Final

Report on the

Medical Loss Ratio Examination

of

HMO Colorado, Inc., dba HMO Nevada
(Denver, Colorado)

for the

2018 MLR Reporting Year

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Consumer Information & Insurance Oversight
200 Independence Avenue SW
Washington, DC 20201

OVERSIGHT GROUP

June 06, 2023

In accordance with Title 45 of the Code of Federal Regulations (CFR), section 158.402, the Center for Consumer Information & Insurance Oversight (CCIIO) has completed an examination of the Medical Loss Ratio (MLR) Annual Reporting Form submitted by HMO Colorado, Inc., dba HMO Nevada (the Company) for the 2018 reporting year, including 2018, 2017, and 2016 data reported on that form. Following an exit conference with the Company, the Company responded to each Finding and Corrective Action. This final report, which will be made publicly available, incorporates the Company's response and CCIIO's evaluation of the response.

Christina A. Whitefield

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U.S. Department of Health & Human Services

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I. Executive Summary

The Center for Consumer Information & Insurance Oversight (CCIIO) has performed an examination of the 2018 Medical Loss Ratio (MLR) Annual Reporting Form for HMO Colorado, Inc., dba HMO Nevada (the Company) to assess the Company's compliance with the requirements of 45 CFR Part 158. We determined that the Company's 2018 MLR Annual Reporting Form contains some elements that are not compliant with the requirements of 45 CFR Part 158, and that impact consumer rebates.

We direct the Company to implement the necessary corrective actions to address the findings detailed in this report, including ensuring that expenses for quality improvement activities (QIA) meet the regulatory definition of QIA, properly calculating the average deductible for its deductible factor computations, and implementing policies and procedures to ensure completion of the MLR Annual Reporting Form in accordance with MLR Annual Reporting Form Filing Instructions.

The examination findings resulted in net decreases to the Company's reported MLRs in the individual and small group markets for Colorado and Nevada, and to its reported MLR in the large group market in Nevada, increasing the Company's rebate liability for 2018 by $32,172 in the Nevada small group market.

II. Scope of Examination

CCIIO examined the Company's 2018 MLR Annual Reporting Form to determine compliance with 45 CFR Part 158. Title 45 CFR Part 158 implements section 2718 of the Public Health Service Act (PHS Act). Section 2718 of the PHS Act, as added by the Patient Protection and Affordable Care Act (ACA), generally requires health insurance issuers to submit to the Secretary of the U.S. Department of Health & Human Services (HHS) an annual report concerning premium revenue and expenses related to group and individual health insurance coverage issued. The federal MLR is the proportion of earned premium, less certain taxes and regulatory fees, expended by an issuer on clinical services and activities that improve health care quality in a given state and market, after adjustments for the credibility of the experience or other factors, where applicable, and calculated using the average of three consecutive years of data. Section 2718 also requires an issuer to provide rebates to consumers if it does not meet the applicable MLR standard (generally, 80% in the individual and small group markets and 85% in the large group market).

This is the first examination of the Company's MLR Annual Reporting Form performed by CCIIO. The examination covered the reporting period of January 1, 2016 through December 31, 2018, including 2016, 2017, and 2018 experience and claims run-out through March 31, 2019. We conducted the examination in accordance with the CCIIO Medical Loss Ratio Examination Handbook (the Handbook). The Handbook sets forth the guidelines and procedures for planning and performing an examination to evaluate the validity and accuracy of the data elements and calculated amounts reported on the MLR Annual Reporting Form, and the accuracy and timeliness of any rebate payments. The examination included assessing the principles used and significant estimates made by the Company, evaluating the reasonableness of expense allocations, and determining compliance with relevant statutory accounting standards, MLR regulations and guidance, and the MLR Annual Reporting Form Filing Instructions.

The Company's response to each finding appears after the finding in the Conclusion, Corrective Actions, Company Responses, and CCIIO Replies section of this Report. With the exception of corrective action #4, the Company's implementation of the corrective actions was not reviewed for proof of implementation or subjected to the procedures applied during the examination. CCIIO's replies are based solely on a review of the Company's response. CCIIO reserves the right to review the actual implementation of the Company's corrective action and proposed action plan for each corrective action in future MLR Annual Reporting Forms, examinations, or as otherwise may be appropriate.

III. Summary of Findings

Page	Key Findings
7	**Reporting of expenses as QIA that did not meet the definition of a QIA expense set forth in §158.150 –** The Company improperly included in QIA certain expenses for activities that did not meet the definition of QIA. Examples of activities improperly classified as QIA include advertising expenses, litigation settlements, legal services, executive management costs, and auditing expenses. As a result, the Company overstated its three-year aggregate QIA expenses on the 2018 MLR Annual Reporting Form by $137,703 in the individual market, $17,184 in the small group market, and $40,359 in the large group market.
7	**Failure to submit an MLR form in the manner prescribed by the Secretary, as required by§158.110 –** The Company failed to properly report advance payments of the premium tax credit (APTC) that it received from HHS on its 2017 and 2018 MLR Annual Reporting Forms, in the Colorado individual market. This error did not impact the MLR calculation.
8	**Failure to calculate the average deductible consistent with the requirements of §158.232(c) –** The Company incorrectly computed the 2018 average deductibles of its individual and small group market policies using the life-years for the current year, instead of the 3-year aggregation of life-years, to weight each deductible level. As a result of this error, the deductible factor has been restated to 1.0 for the individual and small group markets.

These findings resulted in net decreases to the Company's reported MLRs in the individual and small group markets for Colorado and Nevada, and the large group market in Nevada. In the Colorado individual market and the Nevada small group market, the recalculation of the Company's MLRs decreased the reported MLRs further below the MLR standard of 80%, resulting, in an additional rebate liability for the 2018 reporting year of $32,172 in the Nevada small group market but in no additional rebate liability in the Colorado individual market. However, as a result of the Company's October 2020 recovery of risk corridors amounts for the 2016 benefit year for Colorado, additional rebates of $1,256,115 were owed for 2018 in the Colorado individual market. In all other markets in the two states in which the Company had health insurance coverage subject to 45 CFR 158 in effect, the recalculated MLRs continued to exceed the applicable MLR standards, and thus did not result in rebates being due.

The three-year adjusted, aggregated numerator and denominator, along with the resulting credibility-adjusted MLRs and rebates for 2018, for the states and markets in which the MLRs changed as a result of the examination, are shown in the following tables. The differences between the amounts in the "As Filed" and "As Recalculated" rows reflect the net impact of the adjustments made to remove expenses that did not qualify as QIA and to restate the deductible factor to 1.0. The amounts in the "As Recalculated" row of the Colorado Individual Market table also reflect revisions for recovered risk corridors payments the Company received, and which are described in the Subsequent Events section of this report.

Recalculated MLRs[1] and Rebates for the Individual, Small Group, and Large Group Markets for the 2018 Reporting Year

Colorado

	Individual Market			
	Numerator	Denominator	MLR	Rebate
As Filed	$711,671,671	$917,555,879	77.6%	$10,048,918
As Recalculated	$709,550,416	$917,555,879	77.3%	$11,305,033
Difference	($2,121,255)	$0	(0.3%)	$1,256,115[2]

	Small Group Market			
	Numerator	Denominator	MLR	Rebate
As Filed	$92,901,177	$106,373,128	89.8%	$0
As Recalculated	$92,839,719	$106,373,128	89.1%	$0
Difference	($61,458)	$0	(0.7%)	$0

Nevada

	Individual Market			
	Numerator	Denominator	MLR	Rebate
As Filed	$125,089,274	$137,498,174	93.3%	$0
As Recalculated	$125,057,295	$137,498,174	92.4%	$0
Difference	($31,979)	$0	(0.9%)	$0

	Small Group Market			
	Numerator	Denominator	MLR	Rebate
As Filed	$3,407,306	$4,856,901	79.8%	$4,290

[1] The MLRs shown may not equal the quotient of the numerator divided by the denominator due to the inclusion of a credibility adjustment, in accordance with §158.230.

[2] As explained more fully in Section VII of this report, the rebate due in the Colorado individual market is solely as a result of the Company's recovery of risk corridors amounts for the 2016 benefit year and is not as a result of the adjustments made to the Company's MLR calculation due to the errors found during the MLR examination.

	Numerator	Denominator	MLR	Rebate
As Recalculated	$3,406,130	$4,856,901	78.3%	$36,462
Difference	($1,176)	$0	(1.5%)	$32,172

	Large Group Market			
	Numerator	Denominator	MLR	Rebate
As Filed	$24,667,763	$29,591,209	86.6%	$0
As Recalculated	$24,660,918	$29,591,209	86.5%	$0
Difference	($6,845)	$0	(0.1%)	$0

IV. Company Overview

A. Description, Territory, and Plan of Operation

The Company is a for-profit health insurer domiciled in Colorado and sells individual and group health maintenance organization (HMO) plans, point of service plans, and Medicare Advantage plans in Colorado and Nevada.

During the 2016, 2017, and 2018 MLR reporting years, the Company operated in the individual, small group, and large group markets that were subject to the MLR reporting requirements of 45 CFR Part 158. As of December 31, 2018, the Company reported a total of 77,267 covered lives and $626,875,471 in direct earned premium for policies subject to the MLR reporting and rebate requirements under 45 CFR Part 158 and a total of 142,626 covered lives and $768,285,968 in direct earned premium from all health lines of business**.** The Company's only other line of business, Medicare Advantage, is not subject to the MLR regulations at 45 CFR Part 158.

B. Management

The corporate officers and board of directors of the Company as of December 31, 2018 were:

Officers

Name	Title
Jeffrey M. Sepich	President and Chairman
Vincent E. Scher	Treasurer
Kathleen S. Kiefer	Secretary
Stephen Fitzsimmons	Assistant Secretary

Directors

Name
Catherine I. Kelaghan
Ronald W. Penczek
Jeffrey M. Sepich

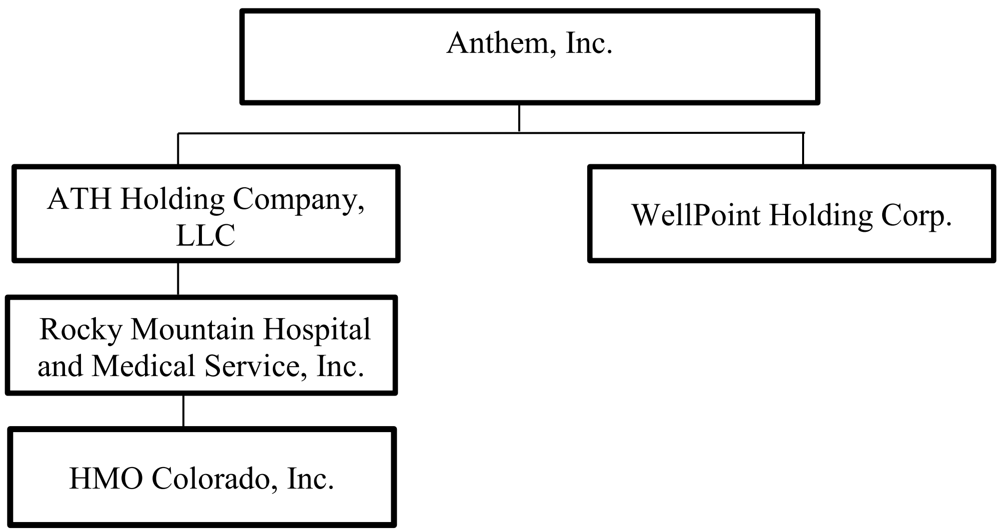
Company management and corporate-level personnel responsible for the preparation, submission, and attestation of the 2018 MLR Annual Reporting Form were:

Name	Title
Jeffrey M. Sepich	CEO Attester
Vincent E. Scher	CFO Attester

C. Ownership

The Company is a member of an insurance holding group system.

HMO Colorado, Inc., dba HMO Nevada Organizational Chart as of December 31, 2018[3]



D. Agreements

As of December 31, 2018, the Company had entered into the following inter-company agreements that are pertinent to a review of its MLR Annual Reporting Form:

1. A Master Administrative Services Agreement with its intermediate parent Rocky Mountain Hospital and Medical Service, Inc., as well as Anthem, Inc. and its subsidiaries.
2. A Consolidated Federal Income Tax Agreement with Anthem, Inc. and various subsidiaries.

E. Reinsurance

[3] This is an excerpt from the organization chart provided by the Company and includes only those entities whose relationship to the Company impacted the MLR examination.

During 2016, 2017, and 2018, the Company did not have any reinsurance agreements in effect that impacted the MLR reporting of its health insurance policies subject to the regulations at 45 CFR Part 158.

V. Accounts and Records

The Company's main administrative and financial reporting office is located at 700 Broadway, Denver, Colorado, 80273. The Company provided adequate access to its accounts and records, including computer and other electronic systems, as required by §158.501.

VI. Examination Results

Except as noted in this report, based on the procedures performed, nothing came to our attention that would indicate that the Company's 2016, 2017, and 2018 MLR Annual Reporting Forms were not filed on the form and in the manner prescribed by the Secretary. The Company's 2016, 2017, and 2018 MLR Annual Reporting Forms were filed by the due date.

For 2016 and 2017, the Company reported that it met the MLR standard of 80% for the individual and small group markets, and 85% for the large group market, in Colorado and Nevada, and thus was not required to pay rebates to its enrollees. For 2018, the Company reported that it did not meet the MLR standard of 80% in the Colorado individual market and the Nevada small group market, and paid rebates of $10,048,918 in the Colorado individual market and $4,290 in the Nevada small group market. Based on the errors found during the examination, MLRs for the 2018 reporting year were recalculated and resulted in an additional rebate liability of $32,172 in the Nevada small group market.

A. MLR Data

Market Classification
The Company adopted policies and procedures for determining group size and market classification that are consistent with the definitions in §158.103 applicable to the 2016-2018 reporting years. The samples of policies tested during the examination were assigned to the correct market classification.

Aggregation
Based upon the procedures performed, nothing came to our attention that would indicate that the samples of policies, claims and other items tested during the examination were not correctly assigned to the appropriate states, markets, and lines of business in accordance with §158.120.

Incurred Claims
Based upon the procedures performed, including the validation of a sample of incurred claims (as defined by §158.140) reported by the Company, nothing came to our attention that would indicate that incurred claims were not accurately reported.

Claims Recovered Through Fraud Reduction Efforts

The Company did not report any recoveries of paid fraudulent claims, which §158.140(b)(2)(iv) allows as an adjustment to incurred claims up to the amount of fraud reduction expenses.

Quality Improvement Activities (QIA)

Improper Inclusion of Expenses for Activities That Do Not Qualify as QIA
The Company improperly included expenses for certain activities that did not meet the definition of QIA at §158.150. These improperly included activities such as advertising, litigation settlements, costs for legal services, executive management, and auditing, among others. As a result, the Company overstated its three-year aggregate QIA expenses on its 2018 MLR Annual Reporting Form by a total of $137,703 in the individual market, $17,184 in the small group market, and $40,359 in the large group market.

Based upon the procedures performed, other than the improper inclusion of expenses noted above, nothing additional came to our attention that would indicate that other QIA expenses were not accurately reported and reasonably allocated among the Company's states and markets, as required by §158.170.

Earned Premium

Improper Reporting of APTC Received
The Company did not report the amount of APTC it received for the individual market on Part 2, Line 1.14 on its 2017 and 2018 MLR Annual Reporting Forms, as required by the 2018 MLR Annual Reporting Form Filing Instructions. This error did not impact the MLR calculation as the total amount of earned premium was reported correctly, and the line reserved for APTC is for informational purposes only and is not included in the actual MLR calculation.

Based upon the procedures performed, other than the failure to disclose the APTC noted above, nothing additional came to our attention that would indicate that earned premium was not properly reported on a direct basis or that the data elements underlying the 2016, 2017, and 2018 premium as reported on the Company's 2018 MLR Annual Reporting Form were not compliant with §158.130.

Taxes

Based upon the procedures performed, nothing came to our attention that would indicate that the taxes and regulatory fees excluded from 2016, 2017, and 2018 earned premium on the Company's 2018 MLR Annual Reporting Form did not comply with §158.161 and §158.162, or were not accurately reported and reasonably allocated among the Company's states and markets, as required by §158.170 and in accordance with its federal tax allocation agreement. On its 2018 MLR Annual Reporting Form, the Company reported that it allocated its federal income taxes to each state and market based on the effective rate methodology applied to the income related to insurance operations, which the examination confirmed.

Federal Risk Adjustment Program

Based upon the procedures performed, nothing came to our attention that would indicate that the Company did not properly report the expected charges and payments under the federal risk adjustment program for the 2018 benefit year, in compliance with §158.140(b)(4)(ii).

B. Credibility-Adjusted MLR and Rebate Amount Calculation

Incorrect Calculation of the Average Deductible
The Company incorrectly computed the average deductible for purposes of calculating the credibility adjustment for its policies in the individual and small group markets in Colorado and Nevada. The Company weighted each deductible level using the average of the life-years for 2018, instead of the 3-year aggregation of life-years as required by §158.232(c)(ii). As a result of the incorrectly calculated average deductible reported on Part 3, Line 3.3, the deductible factor was incorrectly reported on Part 3, Line 3.4. Based on the documentation provided by the Company, the examiners could not determine the accurate average deductible or deductible factor, and therefore restated the deductible factors to 1.0 for the individual and small group markets.

Other than the error noted above, the Company's credibility-adjusted MLRs were calculated using the correct formula in accordance with 45 CFR Part 158 and the applicable MLR Annual Reporting Form Filing Instructions.

The Company reported that it did not meet the MLR standard of 80% in the Colorado individual market and the Nevada small group market for 2018. The Company used the correct procedures to calculate rebates of $10,048,918 in the Colorado individual market and $4,290 in the Nevada small group market. As detailed in this report, the examination identified errors in the data underlying the Company's MLRs and rebate calculations, resulting in changes to the Company's MLRs and rebate amounts.

C. Rebate Disbursement and Notice

According to its 2018 MLR Annual Reporting Forms, the Company reported rebates owed in the Colorado individual market and the Nevada small group market for 2018. Based upon the procedures performed, the Company timely issued rebates in accordance with §§158.240-244 and Notices of rebates in accordance with §158.250.

D. Compliance with Previous Recommendations

The Company indicated that neither CCIIO nor any state regulatory entity had previously performed an examination of the Company's MLR processes and reporting. The Colorado Department of Insurance performed a financial examination of the Company in 2018 covering the period January 1, 2013 through December 31, 2017. There were no findings as a result of the financial examination.

VII. Subsequent Events

The Company is required to inform CCIIO of any subsequent events that may affect the currently attested 2018 MLR Annual Reporting Form.

On April 27, 2020, the Supreme Court ruled that section 1342 of the PPACA created an enforceable government obligation to pay issuers the amounts previously unpaid for the 2014-2016 benefit years under the federal risk corridors program.[4] During 2020, the Company obtained a recovered risk corridors payment amount for 2016 and this amount was not previously included in full on the 2016-2018 MLR Annual Reporting Forms.[5] On December 30, 2020, CMS issued final guidance clarifying how issuers should revise the 2015-2018 MLR Annual Reporting Forms to reflect risk corridors payment amounts recovered as a result of the litigation, and pay any additional rebates to enrollees, if required.[6] The risk corridors payment amount recovered by the Company for the 2016 benefit year impacts its 2018 MLR Annual Reporting Form because the 2016 data is included on that form. The inclusion of the recovered risk corridors payment amount resulted in an additional rebate liability of $1,256,115 in the Colorado individual market for 2018, which was paid by the Company in May 2021, in compliance with CMS guidance.

On June 27, 2022, HMO Colorado, Inc.'s ultimate parent company changed its name from Anthem, Inc. to Elevance Health, Inc.

VIII. Conclusion, Corrective Actions, Company Responses, and CCIIO Replies

CCIIO examined HMO Colorado, Inc.'s, dba HMO Nevada, 2018 MLR Annual Reporting Form to assess the Company's compliance with the requirements of 45 CFR Part 158. The examination involved determining the validity and accuracy of the data elements and calculated amounts reported on the MLR Annual Reporting Form, and the accuracy and timeliness of any rebate payments. As detailed above, the Company's 2018 MLR Annual Reporting Form contained some elements that were not compliant with the requirements of 45 CFR Part 158.

Based on the adjustments made as a result of the examination findings, the Company owes additional rebates of $32,172 in the Nevada small group market. The Company paid these rebates during May 2021.

As a result of this examination, CCIIO directs the Company to implement the following corrective actions:

Corrective Action #1

The Company must adopt and implement procedures to ensure that activities and expenses reported as QIA meet the definition at §158.150 and that sufficient documentation exists to

[4] *Maine Community Health Options v. United States*, 140 S. Ct. 1308 (2020), 590 U.S. __ (2020).

[5] https://www.regtap.info/uploads/library/RC_CSRandMLR_091516_v1_5CR_091516.pdf. See also, MLR Annual Reporting Form Instructions for 2016 through 2018, available at https://www.cms.gov/cciio/Resources/Forms-Reports-and-Other-Resources/index#Medical_Loss_Ratio.

[6] https://www.cms.gov/files/document/mlr-guidance-rc-recoveries-and-mlr-final.pdf.

support such determination, and that the reported amounts are accurate. The Company must perform additional analysis to adequately differentiate between activities that do and do not qualify as QIA, pursuant to §158.150.

Company Response
The Company has reviewed the exam findings and has implemented enhanced policies and procedures for evaluating and determining what qualifies as QIA expenses deemed to have costs not qualifying as QIA by the exam team.

CCIIO Reply
CCIIO accepts the Company's response and the corrective action plan.

Corrective Action #2
The Company must adopt and implement procedures to ensure it completes the MLR Annual Reporting Form in accordance with §158.110 and the applicable MLR Annual Reporting Form Filing Instructions, including properly reporting the APTC amounts.

Company Response
The Company has already undertaken steps to ensure this corrective action is satisfied, beginning with the 2019 MLR reporting form.

CCIIO Reply
CCIIO accepts the Company's response and the corrective action plan.

Corrective Action #3
The Company must adopt and implement procedures to ensure that it calculates the average deductible in accordance with §158.232(c), weighting each deductible level using the three-year aggregate life-year experience. Alternatively, the Company may elect to use a deductible factor of 1.0 in lieu of calculating average deductibles.

Company Response
The Company has already undertaken steps to satisfy this corrective action by electing to use a deductible factor of 1.0 for applicable markets.

CCIIO Reply
CCIIO accepts the Company's response and the corrective action plan.

Corrective Action #4
The Company must re-file its 2018 MLR Annual Reporting Form to rectify the errors and findings stated herein, adjusting both the current year (CY) and prior year (PY) columns as applicable, including calculating any additional rebates due to its enrollees. Any underpaid rebates calculated by the Company as a result of the findings herein should be paid as soon as

possible but in no event later than sixty (60) days from the date of the Company's receipt of the Final MLR Examination Report.

Company Response
In May 2021, the Company refiled its 2018 MLR Annual Reporting Form and paid the additional $32,172, plus interest, in Nevada small group rebates.

CCIIO Reply
CCIIO accepts the Company's response and the corrective action plan.

The corrective actions provided in this report should be shared with and adopted by, as applicable, any affiliated entities of the Company, such as its parent or subsidiaries, if any, that are similarly subject to the MLR reporting and rebate requirements of 45 CFR Part 158.

CCIIO thanks the Company and its staff for its cooperation with this examination.