") (76 Fed. Reg. 16789, March 25, 2011).

UnitedHealth Group is dedicated to making our nation's health care system work better. We serve more than 75 million Americans, funding and arranging health care on behalf of individuals, employers and governments, in partnership with more than 5,300 hospitals and 730,000 physicians and other health care professionals. Recognized as America's most innovative company in our industry by *Fortune* magazine, UnitedHealth Group brings innovative health care to scale to help create a modern health care system that is more accessible, affordable and personalized for all Americans. It is this experience that is the basis upon which we offer the following comments to ensure that innovation and flexibility continue to thrive in the health care marketplace.

Summary of Recommendations

Our recommendations stem from a review of the Proposed Forms and determining the application of the forms to the reporting requirements. We believe these recommended changes and clarifications will ensure the Agency's ability to evaluate the appropriateness of the special circumstances adjustment for years 2012 and beyond.

1. **Timing & Form of Report:** HHS should clarify that quarterly reporting for expatriate plans and mini-med plans is only required if an issuer seeks to apply the special circumstance adjustment in 2011.
2. **Aggregate Reporting - Mini-Meds:** HHS should clarify whether mini-med experience needs to be broken out separately from other experience by issuer, by state and by business segment (i.e., individual, small group and large group) for both reporting and rebate calculation purposes.
3. **Aggregate Reporting - Mini-Meds:** If aggregation is intended to occur at a higher level than other individual/group experience (e.g., no break out by issuer, state or business segment), do the forms need to be modified to reflect this higher aggregation level?
4. **Aggregate Reporting - Expatriate Plans:** HHS should clarify whether expatriate experience needs to be broken out separately from other experience by issuer, by state and by business segment (i.e., individual, small group and large group) for both reporting and rebate calculation purposes.
5. **Aggregate Reporting - Expatriate Plans:** If aggregation is intended to occur at a higher level than other individual/group experience (e.g., no break out by issuer, state or business segment), do the forms need to be modified to reflect this higher aggregation level?

Detailed Comments & Recommendations

ISSUE: Timing & Form of Report. [45 CFR 158.110].

Comment: On December 1, 2010, the Agency published an Interim Final Rule (IFR) implementing provisions of the Patient Protection and Affordable Care Act requiring issuers to meet and report certain minimum loss ratios. 45 CFR 158.110. The Preamble to the IFR provides for expatriate policies and mini-med policies that:

[E]xpatriate plans that wish to avail themselves of this special circumstance adjustment ... for 2011 will be required to report MLR data on a quarterly schedule.

[M]ini-med plans that wish to avail themselves of this special circumstance adjustment ... for 2011 will be required to report MLR data on a quarterly schedule.

The above referenced “wish to avail themselves” language in the Preamble to the IFR makes it clear that quarterly reporting is only required if an issuer seeks to make a special circumstance adjustment for these products in 2011. However, the Proposed Forms are much less clear on this point. HHS may have assumed that all issuers would want to apply the special circumstance adjustment, however, certain issuers may feel that this is an unnecessary and costly administrative burden if they have only a *de minimus* amount of business that falls in one or both these categories.

Recommendations:

1. HHS should clarify that quarterly reporting for expatriate plans and mini-med plans is only required if an issuer seeks to apply the special circumstance adjustment in 2011.

ISSUE: Aggregate Reporting [45 CFR 158.120(d)(3)].

Comment: The IFR provides:

For the 2011 MLR reporting year, an issuer with policies that have a total annual limit of \$250,000 or less must report the experience from such policies separately from other policies.

The IFR is clear that these “mini-med” policies need to be separated from other policies but the Rule and the Proposed Forms are not clear as to whether the experience from such policies (once separated) needs to be broken out by issuer, by state and by business segment (i.e., individual, small group and large group).

Recommendations:

2. HHS should clarify whether mini-med experience needs to be broken out separately from other experience by issuer, by state and by business segment (i.e., individual, small group and large group) for both reporting and rebate calculation purposes.

3. If aggregation is intended to occur at a higher level than other individual/group experience (e.g., no break out by issuer, state or business segment), do the forms need to be modified to reflect this higher aggregation level?
 - a. If multiple issuers experience is combined, which issuer should report the experience and how should any applicable rebate be allocated?
 - b. If multiple situs states are combined, which state should be used for reporting?
 - c. If individual, small group and large group are combined, where on the form should experience be recorded and which loss ratio requirement applies?

ISSUE: Aggregate Reporting [45 CFR 158.120(d)(3)].

Comment: The IFR provides:

For the 2011 MLR reporting year, an issuer with group policies that provide coverage for employees working outside their country of citizenship, employees working outside of their country of citizenship and outside the employer's country of domicile, and non U.S. citizens working in their home country, must aggregate the experience from these policies but report the experience from such policies separately from other policies.

The IFR and the Proposed Forms are not clear as to how experience from expatriate policies is to be aggregated for both reporting and MLR calculation.

Recommendations:

4. HHS should clarify whether expatriate experience needs to be broken out separately from other experience by issuer, by state and by business segment (i.e., individual, small group and large group) for both reporting and rebate calculation purposes.
5. If aggregation is intended to occur at a higher level than other individual/group experience (e.g., no break out by issuer, state or business segment), do the forms need to be modified to reflect this higher aggregation level?

- a. If multiple issuers experience is combined, which issuer should report the experience and how should any applicable rebate be allocated?
- b. If multiple situs states are combined, which state should be used for reporting?
- c. If individual, small group and large group are combined, where on the form should experience be recorded and which loss ratio requirement applies?

On behalf of the 78,000 employees of UnitedHealth Group, we thank you for your thoughtful consideration of our comments. We would be pleased to provide additional information to supplement the comments in this letter.

Sincerely,



Thad C. Johnson
General Counsel
UnitedHealthcare Employer & Individual

