AMERICAN ACADEMY *of* ACTUARIES

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Centers for Medicare & Medicaid Services
Office of Strategic Operations and Regulatory Affairs
Division of Regulations Development
Attn: CMS-10379
Room C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

To Whom It May Concern:

On behalf of the American Academy of Actuaries'[1] Premium Review Work Group, I am submitting comments on the revised forms and instructions associated with the disclosure and review of "unreasonable" premium increases under the Affordable Care Act (ACA). This letter includes both general and specific comments on the preliminary justification form instructions, the rate summary worksheet, and the disclosure form that is intended to inform consumers about a health insurance rate increase.

Rate Summary Worksheet

General Comments

We thank you for providing us with a copy of the rate summary worksheet in Excel format (as an operational spreadsheet) so that we could validate the calculations and formulas. While we address a few examples in more detail below, we would encourage CMS to ensure that the use of a specified number of decimal places be consistent between the worksheet and the instructions.

Technical Corrections

- Our understanding is that the consumer disclosure form is intended to be consistent with the numerical values in the rate summary worksheet. Many of the values in the revised disclosure form, however, do not match the values in the worksheet. For example, the values reflected in the first table under Section 2 of the disclosure form are not the same as those in the worksheet. The values are percentages of the medical services by service category, which can be calculated on the worksheet by adding a column in Section B2 to reflect the percentages of the net claims PMPM by service category. These values should be included on the worksheet so that all values on the disclosure form can be validated and do not have to be manually calculated by someone reviewing the two forms together.

[1] The American Academy of Actuaries is a 17,000-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 qualification, practice, and professionalism standards for actuaries in the United States.

- The preliminary justification form instructions require cost-sharing percentage values to be inserted in Sections B1 and B2 of the worksheet in the decimal format ".xxx." The values reflected on the example worksheet, however, only show two decimal places (i.e., ".xx"). To be consistent with the instructions, these items should be expanded to three decimal places on the worksheet. This should help with validating all the values for the *Net Claims*. For example, the prescription drug service category *Net Claims* in Section B2 cannot be calculated as $44.79 when using 0.26 as the cost share presented in the example on the PDF version of the worksheet.[2] The operational spreadsheet, however, uses 0.255 in calculating the prescription drug category *Net Claims* for the future period in Section B2.

- The instructions require medical trend values to be inserted in Sections B1 and B2 of the worksheet in the decimal format ".xxx." The values in the example worksheet (in PDF) show four decimal places (i.e., ".xxxx"), and the values in the operational spreadsheet are up to 10 decimal places in some instances. To be consistent with the instructions, values in the worksheet for these items should be limited to three decimal places. This should help with the validation of numbers that are calculated using the medical trend values.

- In the operational spreadsheet (Excel), there is no rounding in any of the calculations. To minimize rounding errors, we recommend that in cases in which dollars and cents are calculated (PMPM values), the formulas round to two decimal places. This also should help with the validation of the numerical values in the worksheet.

- The instructions include descriptions of new line items for non-claims components of the rate increase. These are not reflected in the example worksheet (PDF) or the operational spreadsheet (Excel). The spreadsheet should be expanded to include the additional lines in Section D—*Non-Claims Components – PMPM* (Lines 10-13) and *Claims and Non-Claim Components – Percent Change* (Line 14). The instructions also might need to be corrected so that *Non-Claims Components – PMPM* begins on Line 10 rather than Line 9 (which already exists).

- The disclosure form uses the term *Ancillary Services* for the values included under the *Other* service category from the worksheet. To decrease confusion and be consistent, we recommend that the *Other* service category on the worksheet be changed to *Ancillary*.

Preliminary Justification Form Instructions

General Comments

Many of the titles/headings in the preliminary justification form instructions do not match the titles/headings on the rate summary worksheet to which the instructions refer. We recommend that the instructions be revised and republished with consistency among the titles/headings (e.g., *Start Period* and *End Period* in the rate summary worksheet are called *Start and End Date* in the instructions).

[2] To calculate $44.79 in this example, the cost share used would have to be 0.255; using 0.26 as the cost share would result in net claims of $44.49.

Technical Corrections

Overview—Pages 1 and 2

- Section 154.200(a)(1) and (2) of the final rule states "(1) The rate increase is 10 percent or more…" and "(2) The rate increase meets or exceeds a State-specific threshold…" Because the rule calls for reporting if the increase "meets or exceeds" the threshold, the third from the last paragraph should be modified as follows: "The information reported on the preliminary justification form for a reportable rate increase is the same basis that is used to determine whether an increase *meets or* exceeds the 10% threshold, making it subject to review." (emphasis added)

- The examples included in the overview create some confusion. In the third example, the compounding effect of an 8 percent increase and a 4 percent increase is 11.23 percent, not 10.16 percent as indicated, even though it is still above the threshold. In the fourth example, it is unclear how the 9.18 percent is derived, although 12.36 percent appears to be correct. We would be happy to work with CMS to address the inaccuracies in these examples and/or help develop new examples.

Section A—Page 4

- The definition of *Member Months* does not include the effect of PMPM costs for coverages that are not purchased by all members (e.g., optional benefits, riders, etc.). In these situations, the number of members typically is lower than the total members in a product grouping. The worksheet, however, reflects aggregate analysis only and does not have a structure to account for these differences. We suggest the instructions include a recommendation to use the total membership for base medical coverage for all service categories for purposes of PMPM calculations in Parts 1 and 2 of the preliminary justification form and the consumer disclosure form.

- The description of *Total Allowed Cost* includes an estimate of unpaid claims by service category, which not all health plans will have available, particularly for allowed claims. Incurred but not reported (IBNR) values typically are developed only for amounts expected to be paid. The instructions should recognize that many issuers do not develop IBNR values on an allowed basis and that the company can adjust its data and provide a description in Section 2.

- The description of *Total Allowed Cost* does not include a discussion of coordination of benefit adjustments. Based on the structure of the worksheet, we recommend that *Total Allowed Cost* be the value after adjustment for coordination of benefits. Using this value would ensure that the cost sharing appropriately reflects member payments and not a higher value that includes coordination of benefit adjustments.

- In the description of *Member's Cost Sharing*, the phrase "net claims (dollars)" was removed. This changed the description from "Calculated…from total allowed dollars and net claims (dollars)" to "Calculated…from total allowed claims." Since cost-sharing value is calculated as the difference between total allowed and net claims, the phrase "net claims (dollars)" should be added back in the instructions.

Sections B1 and B2—Pages 4 and 5

- The section on *Start and End Date* states that "…the starting date of the projection period for current rate, which is 12 months prior to the effective date of the proposed rate change." The current rate is not always 12 months prior to the proposed rate. In fact, the examples included on Page 2 of the instructions indicate periods of less than 12 months. The section on *Projection Period for Future Rates – Start and End Date* (Page 5) states that "the end date should be exactly one year after the start date." Similarly, this is not always the case. If the dates entered are the basis for the calculations, then there should be some flexibility to enter dates that are not exactly 12 months apart.

- The definition of *Net Claims PMPM* states "Calculated automatically…allowed PMPM and member's cost sharing PMPM." There is no member's cost-sharing PMPM in section B1; there is only member's cost-sharing percentage. The definition should reflect the calculation based on the percentage rather than the PMPM.

Section B3—Page 5

- The instructions state that the *Medical Trend Breakout* is to reflect an "estimate of the proportions of trend attributable to each of (1) unit cost changes, (2) utilization changes, and (3) all other components of trend combined." The worksheet lists utilization first, unit cost second, and other factors third. The order in the instructions should be changed to be consistent with the worksheet.

- Additional instructions should be provided to clarify which trend value should be broken out. The possibilities include but are not limited to:
    - *Overall Medical Trend* aggregated for all service categories from Section B2;
    - Total trend reflected in the trend in the *Projected Net Claims* (Section C, Line 1) between the *Prior Estimate of Current Trend* and the *Future Rate.*

Section D—Pages 7-8

- The definition for *Line 6 – Capitation* states, "Calculated automatically as the product of the overall trend for other entered in B2 (projection period for future rate) minus 1 and the other net claims amount in B1 (the projection period for the current rate)." The term "other" is used twice where "capitation" should be used. We recommend the definition be modified as follows: "Calculated automatically as the product of the overall trend for *capitation* entered in B2 (projection period for future rate) minus 1 and the *capitation* net claims amount in B1 (the projection period for the current rate)." (emphasis added)

- The instructions include descriptions of new line items for non-claims components of the rate increase. These are not reflected in the example worksheet. The spreadsheet should be expanded to include the additional lines in Section D—*Non-Claims Components – PMPM* (Lines 10-13) and *Claims and Non-Claim Components – Percent Change* (Line 14). The instructions also will need to be corrected so that *Non-Claims Components – PMPM* begins on Line 10 rather than Line 9 (which already exists).

Section F—Page 8

- The instructions have been updated to reflect the new table inputs on the worksheet. Language under *Minimum and Maximum Rate Increases* could be clarified by adding the phrase, "as determined by changes in the rate table and its various factors." The new description would read, "Enter the minimum and maximum percentage rate increases *as determined by changes in the rate table and its various factors*." (emphasis added)

Instructions for Completing Part II of the Preliminary Justification—Page 9

- Under the last bullet, *Administrative costs and anticipated profits,* the reference to "anticipated profits" should be changed to "underwriting gain/loss." This change in terminology already has been made throughout the rest of the documentation.

Instructions for Completing Part III of the Preliminary Justification—Pages 10-12

- Under Item 1.l.vi (Page 10), *Premium Classifications,* some formatting appears to have been lost. *Issue Age or Attained Age Rating Structure, Issue Age Range* should be item 1.l.vii in the list, yet it appears to be part of Item 1.l.vi.

- Item 6 (Page 11) was changed to indicate that it is for individual business only. Item 4.e.i, *Cumulative Loss Ratio (Historical/Past),* however, does not indicate it is only for individual business. We recommend "for individual business only" be added to Item 4.e.i as well.

- Item 8 (Page 12) has a parenthetical phrase that is confusing and needs clarification—"The projected lifetime (a projection of the kind normally used in calculating a state level lifetime loss ratio, and the future loss ratio included is not the same as the future loss ratio in (7) above – the future loss ratio is not "adjusted" and is not under the federal standard) loss ratio that combines cumulative and future experience, and a description of how it was calculated." Item 7 as referenced (Page 11) states "The projected future loss ratio (a one year projection from the effective date of the rate increase) and a description of how it was calculated. This is not the 'adjusted' federal loss ratio."
    - The language should be clarified so that it is clear that the lifetime loss ratio projection period should agree with state lifetime loss ratio projection period requirements.
    - The language should be clear that the loss ratio should not be adjusted for federal requirements.

Consumer Disclosure Form

General Comments

Our understanding is that the consumer disclosure form is intended to reflect the values in the rate summary worksheet. Many of the values in the revised disclosure form, however, do not match the values in the worksheet. We recommend that both the worksheet and the disclosure form be rereleased with all values matching so that the values from the worksheet can be validated in the context of the disclosure form.

Technical Corrections

Section 1—Page 3

In the chart, under *Medical Services*, the term "policyholders" is used; however, this has been changed to "groups and covered individuals" in every other location on the form. We recommend "policyholders" be changed in this item to "groups and covered individuals" to be consistent with the rest of the form.

Section 2—Page 4

- The disclosure form uses the term *Ancillary Services* when reflecting the values for the *Other* service category from the worksheet. To decrease confusion and be consistent, we recommend that the *Other* service category on the worksheet be changed to *Ancillary*.

- There is a new table, *What's Causing These Medical Service Costs to Increase.* It is our understanding that the values here are from worksheet Section B3, *Medical Trend Breakout.* The term "other costs" in the new table uses the same definition footnote as *Other Costs* in the service category table. We recommend that "other costs" be changed to "other factors" in the new table. And a new footnote should be developed that says "other factors reflect mix, severity, and other trend items."

Section 3—Page 5

- The reference to *Profit and Retained Earnings* on the pie-chart breakdown of premium dollars should be replaced with *Underwriting Gain/Loss*, since that change has been made in other areas of the form.

- The second pie chart under Section 3 of the disclosure form does not include a value for *Capitation* even though it is included in the first table under Section 2 (regarding types of medical services that affect the proposed increase). In addition, the values in the table under Section 2 do not match those on the rate summary worksheet. Because it appears that *Capitation* is included under *Other Costs* in the pie chart, the definition for *Other Costs* would not be the same as it is in the table under Section 2 of the instructions. This should be clarified. We recommend that *Capitation* be broken out in the pie chart.

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We welcome the opportunity to discuss any of these items with you at your convenience. If you have any questions or would like to discuss these items further, please contact Heather Jerbi, the Academy's senior health policy analyst (202.785.7869; Jerbi@actuary.org).

Sincerely,

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Chairperson, Premium Review Work Group
American Academy of Actuaries