

Final
Report on the
Medical Loss Ratio Examination
of
BCBSM, Inc.
(D/B/A Blue Cross Blue Shield of Minnesota)
(Eagan, Minnesota)
for the
2013 MLR Reporting Year

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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 25, 2019

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 BCBSM, Inc. (d/b/a Blue Cross Blue Shield of Minnesota) (the Company) for the 2013 reporting year, including 2013, 2012 and 2011 data reported on that form. Following an exit conference with the Company, the Company responded to each Finding and Recommendation. This final report, which will be made publicly available, incorporates the Company's responses and CCIIO's evaluation of the responses.

A handwritten signature in blue ink that reads "Christina A. Whitefield".

Christina A. Whitefield, Director
Medical Loss Ratio Division
Oversight Group
Center for Consumer Information & Insurance Oversight
Centers for Medicare & Medicaid Services
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 2013 Medical Loss Ratio (MLR) Annual Reporting Form for BCBSM, Inc. (d/b/a Blue Cross Blue Shield of Minnesota) (the Company) to assess the Company's compliance with the requirements of 45 CFR Part 158. We determined that the Company's 2013 MLR Annual Reporting Form contains some elements that are not fully compliant with the requirements of 45 CFR Part 158. We recommend the Company implement corrective actions, including obtaining adequate information to accurately determine group size and market classification of policies and properly reporting adjusted incurred claims in the prior year columns of the MLR Annual Reporting Form. Due to the lack of adequate documentation supporting group size determinations, we cannot conclusively assess the impact of these examination findings on the Company's MLRs or whether there would be an impact on its rebate liability in any of the markets in which it operated.

II. Scope of Examination

CCIIO examined the Company's 2013 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 (PPACA), generally requires health insurance companies 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 a company 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 a company to provide rebates to consumers if it does not meet the 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, 2011 through December 31, 2013, including 2011, 2012 and 2013 experience and claims run-out through March 31, 2014. 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 and Recommendations section of this Report. The Company's corrective action was not reviewed for

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proof of implementation or subjected to the procedures applied during the examination. CCIIO's response is 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 for each finding and proposed action plan in future MLR Annual Reporting Forms, examinations or as otherwise may be appropriate.

III. Summary of Findings

Page	Key Findings
5	Failure to employ standards consistent with definitions in §158.103 to correctly determine the size of group policyholders and market classification of those policies – The Company did not obtain the average number of employees from some group policyholders and therefore may not have correctly determined each group policyholder's size and market classification.
6	Failure to submit an MLR Annual Reporting Form in the manner prescribed by the Secretary, as set forth in §158.110 – The Company failed to report the original adjusted incurred claims in the prior year (PY) columns of Part 4, Line 1.1 of the 2013 MLR Annual Reporting Form for all markets.

These findings did not result in any change to the Company's reported MLRs for the 2013 reporting year. However, due to the lack of adequate documentation supporting group size and market classification determinations for certain policies, we cannot, at this time, conclusively assess whether there were additional errors that could impact the Company's MLRs. The three-year, aggregated numerator and denominator, along with the resulting credibility-adjusted MLR and rebate for 2013, are shown in the following tables.

Recalculated MLRs and Rebates for the Individual, Small Group, and Large Group Markets for the 2013 Reporting Year

Minnesota

	Individual Market			
	Numerator	Denominator	MLR	Rebate
As Filed	\$1,224,201,899	\$1,326,070,409	92.3%	\$0
As Recalculated	\$1,224,201,899	\$1,326,070,409	92.3%	\$0
Difference	\$0	\$0	0.0%	\$0

	Small Group Market			
	Numerator	Denominator	MLR	Rebate
As Filed	\$1,403,703,010	\$1,591,562,741	88.2%	\$0
As Recalculated	\$1,403,703,010	\$1,591,562,741	88.2%	\$0
Difference	\$0	\$0	0.0%	\$0

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	Large Group Market			
	Numerator	Denominator	MLR	Rebate
As Filed	\$2,759,319,646	\$3,028,344,690	91.1%	\$0
As Recalculated	\$2,759,319,646	\$3,028,344,690	91.1%	\$0
Difference	\$0	\$0	0.0%	\$0

IV. Company Overview

A. Description, Territory, and Plan of Operation

The Company is a not-for-profit health service plan corporation domiciled in Minnesota. The company sells fully insured individual and group health insurance, as well as administrative services to self-funded group health plans, in Minnesota.

During the 2011, 2012, and 2013 MLR reporting years, the Company operated in the individual, small group, and large group markets that were subject to the MLR reporting requirements under 45 CFR Part 158. As of December 31, 2013, the Company reported a total of 468,338 covered lives and \$2,068,190,973 in direct earned premium from policies subject to the MLR reporting and rebate requirements and a total of 2,178,167 covered lives and \$3,046,479,217 in direct earned premium from all health lines of business. Lines of business not subject to the MLR regulations at 45 CFR Part 158 include Medicare supplement, Medicare Advantage (Part C), Medicare Part D, stop loss insurance, and long-term care insurance.

B. Management

The corporate officers and board of trustees of the Company as of December 31, 2013 were:

Officers

<u>Name</u>	<u>Title</u>
Michael J. Guyette	President and CEO
Benjamin R. Field III	Treasurer
Walter T. Chesley	Secretary
Vance K. Opperman	Chair
Hugh C. Smith, MD	Vice Chair

Trustees

<u>Name</u>
Kathleen A. Blatz
Walter T. Chesley
Judi Dutcher
William F. Farley
Benjamin R. Field, III

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Name

Michael J. Guyette
Rita J. Heise
Jan Malcolm
Peter H. McNerney
Vance K. Opperman, Esq
James T. Porter
Michael R. Robinson
Hugh C. Smith, MD
John S. Watts, Jr.
Pamela A. Wheelock

Company management and corporate-level personnel responsible for the preparation, submission, and attestation of the 2013 MLR Annual Reporting Form were:

Name

Michael J. Guyette
Jamison Rice

Title

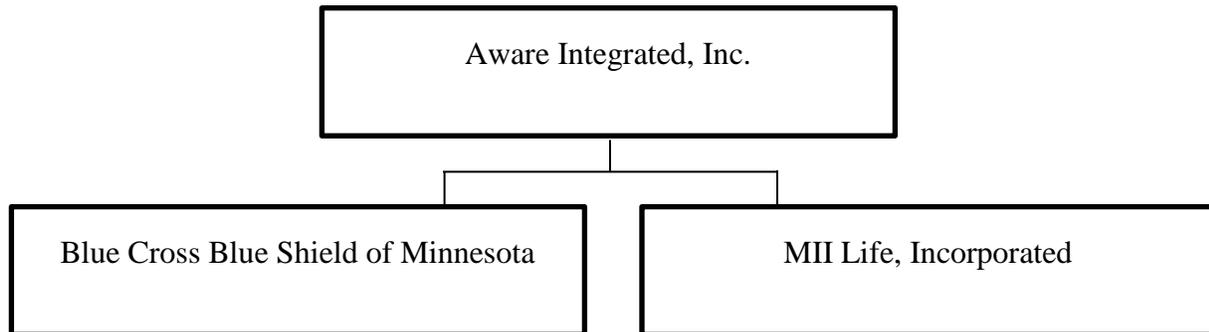
CEO Attester
CFO Attester

C. Ownership

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

BCBSM, Inc.

Organizational Chart¹ as of December 31, 2013



D. Agreements

As of December 31, 2013, the Company had entered into the following inter-company agreements that are pertinent to a review of its MLR Annual Reporting Form:

1. An Administrative Service Agreement with Aware Integrated, Inc. and its affiliated entities.
2. A Tax Allocation Agreement with Aware Integrated, Inc. and its affiliated entities.

¹ This is an excerpt from an organization chart provided by the Company and only includes companies pertinent to the MLR examination.

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3. A Pharmacy Benefit Management agreement with Prime Therapeutics.
4. A Quota Share Reinsurance Agreement with its affiliate, MII Life, Inc.

E. Reinsurance

During 2011, 2012, and 2013, the Company did not have in effect any reinsurance agreements which were subject to 45 CFR 158.130. This includes 100% indemnity reinsurance (assumed or ceded) with administrative agreements effective prior to March 23, 2010, as well as assumption reinsurance. Therefore, the experience reported on the Company's 2013 MLR Annual Reporting Form was not required to, and did not include any, experience from reinsurance.

V. Accounts and Records

The Company's main administrative and financial reporting office is located at 3535 Blue Cross Road, Eagan, Minnesota 55122. The Company provided adequate access to its accounts and records, including computer and other electronic systems, as required by §158.501.

As noted below, the Company did not obtain accurate information or maintain documentation regarding the employee count of certain group policyholders, which is necessary to determine group size and market classification.

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 2011, 2012, and 2013 MLR Annual Reporting Forms were not filed on the form and in the manner prescribed by the Secretary. The Company's 2011, 2012, and 2013 MLR Annual Reporting Forms were filed by or before the required due date.

During 2011, 2012, and 2013, the Company reported that it met the MLR standard in all markets in the one state in which it had business subject to the reporting and rebate requirements of 45 CFR Part 158 and therefore did not pay rebates to its enrollees.

A. MLR Data

Market Classification

Incorrect Procedures for Determining Group Size and Market Classification

The Company adopted policies and procedures for determining group size that are inconsistent with the definitions in §158.103 applicable to the 2011-2013 reporting years. Section 158.103 employs the definitions of Large Employer, Large Group Market, Small Employer, and Small Group Market in section 2791 (e) of the PHS Act. Section 2791(e) of the PHS Act requires that small and large group market classifications be based on the *average number of employees on the business days of the calendar year preceding the coverage effective date*. The Company did not obtain the information necessary to determine employer size in accordance with this

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definition from group policyholders that had fewer than 10 subscribers or more than 75 subscribers. Therefore, the Company may have incorrectly determined the group size and market classification for these policies in the period covered by this examination.

The Company assumed that if a group had fewer than 10 subscribers, it had 50 or fewer employees on average during the preceding year and could be classified as a small group. However, a group policyholder may offer coverage to only some of its employees, and some employees may elect to not be covered. Similarly, the Company assumed that if a group had more than 75 subscribers, it had more than 50 employees on average during the preceding year and could be classified as a large group. However, a group with 75 subscribers may have had 50 or fewer employees in the preceding calendar year, or may have an average of 50 or fewer employees because it covers part-time or seasonal employees, retirees, and/or COBRA enrollees. The Company did not collect information on employer size for group policies that had fewer than 10 or more than 75 subscribers; instead relying on these improper assumptions. As a result, the examiners were unable to confirm the accuracy of group size and market classification for such groups.

The precise impact of the failure to accurately determine group size and market classification cannot be conclusively determined due to the Company's lack of adequate documentation necessary to support its determinations for these groups.

Aggregation

Other than the possibly incorrect group size and market classification determinations noted above, based on procedures performed, nothing additional 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 markets and lines of business, in accordance with §158.120.

Incurred Claims

Failure to Properly Report Adjusted Incurred Claims for Prior Years

The Company did not report its adjusted incurred claims for 2011 and 2012 in the prior year columns on Part 4, Line 1.1, of the 2013 MLR Annual Reporting Form for any of the markets in which it operates. According to the MLR Annual Reporting Form Filing Instructions, the Company should have reported on Line 1.1 the adjusted incurred claims as they were originally reported in the prior years' filings. Because Part 4, Line 1.1 is not part of the formula for calculating the MLR, this finding did not have any impact on the Company's MLR in any market in which it operates.

Claims Recovered Through Fraud Reduction Efforts

Based upon the procedures performed, no errors were noted in how the Company reported 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

Other than the possibly incorrect group size and market classification determinations noted above, based upon procedures performed, nothing came to our attention that would indicate that

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the programs and expenses for quality improvement activities (QIA) that the Company reported did not meet the definition of a QIA in §158.150 or were not reasonably allocated among the Company's markets as required by §158.170.

Earned Premium

Other than the possibly incorrect group size and market classification determinations noted above, based upon substantive testing, nothing came to our attention that would indicate that earned premium was not properly reported on a direct basis or that the data elements underlying 2011, 2012, and 2013 premium as reported on the Company's 2013 MLR Annual Reporting Form were not compliant with §158.130.

Taxes

Other than the possibly incorrect group size and market classification determinations noted above, based upon the procedures performed, nothing came to our attention that would indicate that the taxes and regulatory fees excluded from 2011, 2012, and 2013 earned premium on the Company's 2013 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 markets, as required by §158.170 and in accordance with its federal tax allocation agreement. On its 2013 MLR Annual Reporting Form, the Company reported that it allocated its federal income taxes to each market based on the respective portion of pre-tax income or loss to the issuer's total pre-tax income or loss, which the examination confirmed.

B. Credibility-Adjusted MLR and Rebate Amount

Based upon procedures performed, the Company used the correct formula to calculate the credibility adjustment, in accordance with §§158.230-158.232. The Company's final, 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. Based on the Company's reported final MLRs, which exceeded the applicable standards in the individual, small group and large group markets, the company used correct procedures to determine that no rebates were due for 2011, 2012, or 2013.

C. Rebate Disbursement and Notice

According to its 2011, 2012 and 2013 MLR Annual Reporting Forms, the Company did not report any rebates owed as a result of the MLR calculations and therefore did not issue any Notices for the 2012 or 2013 reporting years and timely issued the 2011 Notice (of no rebate) for all markets in accordance with §158.251. However, due to the lack of adequate documentation supporting group size and market classification determinations, we cannot conclusively assess at this time whether the Company was required to issue any rebates and Notice of rebate for the 2011, 2012, or 2013 reporting years.

D. Compliance with Previous Recommendations

The Company indicated that neither CCIIO nor any state regulatory entity has previously performed an examination of the Company's MLR processes and reporting. The Minnesota

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Department of Commerce performed a financial examination of the Company in 2014 that covered the period January 1, 2011 through December 31, 2013. There were no findings noted in the examination report.

VII. Subsequent Events

The Company is required to inform CCIIO of any subsequent events that may affect the currently attested 2013 MLR Annual Reporting Form. No post-December 31, 2013 significant events were brought to CCIIO's attention.

VIII. Conclusion, Recommendations and Company Responses

CCIIO examined BCBSM, Inc.'s (d/b/a Blue Cross Blue Shield of Minnesota) 2013 MLR Annual Reporting Form to assess 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 2013 MLR Annual Reporting Form, and the accuracy and timeliness of any rebate payments. As detailed above, the Company's 2013 MLR Annual Reporting Form contained some elements that were not fully compliant with the requirements of 45 CFR Part 158.

Due to the lack of accurate documentation supporting the Company's group size and market classification determinations for certain groups, we cannot conclusively assess the impact of these examination findings on the Company's MLRs or whether there would be an impact on the Company's rebate liability in any of the markets in which it operates.

As a result of this examination, CCIIO recommended the following:

Recommendation #1

The Company should adopt and implement procedures to ensure that it obtains and maintains accurate information from all of its employer groups at the time of policy application and at renewal in order to determine the correct group size and market classification of its group policies, consistent with the definitions in section 2791 of the PHS Act and the applicable requirements of 45 CFR Part 158 and related technical guidance. This should include, but not be limited to, obtaining and maintaining accurate documentation related to the average number of employees for the calendar year preceding the coverage effective (or renewal) date.

Alternatively, for the 2017 and later reporting years, the Company may elect to use the applicable state employee counting method, unless the state method does not take into account non-full-time employees, in which case the full-time equivalent method described in section 4980H(c)(2) of the Internal Revenue Code should be used. The Company should adopt and implement procedures to ensure that it obtains and maintains accurate information from its employer groups in order to determine the correct group size and market classification of its group policies under the applicable employee counting method.

Company Response

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“Blue Cross appreciates the importance of maintaining correct group size and market classification of group policies for MLR reporting purposes. While Blue Cross believes its various processes ensure appropriate identification of group size and market allocation for MLR reporting purposes, we will review and update processes to further verify that the market classifications align with the applicable requirements and permitted counting methods under 45 CFR Part 158 and related technical guidance.”

CCIIO Reply

CCIIO accepts the Company’s response and the corrective action plan.

Recommendation #2

The Company should adopt and implement procedures to ensure it completes the MLR Annual Reporting Form in accordance with MLR Annual Reporting Form Filing Instructions, including ensuring that the original adjusted incurred claims are properly reported in the prior year columns.

Company Response

“Blue Cross has reviewed the finding and has adjusted its processes consistent with the recommendation. While this finding did not have any impact on or relate to the calculation of Blue Cross’ MLR, Blue Cross has enhanced its processes to ensure that the MLR Annual Reporting Form is completed in accordance with the MLR Annual Reporting Form Filing Instructions. This includes ensuring that the original adjusted incurred claims are properly reported in the prior year columns. The enhanced process has been incorporated for MLR Annual Reporting Forms filed after the 2013 MLR Annual Reporting Form and for all of Blue Cross’ affiliated entities as applicable.”

CCIIO Reply

CCIIO accepts the Company’s response and the corrective action plan.

The recommendations provided in this report should be shared with and adopted by, as applicable, any affiliated entities of the Company, its parent or subsidiaries, if any, that are 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.

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