AMERICAN ACADEMY *of* ACTUARIES

December 4, 2013

Mr. Dennis Yu
Actuarial Branch Director, Oversight Group
Center for Consumer Information and Insurance Oversight
7500 Security Boulevard
Baltimore, MD 21244

Dear Dennis,

On behalf of the American Academy of Actuaries'[1] Rate Review Practice Note Work Group, I offer the following technical comments on the current versions of the Unified Rate Review Template (URRT) and the actuarial memorandum instructions. I also am including a copy of our Mar. 7 letter that recommended a number of technical adjustments to the URRT and actuarial memorandum instructions. If there are technical issues that cannot be addressed for whatever reason, we would encourage CCIIO to provide specific instructions on how to work around those technical issues. Finally, if CCIIO plans to make URRT data or actuarial memoranda transparent to the public, it might help to consider adding to the instructions the specific location at which this information will be posted.

Unified Rate Review Template

- Worksheet 1, Section 2—The population morbidity, other, cost, and utilization columns should be able to accept factors that are less than 1.0, since sometimes negative trends are expected.

- Worksheet 1, Cell T21—The number of months calculated in Cell T21 has an error in cases in which the experience period is three or more years prior to the rate effective date. This should be corrected in case special situations arise. If experience other than 24 months prior is not allowed to be used, we recommend CCIIO include specific instructions as to how to include prior experience (e.g., using the credibility section).

- We recommend CCIIO create instructions and allow $0 experience values for brand new carriers with no previous experience.

- Worksheet 1, treatment of the reinsurance premium (assessment) for small groups—The proposed accounting treatment of the reinsurance premium (assessment) for small groups is as an administrative expense. However, proposed accounting treatment of reinsurance premium (assessment) for the individual market is as a negative premium. As such, we

[1] The American Academy of Actuaries is a 17,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. The Academy assists public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualifications, practice, and professionalism standards for actuaries in the United States.

recommend that instructions on the treatment of reinsurance assessment reflect these differences in the input of reinsurance in the URRT.

Therefore, we further recommend that for the small group market, no projected reinsurance recoveries net of reinsurance premium be input in the *Claims* section of Worksheet 1, and that instructions state that small group market reinsurance premium be included in the *Taxes & Fees* section of administrative expenses. However, the instructions requesting reinsurance recoveries net of premium for the individual market are sufficient. In situations in which a state requires a combined individual and small group market, the reinsurance premium should be split between the individual and small group markets. The reinsurance premium for the individual market would be netted out of the reinsurance recoveries, and the reinsurance premium for the small group market would be included in the *Taxes & Fees* section of the administrative expenses. We recommend clarifying this in the instructions. Note that if proposed accounting treatment changes, the instructions should change to match the new guidance.

- Worksheet 1 and 2, Total Premium, Row 82—One of the tests comparing results between the worksheets is not coded correctly—it does not allow for a 2 percent margin like the other comparisons do. This should be consistent to reduce unnecessary warnings.

- Worksheet 1 and 2, Total Allowed Claims, Row 86—One of the tests is not comparing the correct numbers because one is adjusted for risk adjustment and reinsurance and the other is not.

- The qualified health plan (QHP) calculator's actuarial value (AV) often does not match up to the URRT AV, although it is not clear why this is the case. However, the URRT AV that is input is specifically developed and includes important actuarial adjustments. We would encourage CCIIO to consider relying on the URRT fields and eliminating the QHP AV functionality and duplication. The instructions to the URRT should include a note that any adjustments should be described in the actuarial memorandum.

- Worksheet 1, Section III—We recommend that the instructions for *Profit & Risk Load* be clarified to indicate whether it means pre-tax profit (before federal income tax) or after-tax profit. If it means pre-tax profit, then we recommend that the instructions for *Taxes & Fees* be changed to exclude federal income tax. The current instructions include all taxes and fees that may be subtracted from premiums for purposes of calculating MLR, which would include federal income tax (except tax on investment income and capital gains). If *Profit & Risk Load* were to be on a pre-tax basis while federal income tax is included in *Taxes & Fees*, it would result in double counting of federal income tax in the calculation of the *Single Risk Pool Gross Premium Avg. Rate*, PMPM because both the *Profit & Risk Load* and *Taxes & Fees* are subtracted from the denominator. An illustrative example is as follows:

Projected Incurred Claims	80%
Administrative Expense Load	15%
Federal Income Tax (FIT)	1%

Taxes & Fees other than FIT	2%
Pre-tax Profit & Risk Load	3%
Post-tax Profit & Risk Load	2%

URRT	Profit Pre-tax; Taxes & Fees exclude FIT		Profit Post-tax; Taxes & Fees include FIT		Profit Pre-tax; Taxes & Fees include FIT – double counting	
Projected Incurred Claims		$240.00		$240.00		$240.00
Administrative Expense Load	15%	$45.00	15%	$45.00	15%	$45.57
Profit & Risk Load	3%	$9.00	2%	$6.00	3%	$9.11
Taxes & Fees	2%	$6.00	3%	$9.00	3%	$9.11
Single Risk Poll Gross Premium Avg. Rate, PMPM		$300.00		$300.00		$303.80

- Worksheet 2—We recommend CCIIO allow for the deletion and addition of columns, without the need to start from the beginning as product offerings change.

- Worksheet 2—For terminating products, a zero can be used for the metallic AV, and a near-zero value (e.g., 0.0000001) can be used for the AV pricing value. These entries should be consistent, and we would recommend CCIIO provide the appropriate entries within the instructions.

- Worksheet 2—The instructions state to leave the historical rate increase lines blank for new plans; however, an error arises if the lines are left blank when validating. Zeros were used in these lines. We recommend the instructions or the spreadsheet be changed to match.

- Worksheet 2—Many insurers do not calculate "change" in premiums at the level asked for in Worksheet 2 (that is, especially breakouts between inpatient, other, outpatient and professional) since the medical parameters typically apply across all service categories holistically and the data is evaluated in that consolidated sense. A breakout between pharmacy and medical is common but not always applicable. We recommend CCIIO consider instructions and entries that would allow insurers to enter the change in premium on the basis on which they actually calculate premiums.

- Many insurers do not have an *Other* service category (e.g., ambulance, etc.) or do not have an *Other* definition that matches up to the definition used in the URRT. The *Other* bucket is not material to the analysis, and many insurers had to additionally calculate that service category without trend analysis at this level. We recommend CCIIO consider allowing insurers to enter $0 in the *Other* field and categorize those claims in a way that matches up to how their trend estimates are formulated.

- Similar to recommendations for the actuarial memorandum, we recommend including in the instructions to the URRT that if the experience period did not include coverage of any EHBs (e.g., in some states in which individual policies might not have covered maternity benefits), then the actuary should not attempt to project experience period claims for these EHBs.

- CCIIO should consider adding instructions on the 0 entries needed for the *Credibility* section, even when credibility on the manual is not used (in order to avoid errors).

Actuarial Memorandum Instructions

The following comments are offered based on the assumption that functional issues in the URRT are fixed and that adjustments to factors or inputs to accommodate the functional issues will not need to be addressed in the actuarial memorandum instructions.

- Page 4, *Reason for Rate Increase(s)*, Bullet 6—The bullet notes that "Anticipated changes in the average morbidity of the covered population that is market wide, as opposed to issuer morbidity that is reflected in the risk adjustment." This statement implies that the risk adjustment program fully compensates for these differences, which may not be the case.

- We suggest the following changes to the language in this bullet: "Anticipated changes in the average morbidity of the covered population that is market wide, as opposed to issuer expected morbidity." We note that the information contained on Worksheet 1 of the URRT, starts with issuer expected morbidity and includes a market-wide risk-adjustment value to get to an approximate value for the average market-wide morbidity of the total market covered population.

  Thus, it would provide clarity if an additional sentence is included in this bullet, as follows: "Note that Worksheet 1 of the URRT includes projections of the expected issuer's morbidity and includes an adjustment for risk adjustment transfers, which may be slightly different than the average morbidity of the covered population that is market wide should the risk adjustment transfers not fully compensate for the difference."

- Page 4, *Experience Period Premium and Claims*—There is no discussion of the experience period index rate on Page 4; however, it is discussed on Page 11, under *Index Rate*. We recommend adding a sentence in the *Experience Period Premium and Claims* section referring to the later section. It seems out of place not to discuss it in this section, considering the rest of the instructions related to the URRT discussion are structured in the same format and placement as the URRT.

- Page 4, Premiums (net of MLR rebate) in experience period—If the URRT instructions are changed to allow an experience period other than a calendar year 24 months prior to the projection period (e.g., two calendar years ending 24 months prior), we recommend that additional instructions be included to discuss how the rebate should be combined for the experience period. We recommend language such as, "the premiums reflected in the experience period should be adjusted premiums, net of any MLR rebate. Therefore, if the experience period is for other than a calendar year, use a prorated portion of the rebate for a partial calendar year of experience, and the full rebate for all years, if more than one calendar year is included in the experience period." If the URRT instructions clarify that the experience period must be the calendar year 24 months prior to the projection period, and that additional experience can be used in the credibility section, then no further clarification would be needed.

- Page 8, *Credibility Experience*—There is a reference to a 1996 CAS proceeding. We recommend adding a reference to the Academy Life Valuation Subcommittee's Credibility Practice Note (July 2008).[2]

- Page 9, *Projected Risk Adjustments PMPM*—There is no mention of the amounts input in the URRT being net of risk adjustment fees. As such, we recommend the instructions be updated to request an explanation of how the risk-adjustment fees are reflected in the risk-adjustment PMPM amount.

- Pages 9 and 10, *Projected ACA Reinsurance Recoveries Net of Premium*—On these pages and in the URRT instructions, we recommend changing the input of the small group reinsurance assessment from a decrease in claims to an increase in the "fees" portion of taxes and fees. This is important in that the proposed accounting treatment of the individual reinsurance assessment is as negative revenue, but the proposed accounting treatment of the small group reinsurance assessment, since there are no recoveries related to it, is as an administrative expense. We recommend the instructions reflect this similar treatment, and that in a combined market, the reinsurance assessment be split and input as an offset to the recoveries for the individual portion of the market and as a portion of taxes and fees for the small group portion of the market. This would need to be explained in the actuarial memorandum. Note that if proposed accounting guidance changes, the instructions should also change to match any new guidance.

- Page 11, *Taxes and Fees*—The instructions reflect that the URRT shows reinsurance recoveries net of reinsurance premium (reinsurance assessments). If changes are made as recommended above, the actuarial memorandum instructions will need to be changed, as well. In addition, the URRT instructions also request risk-adjustment values be net of risk-adjustment fees, therefore, these instructions also should note that risk-adjustment fees would not be included. Note, however, that the development of the base rates from the index rate would most likely reflect all taxes and fees in the administrative expense.

- Page 12, *Index Rate*—In the first paragraph at the top of the page that discusses submissions with an experience period start date prior to Jan. 1, 2014, we recommend including in the instructions that if the experience period did not include coverage of any EHBs (e.g., in some states individual policies might not have covered maternity benefits), then the actuary should not attempt to project experience period claims for these EHBs.

- Page 12, last paragraph—This paragraph states that for QHPs offered in an exchange, the rates may only change at the uniform interval permitted by the exchange. If an exchange

[2] http://actuary.org/files/publications/Practice_note_on_applying_credibility_theory_july2008.pdf

allows the Small Business Health Options Program (SHOP) rates to change on a more frequent basis, would the QHPs offered off exchange also be limited to the same frequency? For example, if a SHOP allows small group rates to change quarterly, but the state in question allows other small group rates to change monthly, and a carrier sells QHPs both on and off exchange, would the QHP rates only be allowed to change rates quarterly? Would non-QHP rates be allowed to change monthly? It may depend on whether the QHP sold off exchange is also sold on exchange. We recommend clarification of this issue.

- Page 13, second paragraph under table—We recommend adding the following after the second sentence: “Include narrative description of the methodology and adjustments used for each of the allowable adjustments.”

- Page 15, first paragraph—When referencing membership projection for cost-sharing subsidies, the instructions should specify this is for the individual market only.

Information Useful for an Effective Rate Review Process

- Page 13, “The actuarial value and cost-sharing design of the plan”—We recommend including additional clarification on the first bullet point indicating that normalization for various items should be described in the actuarial memorandum. One approach would be to include the following at the end of the bullet: “This value should include all appropriate normalizations so that the base rate is appropriate for use in rating, applying all the allowable rating adjustments, such as age, geographic area, smoking status, and benefit richness.” There are other normalizations that may be necessary, so it will be important for the actuary to describe them in the actuarial memorandum.

- Page 14, *AV Pricing Values*—We recommend a comment stating that the AV pricing values reflect the premium relativity to the reference plan and are not the values used for the “actuarial value and cost-sharing design of the plan” adjustment as described in 45 CFR 156.80(d). Because these values are premium relativities, we recommend the detail of the portion of each item allowed as adjustments to go from the index rate to the premium rate for each plan be described under the index rate section (Page 13 of the instructions) rather than in this section.

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We appreciate the opportunity to provide you with these comments and would be happy to discuss these comments with you further. If you have any questions, please contact Heather Jerbi, the Academy’s assistant director of public policy, at 202.785.7869 or Jerbi@actuary.org.

Sincerely,

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