

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



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Subject: Cost-Sharing Reduction Amounts in Risk Corridors and Medical Loss Ratio Reporting

On February 13, 2015, CMS announced that the cost-sharing reduction (CSR) portion of the advance payments for the 2014 benefit year will be reconciled in April 2016, rather than in April 2015.¹ The new timetable was established to enhance the accuracy of reconciliation of CSR payments to issuers, and to fully reimburse issuers for reductions in cost sharing provided to eligible low- and moderate-income enrollees and American Indian/Alaska Native enrollees in 2014.

As a result of the new timetable for CSR reconciliation, the actual value of CSRs provided by the issuer will not be available in time for risk corridors and medical loss ratio (MLR) program reporting for the 2014 benefit year. Therefore, for the purpose of adjusting allowable costs in the risk corridors calculation and incurred claims in the MLR calculation for the 2014 benefit year, issuers should use the amount of the CSR portion of the advance payments received by the issuer for 2014 (to the extent not reimbursed to the provider furnishing the item or service).²³

If an issuer believes that the CSR portion of advance payments it received are substantially different from the CSRs it actually provided in 2014, CMS will permit the issuer to report a certified estimate of the amount of CSRs provided in 2014 (to the extent not reimbursed to the provider furnishing the item or service) in its risk corridors and MLR reporting for the 2014 benefit year. Allowable costs in the 2014 risk corridors calculation and incurred claims in the 2014 MLR calculation will be adjusted by the amount (whether the advance amount or the certified estimate) that the issuer reports on the 2014 Annual MLR Reporting form.

For a certified estimate, the issuer may use (a) the CSR amount on the issuer's annual financial statement as submitted as part of the NAIC Supplemental Health Care Exhibit, or (b) any other estimate certified as the issuer's best estimate by the issuer's chief financial officer and chief actuary.

As required under 45 CFR 156.430(e)(1)-(e)(2), when CSR reconciliation occurs in April 2016, the issuer's advance CSR payments received in 2014 and the issuer's advanced CSR payments received in 2015 will be reconciled against the actual value of CSRs provided by the issuer in the respective benefit years.

¹ https://www.regtap.info/uploads/library/APTC_CSR_Recon_timing_guidance_5CR_021315.pdf

² Advance payments to issuers consist of a cost-sharing reduction and a premium tax credit portion. Here we discuss only the cost-sharing reduction portion of those advance payments.

³ Allowable costs in the risk corridors calculation and incurred claims in the MLR calculation are adjusted for payments of CSR as set forth at 45 CFR 153.530(b)(2)(iii) and 45 CFR 158.140(b)(1)(iii), respectively.

Additionally, to ensure the integrity of data used in risk corridors and MLR calculations, we intend to propose a policy in the HHS Notice of Benefit and Payment Parameters for 2017 under which CMS would implement an adjustment to the risk corridors and MLR calculations for 2015 to correct for any inaccuracies in the estimated CSR provided in 2014 that were reported in the 2014 risk corridors and MLR reporting form. We intend to propose that, for the 2015 risk corridors and MLR reporting cycle, if an issuer used a certified estimate of 2014 CSRs provided on the 2014 risk corridors and MLR forms that is lower than the actual CSRs provided (as calculated under CSR reconciliation), CMS would adjust the issuer's 2015 risk corridors payment or charge amount, as applicable, by any difference between the estimated 2014 CSR amount reported in the 2014 risk corridors and MLR forms, and the reconciled actual value of CSRs provided by the issuer for the 2014 benefit year. CMS would intend to implement this adjustment as a direct dollar-for-dollar adjustment to the issuer's risk corridors payment or charge amount, or as an adjustment to one of the risk corridors parameters such that the net effect would be a dollar-for-dollar adjustment to the risk corridors payment or charge amount. This adjustment would be made by issuers at the time they report MLR and risk corridors data for the 2015 reporting cycle.

When reporting CSR amounts for the 2015 risk corridors and MLR reporting cycle (July 2016 submission of 2015 benefit year data), issuers that elected to report advance CSR amounts in the 2014 reporting cycle and issuers that reported estimated CSR amounts that were above the actual value of CSRs provided in 2014 should include any CSR reconciliation payments or charges for the 2014 and 2015 benefit years in their reported CSR amount for the 2015 risk corridors and MLR reporting year. These issuers would simply make a direct adjustment to the cost-sharing reduction amount reported in the 2015 risk corridors and MLR reporting form, as necessary to account for any differences with the actual amount of CSRs provided, consistent with the standard processes for adjusting for changes in amounts reported.⁴ CMS will not recalculate risk corridors and MLR amounts for the 2014 benefit year, based on the reconciliation of the cost-sharing reduction portion of the advance payments or the certified estimate.

⁴ 45 CFR 153.710