

Final
Report on the
Medical Loss Ratio Examination
of
Harvard Pilgrim Health Care, Inc.
(Wellesley, MA)
for the
2013 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

February 14, 2020

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 Harvard Pilgrim Health Care, Inc. (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 Corrective Action. This final report, which will be made publicly available, incorporates the Company's responses and CCIIO's evaluation of these 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 Harvard Pilgrim Health Care, Inc. (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, but which did not impact consumer rebates. We direct the Company to implement the necessary corrective actions to address the findings detailed in this report, including ensuring that quality improvement activity (QIA) expenses meet the regulatory definition of QIA and properly reporting the applicable MLR standard on the MLR Annual Reporting Form.

The examination findings and subsequent recalculation of the Company's 2013 MLRs did not result in any change in the reported MLRs in any state or market in which the Company operates. As the recalculated MLRs continue to exceed the applicable MLR standards,¹ these findings did not have an impact on the Company's rebate liability in any state or market in which the Company operates.

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 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 MLR standard (generally, 80% in the individual and small group markets and 85% in the large group market). However, Massachusetts generally imposes a higher MLR standard than that required by federal law, and the Massachusetts standard may vary from year to year as well as across issuers. Therefore, in accordance with §158.211, the Massachusetts MLR standard is applied for purposes of the federal MLR and rebate calculations in the individual and small group markets to the extent the Massachusetts standard exceeds 80%. The standards applicable to the Company in Massachusetts were 90% for 2013 and 2012 and 88% for 2011 in the individual and small group merged market and the individual mini-med market, and 85% for 2011-2013 in the large group market.

¹ In Massachusetts, the applicable MLR standards were 90% for 2013 and 2012 in the individual and small group merged market and individual mini-med market, 88% for 2011 in the individual and small group merged market and individual mini-med market, and 85% for 2011-2013 in the large group market. In Maine, the applicable MLR standards were 80% in the individual and small group markets and 85% in the large group market for 2011-2013.

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 and 2012 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 Corrective Actions section of this Report. The Company’s corrective actions were not reviewed for 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
7	Reporting of Quality Improvement Activities (QIA) that did not meet the definition of a QIA as set forth in §158.150 – The Company improperly included expenses related to several types of non-qualifying activities in its QIA expenses. Consequently, it was determined that the Company overstated QIA expenses by \$8,809 in the individual market, \$217,216 in the small group market, \$254,543 in the large group market, and \$225 in the individual mini-med market.
8	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 appropriate MLR standard on Part 4, Line 5.1 of the 2013 MLR Annual Reporting Form for the Massachusetts individual and small group markets. There was no impact to the Company’s MLRs as a result of this error.

These findings did not result in any change to the Company’s reported MLRs in any state or market in which the Company operates. In the Maine individual market, the Company reported fewer than 1,000 life-years during the three-year aggregation period and is therefore presumed to meet or exceed the applicable MLR standard, in accordance with §158.230(d).

The three-year adjusted, aggregated numerator and denominator for the 2013 reporting year, along with the resulting credibility-adjusted MLR for 2013, for Massachusetts and Maine in each market are shown in the following tables. The differences between the amounts in the “As

Recalculated” and “As Filed” rows reflect the impact of removing expenses that did not qualify as QIA.

Recalculated MLRs and Rebates for the Individual, Small Group, and Large Group Markets for the 2013 Reporting Year²

Massachusetts

	Individual and Small Group Merged Market ³				
	Numerator	Denominator	MLR	Rebate – Individual Market	Rebate – Small Group Market
As Filed	\$1,981,486,144	\$2,200,828,409	90.0%	\$0	\$0
As Recalculated	\$1,981,264,090	\$2,200,828,409	90.0%	\$0	\$0
Difference	(\$222,054)	\$0	0.0%	\$0	\$0

	Large Group Market			
	Numerator	Denominator	MLR	Rebate
As Filed	\$2,785,735,680	\$3,188,803,090	87.4%	\$0
As Recalculated	\$2,785,488,943	\$3,188,803,090	87.4%	\$0
Difference	(\$246,737)	\$0	0.0%	\$0

	Individual Mini-Med Market			
	Numerator	Denominator	MLR	Rebate
As Filed	\$2,949,478	\$3,324,310	95.7%	\$0
As Recalculated	\$2,949,253	\$3,324,310	95.7%	\$0
Difference	(\$225)	\$0	0.0%	\$0

Maine

	Individual Market			
	Numerator	Denominator	MLR	Rebate
As Filed	\$880,166	\$158,023	80.0%	\$0
As Recalculated	\$880,160	\$158,023	80.0%	\$0
Difference	(\$6)	\$0	0.0%	\$0

	Small Group Market			
	Numerator	Denominator	MLR	Rebate
As Filed	\$79,785,680	\$97,497,203	83.8%	\$0
As Recalculated	\$79,781,715	\$97,497,203	83.8%	\$0
Difference	(\$3,965)	\$0	0.0%	\$0

² 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.

³ Pursuant to §158.220, the Company’s data for the Massachusetts individual and small group markets was merged for purpose of calculating the MLR. However, the rebate is calculated separately for each market.

	Large Group Market			
	Numerator	Denominator	MLR	Rebate
As Filed	\$184,071,787	\$215,635,979	86.7%	\$0
As Recalculated	\$184,063,981	\$215,635,979	86.7%	\$0
Difference	(\$7,806)	\$0	0.0%	\$0

IV. Company Overview

A. Description, Territory, and Plan of Operation

The Company is a not-for-profit health insurer domiciled in the Commonwealth of Massachusetts. The Company sells comprehensive health insurance policies to employer groups and to individuals in Massachusetts and Maine, as well as administers health benefits for self-funded group plans.

During the 2011, 2012, and 2013 MLR reporting years, the Company reported business in the individual, small group, merged individual and small group, large group and individual mini-med markets that were subject to the MLR reporting requirements of 45 CFR Part 158. As of December 31, 2013, the Company reported a total of 328,793 covered lives and \$1,777,912,730 in total direct earned premium from all health insurance policies. The Company's line of business not subject to the MLR regulations at 45 CFR Part 158 is the administration of self-funded group plans.

B. Management

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

Officers

<u>Name</u>	<u>Title</u>
Eric Hinman Schultz	President and Chief Executive Officer
Charles Robert Goheen	Chief Financial Officer and Treasurer
Thomas Fitzgerald Maloney	Interim Clerk and Interim Chief Legal Officer
Barry Louis Shemin	Chairman
Mary Ann Tocio	Vice Chairman
Michael Scott Sherman, M.D.	Chief Medical Officer
Deborah Ann Norton	Chief Information Officer
John Francis Lane	Chief Human Resource Officer
Tu T Nguyen	Chief Actuary

Directors

<u>Name</u>
Earl Wayne Baucom
Shelby Michael Chodos

Name

Susan Vercillo Duprey
Trammell Louis Gutierrez
Scott Sears Hartz
Edward Francis McCauley, CPA
Joyce Ann Murphy
Joseph Francis O'Donnell, M.D.
Eric Hinman Schultz
Constance Smith Barr, M.D.
Barry Louis Shemin
Mary Ann Tocio
Hedwig Veith Whitney

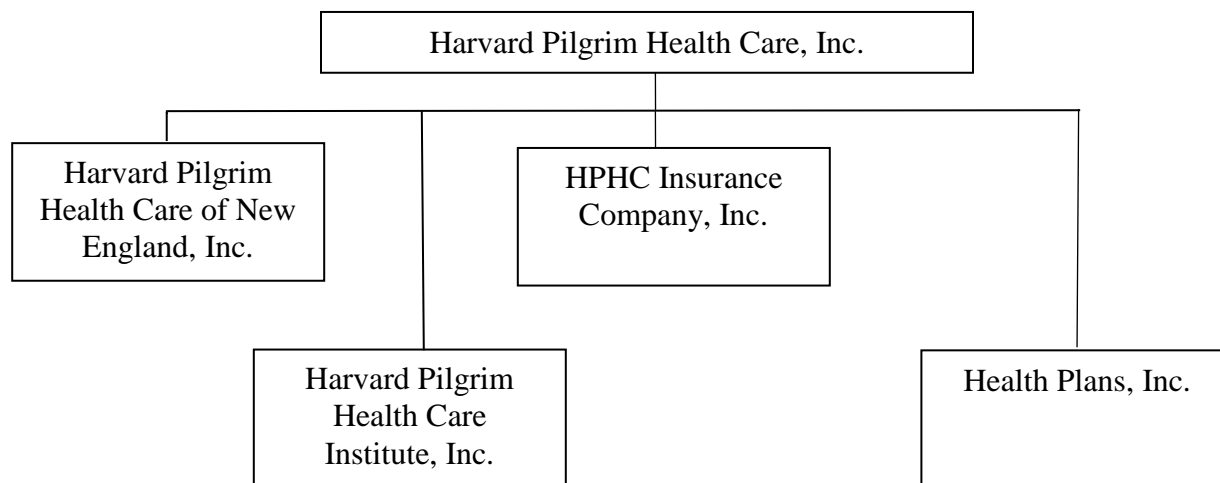
Company management and corporate-level personnel responsible for the preparation, submission and attestation of the 2013 MLR Annual Reporting Form were:

<u>Name</u>	<u>Title</u>
Eric Hinman Schultz	CEO Attester
Charles Robert Goheen	CFO Attester

C. Ownership

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

**Harvard Pilgrim Health Care, Inc.
Organizational Chart⁴ as of December 31, 2013**



⁴ 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.

D. Agreements

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

1. A Management and Medical Services Agreement with Harvard Pilgrim Health Care of New England, Inc.
2. A Management and Medical Services Agreement with HPHC Insurance Company, Inc.
3. A Management and Administrative Services Agreement with Harvard Pilgrim Health Care Institute, LLC.
4. Guaranty and Indemnity Agreements with various subsidiaries, including Harvard Pilgrim Health Care of New England, Inc. and HPHC Insurance Company, Inc.

E. Reinsurance

During 2011, 2012 and 2013, the Company had ceded excess of loss reinsurance agreements with several unaffiliated entities. The Company did not assume any reinsurance.

V. Accounts and Records

The Company's main administrative and financial reporting office is located at 93 Worcester Street, Wellesley, Massachusetts 02481. 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 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.

As noted in Section II above, Massachusetts generally imposes a higher MLR standard than the 80% standard required by federal law in the individual and small group (or merged) markets, and the Massachusetts MLR standard may further differ from year-to-year as well as from issuer to issuer. In accordance with §158.211, the Company was subject to and met the MLR standards of 90% for 2012 and 2013 and 88% for 2011 in the Massachusetts individual and small group merged market and individual mini-med market. The Company was also subject to and met the MLR standard of 85% in the large group market in both Maine and Massachusetts for 2011-2013, as well as the MLR standard of 80% in the individual and small group markets in Maine for 2011-2013. During all three years under examination, the Company reported fewer than 1,000 life-years in the Maine individual market and is therefore presumed to meet or exceed the MLR standard in that market in accordance with §158.230(d). Consequently, the Company was not required to pay rebates to its enrollees in any state or market for 2011, 2012, or 2013.

A. MLR Data

Market Classification

The Company has adopted policies and procedures for determining group size and market classification that are consistent with the definitions in §158.103 and applicable to the 2011-2013 reporting years. Nothing came to our attention that would indicate that the samples of policies tested during the examination were not assigned to the correct market classification.

Aggregation

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 the incurred claims were not accurately reported.

Claims Recovered Through Fraud Reduction Efforts

Based on 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

Improper Inclusion of Expenses for Activities That Do Not Qualify as QIA

Based on a review of a sample of transactions and activities in numerous cost centers, certain activities reported as QIA did not qualify under the definition at §158.150 and/or the Company was unable to provide adequate documentation supporting that the reported activities met the definition of QIA.

Several of the Company's cost centers were found to include expenses for activities that are specifically excluded from QIA pursuant to §158.150(c), including concurrent utilization management, network access and administrative fees. Consequently, a portion of the Company's expenses in these cost centers were allocated to the states and markets subject to MLR requirements under 45 CFR Part 158. As a result, \$8,809 in the individual market, \$217,216 in the small group market, \$254,543 in the large group market, and \$225 in the individual mini-med market was deemed to have been inappropriately included in QIA.

Some of the Company's other cost centers consisted for the most part of activities that qualify as QIA, but also contained expenses for some activities that did not appear to qualify as QIA, and the Company was unable to adequately support the allocation percentages for these cost centers to demonstrate that expenses for the non-qualifying activities were excluded from QIA on the 2013 MLR Annual Reporting Form. The non-qualifying activities were utilization management cost savings, appeals, and network development and contracting. However, expenses for the

portion of activities that did not qualify as QIA were deemed to be immaterial and therefore no adjustments were made to the Company's MLR calculations as a result of this finding.

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

Earned Premium

Based upon the procedures performed, 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 the 2011, 2012, and 2013 premium as reported on the Company's 2013 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 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 states and 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 and other taxes to each state and market based on the percent of premium, which the examiner confirmed during the examination.

B. Credibility-Adjusted MLR and Rebate Amount

Based upon the procedures performed, the Company correctly applied the credibility adjustment when the Company calculated and reported its MLRs, in accordance with §§158.230-158.232. 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. On its 2013 MLR Annual Reporting Form, the Company reported that it met or exceeded the applicable MLR standards in all of its states and markets, and thus calculated \$0 rebates.

Failure to Correctly Report MLR Standard

The Company incorrectly reported an MLR standard of 80% in Part 4, Line 5.1 of its 2013 MLR Annual Reporting Form for Massachusetts. As noted above, in accordance with §158.211, the higher state MLR standard is applied for purposes of the federal MLR and rebate calculations in the Massachusetts individual and small group merged market and individual mini-med market. Therefore, on its 2013 MLR Annual Reporting Form for Massachusetts, the Company should have reported 90% as the MLR standard for the individual and small group markets. As the Company exceeded the higher state MLR standard, this finding did not impact the Company's rebate calculations.

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. Based upon the procedures performed, the Company timely issued the 2011 Notice (of no rebate) in accordance with §158.251 and was not required to (and did not) issue any Notices for the 2012 or 2013 MLR 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 Massachusetts Division of Insurance performed a financial examination of the Company in 2014 covering 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, Corrective Actions and Company Responses

CCIIO examined Harvard Pilgrim Health Care, Inc.'s 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. The examination findings did not impact MLR rebates in any state or market in which the Company operated since recalculating the MLRs to correct for the incorrectly reported items did not cause the Company's MLRs in these states and markets to fall below the applicable MLR standard or result in additional rebates owed.

As a result of this examination, CCIIO directed 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 requirements of §158.150 and that sufficient documentation exists to support such determinations. The Company should perform additional analyses to adequately differentiate between activities that do and do not qualify as QIA, and perform additional quantitative analyses to ensure that only the appropriate percentage of each activity or

transaction that qualifies as a QIA pursuant to §158.150 is reported in its MLR Annual Reporting Form.

Company Response

“Prior to filing the Company’s 2019 MLR Annual Reporting Form, the Company will perform a review of all costs included as a QIA to determine the costs meet the requirements of §158.150 and for any costs which partially qualify, the Company will ensure there is documentation of the basis for the portion of the cost included. Additionally, the findings of this process will be incorporated into our policies by June 30, 2020.”

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 the applicable MLR Annual Reporting Form Filing Instructions, including ensuring that it correctly reports the applicable MLR standard.

Company Response

“The Company will ensure it reports in its 2019 MLR Reporting Form the MLR standard of the state if the state standard is higher than the federal MLR standard. Additionally, the findings of this process will be incorporated into our policies by June 30, 2020.”

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, 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.