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**Title:** Insurance Standards Bulletin Series– INFORMATION

**Subject:** CCIIO Technical Guidance (CCIIO 2012—0005): Questions and Answers Regarding the Medical Loss Ratio Reporting and Rebate Requirements

## I. Purpose

Section 2718 of the Public Health Service Act (PHS Act), as added by the Patient Protection and Affordable Care Act (Affordable Care Act), directs health insurance issuers (issuers) to submit a medical loss ratio (MLR) report to the Secretary and issue a rebate if an issuer's MLR is less than the applicable percentage established in section 2718(b) of the PHS Act. The interim final rule with public comment period implementing MLR requirements was published on December 1, 2010 (75 FR 74864) and modified by technical corrections on December 30, 2010 (75 FR 82277). The final rule implementing MLR standards (76 FR 76574) and the interim final rule implementing MLR rebates for non-Federal governmental plans (76 FR 76596) were published on December 7, 2011. A final rule implementing an MLR notice (77 FR 28790) was published on May 16, 2012. The MLR regulations are codified at 45 CFR Part 158.

This Bulletin provides MLR guidance on the following topics:

- Notice of Rebate
- Notice of MLR Information
- Definition of Plan Document

## II. Questions and Answers

### **RECIPIENTS OF NOTICE OF REBATE IN THE GROUP MARKETS (45 CFR §158.250)**

#### Question 54:

For an issuer that must provide the rebate directly to the group policyholder, must the notice of rebate to the policyholder's subscribers be provided to those enrolled during the MLR reporting year, or to those who are current subscribers at the time of the rebate?

#### Answer 54:

In accordance with the rules in 45 CFR §158.242 describing who is entitled to the rebate under a group health plan, an issuer must provide notice of rebate to all subscribers enrolled in the group. This means that all subscribers enrolled in the group during the MLR reporting year except those who are no longer enrolled at the time the issuer provides the notice of rebate will receive a

notice of rebate. For notice of rebates that must be provided by August 1, 2012, this means that the notice must be sent to all subscribers enrolled in the group at the time in 2012 that the notice is sent.

In addition to providing notice of rebate to all subscribers enrolled in a group plan at the time the issuer provides the notice of rebate, issuers may choose to include subscribers enrolled in the group plan during the MLR reporting year even if the subscribers are no longer enrolled at the time the issuer provides the notice of rebate, based on the instructions for the notice of rebate, but is not required.

### **NOTICE OF MLR INFORMATION AND DEFINITION OF PLAN DOCUMENT (45 CFR §158.251)**

#### Question 55:

For an issuer whose MLR meets or exceeds the applicable MLR standard, may the notice under 45 CFR §158.251 be provided separately from the first plan document that the issuer provides to enrollees on or after July 1, 2012?

#### Answer 55:

Yes. The regulation does not prohibit issuers who prefer to provide the one-time notice of MLR separately from any other plan documents provided that they do so prior to or concurrent with the first plan documents that are provided to enrollees on or after July 1, 2012.

#### Question 56:

45 CFR §158.251 directs an issuer whose MLR meets or exceeds the applicable MLR standard to provide policyholders and group subscribers a notice of MLR information with the first “plan document” that the issuer provides to enrollees on or after July 1, 2012. What is a “plan document” for purposes of 45 CFR §158.251?

#### Answer 56:

For the purposes of 45 CFR §158.251, a plan document can be considered a document pertaining to the plan or policy that is distributed to all policyholders in individual and group markets and all subscribers in group markets. Examples of plan documents include policies, summary plan descriptions, benefits summaries, and group contracts.