

Final
Report on the
Medical Loss Ratio Examination
of
Network Health Plan
(Menasha, Wisconsin)
for the
2017 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

December 9, 2025

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 Network Health Plan (the Company) for the 2017 reporting year, including 2017, 2016, and 2015 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.

A handwritten signature in blue ink, reading "Christina A. Whitefield", is positioned above the typed name and title.

Christina A. Whitefield, Director
Data and Analytics Division
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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 2017 Medical Loss Ratio (MLR) Annual Reporting Form for Network Health Plan (the Company) to assess the Company's compliance with the requirements of 45 CFR Part 158. We determined that the Company's 2017 MLR Annual Reporting Form contains numerous elements that are not compliant with the requirements of 45 CFR Part 158, and that impact consumer rebates.

We direct the Company to implement corrective actions to address the findings detailed in this report, including: obtaining and maintaining adequate information to accurately determine the market classification of group policies and correctly determining the market classification of group policies; ensuring that incurred claims are accurately calculated and reported; ensuring that quality improvement activity (QIA) expenses meet the regulatory definition and are adequately supported with sufficient documentation; ensuring QIA and federal income tax expenses are allocated using the methodology that yields the most accurate results; ensuring the accurate calculation and reporting of taxes and licensing and regulatory fees, the average deductible, and rebates issued to enrollees; ensuring that Rebate Notices are accurately completed; adopting and implementing a comprehensive MLR records maintenance program; and, adopting and implementing policies and procedures to ensure compliance with the requirements of the MLR Annual Reporting Form Filing Instructions.

To the extent that the findings could be quantified, the recalculation of the Company's 2017 MLRs resulted in decreases to its reported MLRs in the individual, small group, and large group markets, increasing the Company's rebate liability for the 2017 reporting year by \$3,768,163 in the individual market.

II. Scope of Examination

CCIIO examined the Company's 2017 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, 2015 through December 31,

2017, including 2015, 2016, and 2017 experience and claims run-out through March 31, 2018. 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. 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
8, 9	Failure to employ standards consistent with the definitions in §158.103 to correctly determine the size of group policyholders – The Company did not obtain from each group policyholder, at the time of initial application or policy renewal, the average total number of employees (ATNE) employed on the business days of the calendar year preceding the coverage effective date, as required by the regulation, and therefore may not have correctly determined each group's size and market classification.
9	Failure to assign the correct market classification in accordance with the definitions in §158.103 – The Company incorrectly classified one small group market policy as a large group market policy. As a result, \$4,375 in incurred claims and \$33,703 in earned premiums were reallocated from the large group market to the small group market.
9, 10, 11, 13	Failure to submit an MLR Annual Reporting Form in the manner prescribed by the Secretary, as required by §158.110 – The Company improperly included on its 2016 and 2017 MLR Annual Reporting Forms the policy experience (premiums, claims, QIA expenses, etc.) of an affiliated entity's Other Health and Medicare coverage. This error did not impact its MLR calculations. Due to several errors, the Company incorrectly reported its individual market accrued medical incentive pools and bonuses on its 2016 and 2017 MLR Annual Reporting Forms. As a result of the net effect of these errors,

	<p>the Company overstated its three-year aggregate incurred claims on its 2017 MLR Annual Reporting Form by \$5,256,733 in the individual market.</p> <p>The Company failed to properly report its reconciled payments of cost sharing reductions (CSR) received from HHS for the individual market on its 2016 and 2017 MLR Annual Reporting Forms. As a result of this error, the Company understated its three-year aggregate reconciled payments of CSR on its 2017 MLR Annual Reporting Form by \$1,342,651 in the individual market.</p> <p>The Company improperly reported premium ceded under an excess of loss reinsurance agreement on Part 2, Line 1.12, on its 2016 and 2017 MLR Annual Reporting Forms, in all markets. This error did not impact the MLR calculations as Part 2, Line 1.12, is for informational purposes only.</p>
10	<p>Failure to accurately report incurred claims, as required by §158.140 – The Company improperly included in paid claims on its 2015, 2016, and 2017 MLR Annual Reporting Forms the amount paid to its pharmacy benefit manager (PBM) that exceeded the PBM’s reimbursement to pharmacies. As a result, the Company overstated its three-year aggregate incurred claims on its 2017 MLR Annual Reporting Form by \$2,363,186 in the individual market, \$1,350,319 in the small group market, and \$7,085,671 in the large group market.</p> <p>The Company failed to deduct from paid claims on its 2017 MLR Annual Reporting Form the full amount of the 2017 prescription drug rebates it received from its PBM. As a result of this error, the Company overstated its current year incurred claims by \$1,736,841 in the individual market, \$724,968 in the small group market, and \$3,483,428 in the large group market.</p> <p>The Company improperly included in paid claims on its 2016 and 2017 MLR Annual Reporting Forms various administrative and other fees paid to third-party vendors. As a result, the Company overstated its three-year aggregate incurred claims on its 2017 MLR Annual Reporting Form by \$355,664 in the individual market, \$494,997 in the small group market, and \$2,979,040 in the large group market.</p>
11, 12, 15	<p>Failure to maintain adequate documentation as required by §158.502 – The Company did not maintain the documents and other evidence necessary to enable CCIIO to verify that the MLRs and any rebates owed were calculated in accordance with 45 CFR Part 158. Specifically, the Company did not provide any documentation or other sufficient evidence to enable CCIIO to verify that the expenses reported as QIA met the definition set forth in §158.150.</p> <p>The Company did not maintain adequate documentation or any other evidence to sufficiently support the premium written reported for nine of the 27 sample individual market policies tested, and 16 of the 25 sample large</p>

	<p>group market policies tested. The precise impact of this error cannot be conclusively determined.</p> <p>The Company could not provide documentation to enable CCIIO to verify that it made a good faith effort to locate and deliver an unclaimed rebate to one enrollee in the individual market. This error did not impact the Company's MLR calculations.</p>
12	<p>Reporting of expenses as QIA that did not meet the definition of a QIA expense set forth in §158.150 – The Company did not provide sufficient evidence that certain activities, transactions, or allocations selected for review met the definition of QIA at §158.150. As a result, the Company overstated its three-year aggregate QIA expenses on its 2017 MLR Annual Reporting Form by \$256,710 in the individual market, \$671,513 in the small group market, and \$3,051,501 in the large group market.</p> <p>The Company improperly allocated to the commercial markets certain QIA expenses attributable to the Medicare Advantage plans issued by an affiliate. As a result of this error, the Company overstated its three-year aggregate QIA expenses on its 2017 MLR Annual Reporting Form by \$61,318 in the individual market, \$156,356 in the small group market, and \$711,266 in the large group market.</p>
12, 13	<p>Failure to properly allocate expenses, as required by §158.170 – The Company improperly allocated QIA expenses on its 2017 MLR Annual Reporting Form in a manner that did not yield the most accurate results, as required by §158.170. As a result, the Company's current year QIA expenses were understated by \$46,187 in the individual market, and overstated by \$12,758 in the small group market and \$33,429 in the large group market.</p> <p>The Company improperly allocated federal income taxes on its 2017 MLR Annual Reporting Form between its markets based on the pro-rata proportion of premiums, which did not yield the most accurate results, as required by §158.170. As a result of recalculating the allocation using the underwriting gain/(loss) for each market, the Company's current year taxes and licensing and regulatory fees were overstated by \$372,762 in the individual market and \$170,040 in the large group market, and understated by \$542,802 in the small group market.</p>
13	<p>Failure to properly report taxes as set forth in §158.161 and §158.162 – Due to multiple reporting and calculation errors, the Company incorrectly reported various taxes and licensing and regulatory fees on its 2017 MLR Annual Reporting Form. As a result of the net effect of these errors, the Company understated its three-year aggregate taxes and licensing and regulatory fees by \$824,713 in the individual market, \$541,594 in the small group market, and \$1,891,318 in the large group market.</p>
14	<p>Failure to calculate the average deductible in accordance with the requirements of §158.232(c) – The Company improperly determined the</p>

	average per person deductible for policies with a family deductible. Due to the lack of supporting documentation for the correct average deductible, the Company's deductible factor was restated to 1.0 for the individual market.
14-15	Failure to properly provide rebate payments to its enrollees in accordance with the requirements of §158.240 - The Company improperly calculated the amount of the 2015 MLR rebate paid to each enrollee, and thus failed to comply with §158.240(c)(1). This error did not have any impact on the total rebates paid for the 2015 MLR reporting year.
15	Failure to comply with the MLR notification requirements of §158.250 – The Company inaccurately reported the required information in the rebate notices provided to its individual market subscribers who received an MLR rebate for the 2015 MLR reporting year. This error did not impact the MLR calculation.

Based on the adjustments that could be quantified, the examination findings decreased the Company's reported MLRs in the individual, small group, and large group markets. The recalculated MLR in the individual market fell below the MLR standard of 80%, resulting in a rebate liability of \$3,768,163 for the 2017 reporting year. Due to the lack of adequate documentation supporting the Company's QIA expenses, direct premium written, and federal income taxes, we cannot, at this time, conclusively assess whether there were additional errors that could impact the Company's MLRs or rebates.

The three-year adjusted, aggregated numerator and denominator, along with the resulting credibility-adjusted MLRs and rebates for 2017, 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: reallocate the experience of a misclassified policy; restate incurred claims, QIA expenses, taxes and regulatory and licensing fees; restate the deductible factor to 1.0; and restate the credibility adjustment to zero. The amount in the "As Recalculated" row for the individual market also reflects the revision for the recovered risk corridors payment that the Company received, and which is described in the Subsequent Events section of this report.

Recalculated MLRs¹ and Rebates for the Individual, Small Group and Large Group Markets for the 2017 Reporting Year

Wisconsin

	Individual Market			
	Numerator	Denominator	MLR	Rebate
As Filed	\$73,371,512	\$81,971,032	92.4%	\$0
As Recalculated	\$59,737,135	\$81,519,081	73.3%	\$3,768,163
Difference	(\$13,634,377)	(\$451,951)	(19.1%)	\$3,768,163

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.

	Small Group Market			
	Numerator	Denominator	MLR	Rebate
As Filed	\$84,852,452	\$103,473,227	83.9%	\$0
As Recalculated	\$81,445,916	\$102,422,534	81.0%	\$0
Difference	(\$3,406,536)	(\$1,050,693)	(2.9%)	\$0

	Large Group Market			
	Numerator	Denominator	MLR	Rebate
As Filed	\$571,220,983	\$615,593,906	92.8%	\$0
As Recalculated	\$553,872,273	\$613,838,925	90.2%	\$0
Difference	(\$17,348,710)	(\$1,754,981)	(2.6%)	\$0

IV. Company Overview

A. Description, Territory, and Plan of Operation

The Company is a for-profit health insurance issuer domiciled in Wisconsin. The Company sells individual and group market health insurance policies in Wisconsin.

During the 2015, 2016, and 2017 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, 2017, the Company reported a total of 40,796 covered lives and \$210,852,982 in direct earned premium for policies subject to the MLR reporting and rebate requirements under 45 CFR Part 158, and a total of 108,299 covered lives and \$772,310,590 in direct earned premium from all health lines of business. The Company's only line of business not subject to the MLR regulations at 45 CFR Part 158 is Managed Medicaid plans.

B. Management

The corporate officers and board of directors of the Company as of December 31, 2017 were:

Officers

<u>Name</u>	<u>Title</u>
Coreen Dicus-Johnson	Chief Executive Officer, President
Brian K. Ollech	Chief Financial Officer, Treasurer
Penelope A. Ransom	Chief Administrative Officer, Secretary

Directors

<u>Name</u>
John Bykowski
Scott R. Hawig
Catherine A. Jacobson
David A. Olson
Larry A. Rambo
Tracy A. Rogers

Bernado J. Sherry
Jonathan W. Sohn
Essie M. Whitelaw
Christopher C. Zwygart

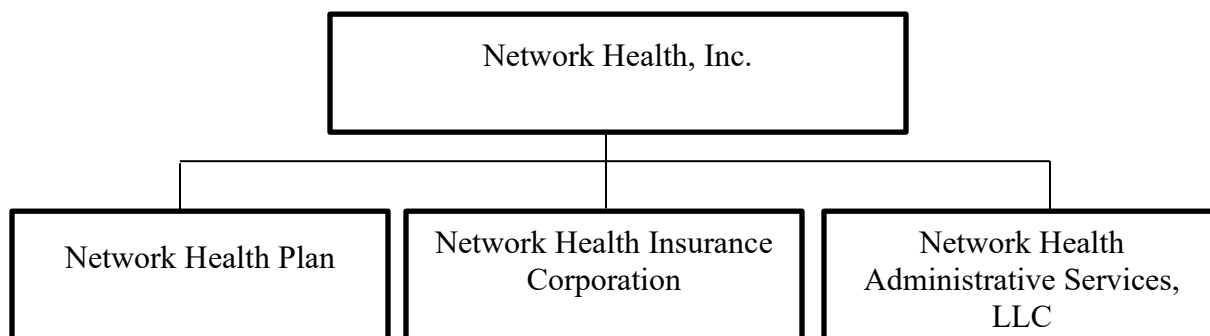
Company management and corporate-level personnel responsible for the preparation, submission, and attestation of the 2017 MLR Annual Reporting Form were:

<u>Name</u>	<u>Title</u>
Coreen Dicus-Johnson	CEO Attester
Brian K. Ollech	CFO Attester

C. Ownership

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

Network Health Plan Organizational Chart as of December 31, 2017²



D. Agreements

As of December 31, 2017, the Company had entered into the following intercompany agreements that are pertinent to a review of its MLR Annual Reporting Form:

1. A Service Agreement with Network Health, Inc. (its parent company), and various subsidiaries.
2. A Point of Service Shared Premium and Expense Agreement with Network Health Insurance Corporation.
3. An Integrated Health Care Delivery System Agreement with Network Health Insurance Corporation.

E. Reinsurance

² 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 2015, 2016, and 2017, 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 1570 Midway Place, Menasha, Wisconsin, 54952. 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 comply with §158.502 with regard to maintaining adequate documentation and other evidence necessary to enable CCIIO to verify that the MLRs and rebates owed were calculated in accordance with 45 CFR Part 158. Specifically, the Company was unable to provide sufficient evidence necessary to enable CCIIO to verify the accuracy of its QIA expenses, direct premium written reported, and federal income taxes, as well as evidence that it made a good faith effort to locate and deliver unpaid rebates.

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 2015, 2016, and 2017 MLR Annual Reporting Forms were not filed on the form and in the manner prescribed by the Secretary. The Company's 2015, 2016, and 2017 MLR Annual Reporting Forms were filed by the due date.

The Company reported that in 2017, it met the applicable MLR standard in the individual, small group, and large group markets. Therefore, it was not required to pay rebates to its enrollees in these markets.

Based on the errors found during the examination that could be quantified, the Company's MLRs for the 2017 reporting year were recalculated and resulted in a rebate liability of \$3,768,163 in the individual market. However, due to the lack of adequate documentation supporting its QIA expenses, direct premium written, and federal income taxes, we cannot conclusively assess whether there were additional errors that could have impacted the Company's 2017 MLRs or rebate liability.

A. MLR Data

Market Classification

Incorrect Procedures for Determining Group Size and Market Classification

The Company adopted policies and procedures for determining group size and market classification that are inconsistent with the definitions in §158.103 applicable to the 2015-2017 reporting years. Section 158.103 uses the applicable 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 group and large group market classifications be based on the average total number of employees (ATNE) on the business days of the calendar year preceding the coverage effective date.

The Company did not obtain the necessary information from group policyholders to correctly determine employer size, instead relying on the number of employees at the time of initial policy application or renewal. Therefore, it may have incorrectly determined the market classification of some group policies for the period covered by this examination. The Company provided copies of then-recent group policyholder billing invoices and the original or renewal application for coverage containing the total number of employees at the time of the application (rather than the ATNE on the business days of the calendar year preceding the coverage effective date). Since the Company based its determinations on the number of eligible employees at the time of either the initial policy application or policy renewal, based on the available documentation, the examiners could not confirm whether the Company correctly determined the group size, and consequently the market classification, of its group policies.

Due to the Company's use of the incorrect standard for determining group size and market classification, which could have impacted the market classification of some groups, and the lack of adequate documentation necessary to support its determinations, we cannot conclusively assess whether there were additional errors that could impact the Company's MLRs or rebates.

Incorrect Reporting of Market Classification

In addition to the failure to use the correct standard for determining group size and market classification, the Company did not consistently assign policies to the correct market classification based on the group size information that was available to the Company. Based on testing of the market classification of the Company's policies for the 2017 MLR reporting year, one policy was incorrectly classified as a large group market policy when, based on the Company's group-size determinations, the policy should have been reported in the small group market. As a result, current year incurred claims of \$4,375 and earned premium of \$33,703 were reallocated from the large group market to the small group market.

Aggregation

Improper Reporting of Experience from Policies Issued by an Affiliate

The Company improperly reported in the Other Health and Medicare columns on its 2016 and 2017 MLR Annual Reporting Forms the policy experience (incurred claims, earned premium, QIA expenses, etc.) attributable to coverage issued by an affiliated entity. According to the 2017 MLR Annual Reporting Form Filing Instructions, an issuer must only report on its MLR Annual Reporting Form its experience for the business it issued. The Company indicated that the affiliate did not write any healthcare business subject to 45 CFR Part 158, and therefore it included the experience on Parts 1 and 2 of its commercial MLR Annual Reporting Form. This error did not impact the MLR calculations.

Based upon the procedure performed, other than the incorrect group size and market classification determinations, and the improper reporting of experience issued by an affiliate noted above, nothing additional came to our attention that would indicate that the samples of policies, claims, and other aggregation-related reporting elements tested during the examination

were not correctly assigned to the appropriate markets and lines of business in accordance with §158.120.

Incurred Claims

Improper Reporting of Prescription Drug Costs

The Company improperly included in paid claims on Part 2, Line 2.1b, on its 2015, 2016, and 2017 MLR Annual Reporting Forms, the amount paid to its PBM for pharmacy claims, an amount that exceeded the total amount the PBM paid the pharmacy providers for prescriptions filled for the Company's enrollees. According to §158.140(b)(3)(ii), if a third-party vendor reimburses the provider at one amount but bills the issuer a higher amount to cover its claims processing, network development, utilization management, and administrative costs, as well as profits, then the amount that exceeds the reimbursement to the provider must not be included in incurred claims. As a result of this error, the Company overstated the three-year aggregate incurred claims on its 2017 MLR Annual Reporting Form by \$2,363,186 in the individual market, \$1,350,319 in the small group market, and \$7,085,671 in the large group market.

Failure to Correctly Deduct Prescription Drug Rebates from Incurred Claims

The Company failed to deduct from paid claims reported on Part 2, Line 2.1b, on its 2017 MLR Annual Reporting Form, the full amount of prescription drug rebates it received from its PBM for 2017, as required by §158.140(b)(1)(i)(A). As a result, the Company overstated its current year incurred claims on its 2017 MLR Annual Reporting Form by \$1,736,841 in the individual market, \$724,968 in the small group market, and \$3,483,428 in the large group market.

Failure to Properly Deduct Administrative Fees from Incurred Claims

The Company improperly included in paid claims on Part 2, Line 2.1b, on its 2016 and 2017 MLR Annual Reporting Forms, the administrative fees paid to its third-party vendors for pharmacy, subrogation, and secondary network savings services. According to §158.140(b)(3), amounts paid to third-party vendors for secondary network savings and administrative fees must not be included in incurred claims. As a result of this error, the Company overstated the three-year aggregate incurred claims on its 2017 MLR Annual Reporting Form by \$355,664 in the individual market, \$494,997 in the small group market, and \$2,979,040 in the large group market.

Incorrect Reporting of Medical Incentive Pools and Bonuses

Due to several errors, the Company incorrectly reported its individual market accrued medical incentive pools and bonuses on its 2016 and 2017 MLR Annual Reporting Forms. For the 2017 MLR reporting year, the Company reported on Part 2, Line 2.12a an accrual for risk-share payments due from its affiliated healthcare providers. According to the 2017 MLR Annual Reporting Form Filing Instructions, risk-share arrangements with providers should be accounted for on Part 2, Line 2.11. Based on its actual, subsequent 2017 collections of risk-share payments from providers, the Company understated its 2017 accrual by \$1,899,538. For the 2016 reporting year, the Company failed to accrue any amount for risk-share payments due from providers. Based on actual, subsequent collections of risk-share payments from providers for 2016, the Company should have accrued \$3,357,195 as due from providers for 2016. As a result, the

Company overstated its three-year aggregate incurred claims reported on its 2017 MLR Annual Reporting Form by \$5,256,733 in the individual market.

Improper Reporting of Cost-Sharing Reductions (CSR)

The Company failed to properly report on Part 3, Line 1.4, on its 2016 and 2017 MLR Annual Reporting Forms the CSR payments received from HHS for the individual market, as required by the applicable MLR Annual Reporting Form Filing Instructions. For 2017, the CSR payment of \$2,674,188 was improperly reported as a reduction to paid claims on Part 2, Line 2.1b, rather than in the CY column on Part 3, Line 1.4, as required. Therefore, there was no net impact on the MLR calculation for the 2017 CSR. However, the Company did not reduce its 2016 paid claims by the CSR amount of \$1,342,651. As a result of this error, the Company understated its three-year aggregate CSR amount on its 2017 MLR Annual Reporting Form by \$1,342,651 in the individual market.

In addition, the Company did not properly report the CSR amount on Part 2, Line 2.18, on its 2016 and 2017 MLR Annual Reporting Forms, as required by the MLR Annual Reporting Form Filing Instructions. This error did not have an impact on its MLR calculations as Part 2, Line 2.18, is for informational purposes only.

Based upon the procedures performed, including validating a sample of incurred claims (as defined by §158.140), other than the reporting errors noted above, nothing additional came to our attention that would indicate that the Company did not accurately report incurred claims.

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 (QIA)

Insufficient Documentation of QIA

The Company did not maintain adequate documentation to support the expenses it reported as QIA. Section 158.502 requires an issuer to maintain all documents and other evidence necessary to enable CCIIO to verify compliance with the definitions and criteria set forth in 45 CFR Part 158 and that the MLR and any rebates owed were calculated and provided in accordance with the regulation.

The largest category of QIA expenses reported by the Company was the salaries and related benefits of the employees whose roles and responsibilities included activities that it asserted met the definition of a QIA at §158.150. However, the Company could not provide sufficient time studies of employee activities or otherwise substantiate the salary ratios it used to allocate salaries to QIA. Accordingly, alternative testing procedures were employed, which included reviewing the titles and job descriptions of staff whose salaries were reported as QIA, the percent of staff time allocated to QIA, and other information obtained from the Company related to the employees whose salaries were reported as QIA expenses. Based on the alternative procedures performed, other than the incorrect calculation of QIA expenses noted below, we concluded that

the expenses tested met the definition at §158.150, were reasonably included as qualifying QIA, and were reasonably allocated.

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

As a result of performing the alternative procedures noted above, we determined that some of the expenses in numerous cost centers included certain activities reported as QIA did not qualify as QIA, as defined at §158.150. As a result of this error, the Company overstated its three-year aggregate QIA expenses on its 2017 MLR Annual Reporting Form by \$256,710 in the individual market, \$671,513 in the small group market, and \$3,051,501 in the large group market.

In addition, on its 2015, 2016, and 2017 MLR Annual Reporting Forms, the Company improperly allocated to the commercial markets QIA expenses attributable to the Medicare business issued by an affiliate. Section 158.150(c)(2) prohibits an issuer from reporting as QIA (the pro rata share of) expenses that are for any line of business that is not subject to 45 CFR Part 158. As a result of this error, the Company overstated its three-year aggregate QIA expenses on its 2017 MLR Annual Reporting Form by \$61,318 in the individual market, \$156,356 in the small group market, and \$711,266 in the large group market.

Improper Allocation of QIA

The Company's methodology for allocating its 2017 QIA expenses did not comply with §158.170(b)(1), which requires allocations to be based on generally accepted accounting methods that are expected to yield the most accurate results. Although the Company told us it had used membership for its allocation method, it could not demonstrate that it had done so. As a result of the examiners' recalculation, utilizing the pro-rata proportion of the membership for each market, it was determined that the Company's current year QIA expenses on Part 3, Line 1.3, were understated by \$46,187 in the individual market, and overstated by \$12,758 in the small group and \$33,429 in the large group market.

Based upon the procedures performed, other than the reporting and allocation errors noted above, nothing additional came to our attention that would indicate that QIA expenses were not accurately reported.

Earned Premium

Failure to Maintain Adequate Documentation

The Company did not adequately maintain supporting documentation for the direct premium written reported on Part 2, Line 1.1, on its 2017 MLR Annual Reporting Form, as required by §158.502. The Company could not reconcile the supporting invoices and cash receipts for nine of the 27 policies tested in the individual market, and for 16 of the 25 policies tested in the large group market. According to §158.502, an issuer must maintain all documents and other evidence necessary to enable CCHIO to verify that the MLR is calculated accurately and that any rebates are calculated and disbursed in accordance with 45 CFR Part 158. The Company could not support or otherwise substantiate the premium reported, or provide an explanation for the variances, and said that it relied on its third-party vendor to tell the Company what its individual premium transactions were.

The precise impact of the Company's inability to support the direct premium written amounts cannot be conclusively determined due to its lack of adequate documentation necessary to support the amounts included as premium on its 2017 MLR Annual Reporting Form.

Improper Reporting of Premium Ceded

The Company improperly reported premium ceded under an excess of loss reinsurance agreement on Part 2, Line 1.12, on its 2016 and 2017 MLR Annual Reporting Forms, in all markets. According to the MLR Annual Reporting Form Filing Instructions, only premium ceded under a 100% assumption reinsurance agreement (with a novation), or premium ceded under a 100% indemnity reinsurance and administrative agreement entered into prior to March 23, 2010, should be reported on Part 2, Line 1.12. The Company's agreements did not meet these criteria. This error did not impact the MLR calculations as Part 2, Line 1.12 is presented for informational purposes only and earned premium was accurately reported.

Taxes

Improper Allocation of Federal Income Taxes

The Company's methodology for allocating its 2017 federal income taxes did not comply with §158.170(b)(1), which requires allocations to be based on generally accepted accounting methods that are expected to yield the most accurate results. According to the 2017 MLR Annual Reporting Form Filing Instructions, pre-tax underwriting gain/(loss) is the most appropriate basis for allocating income taxes. The Company allocated federal income taxes between its markets based on the pro-rata proportion of premiums, rather than pre-tax underwriting gain or loss. As a result of reallocating the Company's federal income tax using the of underwriting gain/(loss) for each market, the Company's current year taxes and licensing and regulatory fees were overstated by \$372,762 in the individual market and \$170,040 in the large group market, and understated by \$542,802 in the small group market. However, we could not verify the accuracy of the federal income taxes for 2015 or 2016, or recalculate the taxes for these years based on the pro-rata proportion of underwriting gain or loss, due to the lack of adequate documentation available from the Company.

The precise impact of the inability to support the reported federal income taxes for prior years cannot be conclusively determined due to the Company's lack of adequate documentation necessary to support the amounts included on its 2017 MLR Annual Reporting Form.

Incorrect Reporting of Taxes and Licensing and Regulatory Fees

Due to multiple reporting and calculation errors, the Company incorrectly reported its Patient Centered Outcomes Research Institute (PCORI) fees, state income taxes, and various other licensing and regulatory fees on Part 1, Section 3, on its 2017 MLR Annual Reporting Form. As a result of the net effect of these errors, the Company understated its current year aggregate taxes and licensing and regulatory fees on Part 3, Line 2.2, by \$824,713 in the individual market, \$541,594 in the small group market, and \$1,891,318 in the large group market.

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 transfer amounts under the federal risk adjustment program for the 2017 benefit year, as required by §158.140(b)(4)(ii).

B. Credibility-Adjusted MLR and Rebate Amount Calculation

Improper Calculation of the Average Deductible

The Company improperly computed the average deductible for purposes of calculating the credibility adjustment for its individual and small group market policies. The Company did not determine the per person deductible for policies with a family deductible in accordance with §158.232(c)(i). As a result of the improperly calculated average deductible that the Company reported on Part 3, Line 3.3, the deductible factor was also incorrectly reported on Part 3, Line 3.4. Based on the documentation provided by the Company, we could not determine the correct average deductible or deductible factor in the individual and small group markets, and therefore restated the deductible factors for these markets to 1.0.

Based upon the procedures performed, other than the use of incorrect average deductibles in the credibility adjustment calculation as noted above, the Company correctly applied the credibility adjustment, in accordance with §§158.230-158.232, when it calculated and reported its MLRs. The Company's credibility-adjusted MLRs were calculated using the correct formula and in accordance with 45 CFR Part 158 and the 2017 MLR Annual Reporting Form Filing Instructions. 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 2017 MLRs and rebate amounts.

The impact of applying the examination adjustments to recalculate the Company's MLRs resulted in its preliminary MLR³ in the individual market, as reported in the PY2, PY1, and CY columns on Part 3 of its 2017 MLR Annual Reporting Form, to fall below the applicable MLR standard in each year. According to §158.232(d), if the current MLR reporting year and each of the two previous MLR reporting years included experience of at least 1,000 life-years, and if the preliminary MLR for the current MLR reporting year and each of the two previous MLR reporting years fell below the applicable MLR standard for each year, then the credibility adjustment that should be reported is zero. The Company reported greater than 1,000 life-years in the individual market for each of the three years aggregated on its 2017 MLR Annual Reporting Form. Since its recalculated preliminary MLRs for each of the three years fell below the MLR standard of 80%, the Company no longer qualifies for the credibility adjustment in the individual market, and therefore, the reported credibility adjustment was restated to zero.

C. Rebate Disbursement and Notice

Improper Calculation of Amount of Rebate Provided to Each Enrollee

The Company could not explain or otherwise support how it calculated the 2015 rebate payable to each enrollee in the individual market, but it was not based on the amount of premium that each policyholder paid. According to §158.240(c)(1), the amount of rebate provided to each

³ See § 158.232(f) for the definition of "preliminary MLR."

enrollee should be based on premium revenue received from each enrollee. This error did not have any impact on total rebates paid for the 2015 MLR reporting year. Determining the impact of this error on the rebate amount paid to each enrollee was beyond the scope of the examination.

Incorrect Completion of Rebate Notices

The Company incorrectly stated the applicable MLR in the Rebate Notices it sent to individual market policyholders who received an MLR rebate for 2015, in violation of §158.250. The Company could not provide an explanation or other documentation to support the MLR ratio stated in the notices. This error did not impact the MLR calculations.

Failure to Maintain Adequate Documentation

The Company adopted policies and procedures for locating and delivering rebates that appear consistent with the requirements in §158.244, which requires an issuer to make a good faith effort to locate and deliver unclaimed rebates to enrollees. Although the Company said that it sent follow-up letters to enrollees with unclaimed rebates, it could not provide evidence that a good faith effort was made to locate and deliver an unpaid rebate to one enrollee tested in the individual market, as required by §158.244. This error did not impact the MLR calculations.

According to its 2016 and 2017 MLR Annual Reporting Forms, the Company did not owe rebates in any market for these years. According to its 2015 MLR Annual Reporting Form, the Company reported that it owed rebates in the individual market. Based upon the procedures performed, the Company timely issued rebates for 2015 in accordance with §§158.241-244, but as noted above, the Rebate Notices did not comply with §158.240 and §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 Wisconsin Office of the Commissioner of Insurance performed a financial examination of the Company in 2018 covering the period January 1, 2015 through December 31, 2017. The financial examination resulted in four findings, none of which impacted the Company's federal MLR calculation or reporting.

VII. Subsequent Events

The Company is required to inform CCIIO of any subsequent events that may affect the currently attested 2017 MLR Annual Reporting Form.

On April 27, 2020, the Supreme Court ruled that section 1342 of the ACA created an enforceable government obligation to pay issuers risk corridors amounts as calculated under the corridors formula.⁴ In 2020, the Company recovered previously unpaid amounts for risk corridors for the 2016 benefit year, but not all of these recoveries were included on the Company's 2015-2017

⁴ *Maine Community Health Options v. United States*, 140 S. Ct. 1308 (2020).

MLR Annual Reporting Forms⁵. On December 30, 2020, CCIIO issued guidance to issuers as to how they should revise their 2015-2018 MLR Annual Reporting Forms to reflect risk corridors payment amounts recovered as a result of the litigation, and to pay any rebates, or additional rebates, to enrollees, if required.⁶ The previously unpaid amounts for risk corridors recovered by the Company for the 2016 benefit year impacts its 2017 MLR Annual Reporting Form because the 2016 data are included on that form⁷. The amounts described in this examination report incorporate the Company's revisions related to the recovered risk corridors amounts.

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

CCIIO examined Network Health Plan's 2017 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 2017 MLR Annual Reporting Form, and the accuracy and timeliness of any rebate payments. As detailed above, the Company's 2017 MLR Annual Reporting Form contained numerous elements that were not compliant with the requirements of 45 CFR Part 158.

Based on the cumulative effect of the examination findings that could be quantified, the recalculation of the Company's MLRs resulted in a substantive change to its reported MLRs for the individual, small group, and large group markets. As a result, the Company owes rebates of \$3,768,163 in the individual market. However, due to the inadequate documentation supporting the Company's QIA expenses, direct premium written, and federal income taxes, we cannot conclusively assess whether there were additional errors that could impact the Company's MLRs or rebates.

As a result of this examination, consistent with §158.402(e), CCIIO directs the Company to implement the following corrective actions:

Corrective Action #1

The Company must adopt and implement procedures to ensure that it obtains and maintains accurate information from 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 (e) 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 documentation of the average total number of employees for the calendar year preceding the coverage effective (or renewal) date. The Company must utilize this information to accurately determine the market classification of its policies in accordance with the requirements of §158.103.

⁵ https://www.regtap.info/uploads/library/RC_CSRandMLR_091516_v1_5CR_091516.pdf. See also, MLR Annual Reporting Form Instructions for 2015 through 2018, available at https://www.cms.gov/ccio/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>.

⁷ The amount of previously unpaid risk corridors recovered by the Company for the 2016 benefit year may have also impacted its 2016 MLR Annual Reporting Forms because this data is also included on that form.

Company Response

The Company acknowledges this finding and is implementing procedures to ensure proper documentation in the future. The company validates group size when accepting new business and reassesses at the time of renewal. These modifications of determining and reporting group size will comply with the definitions in §158.103.

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 MLR Annual Reporting Form Filing Instructions, including only reporting experience for business issued by the Company, properly reporting medical incentive pools and bonuses, properly reporting the CSR amount received from HHS, and properly reporting ceded reinsurance.

Company Response

The Company acknowledges this finding and has adjusted our procedures to properly complete the MLR filing including: reporting business experience, medical incentive pools and bonuses, the CSR amount received from HHS, and Ceded reinsurance to ensure full compliance with §158.110 and the MLR Annual Reporting Form Filing Instructions. The company has also implemented additional multi-level and multi-department reviews for the MLR filings.

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 the accurate reporting of incurred claims, in accordance with §158.140 and the MLR Annual Reporting Form Filing Instructions, including ensuring: that amounts paid to its PBM in excess of the cost of prescription drugs paid to pharmacies for its enrollees are not included in incurred claims; the accurate deduction of prescription drug rebates received; and that expenses for administrative fees paid to third-party vendors are not included in incurred claims.

Company Response

The Company acknowledges this finding and has implemented procedures to accurately report claims in accordance with §158.140. These procedures specifically address the treatment of amounts paid to its PBM in excess of the cost of prescription drugs paid to pharmacies for its enrollees, prescription drug rebates, and administrative fees paid to third party vendors.

CCIIO Reply

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

Corrective Action #4

The Company must adopt and implement a comprehensive MLR records maintenance program under which it maintains all documentation and evidence necessary to enable CCIIO to verify compliance with each element included in the MLR Annual Reporting Form, as required by §158.502. The records maintenance program should include maintaining adequate documentation, as may be necessary, to enable CCIIO to verify that activities included in QIA meet the definition of QIA and that the Company's allocation of various expenses reported as QIA is reasonable. For salary-related expenses classified as QIA, this includes performing time studies of employee activities and/or other quantitative analyses of salary ratios to support allocating any such amounts to QIA, as only salary amounts supported by quantitative analyses of time spent on qualifying QIA activities are allowable QIA expenses.

The records maintenance program should also include maintaining adequate documentation to enable CCIIO to verify the accuracy of direct written premium, federal income taxes, the amount of rebate paid to each enrollee, and that a good faith effort was made to locate and deliver unclaimed rebates to enrollees.

Company Response

The Company acknowledges this finding and has implemented enhanced policies and procedures for maintaining all documentation and evidence necessary to enable CCIIO to verify compliance with §158.502, including maintaining records for the required time period and detail of expenses that meet the definition of QIA expenses in §158.150.

CCIIO Reply

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

Corrective Action #5

The Company must adopt and implement procedures to ensure that any expenses classified as QIA meet the requirements at §158.150, and that sufficient documentation exists to support such determination. The Company must perform additional analyses to adequately differentiate between activities that do and do not qualify as QIA, and perform additional quantitative analyses to ensure that the appropriate percentage of each activity or transaction that qualifies as a QIA under §158.150 is reported on its MLR Annual Reporting Form. The Company must also ensure that the QIA experience of Medicare Advantage plans issued by an affiliate is excluded from its reporting.

Company Response

The Company acknowledges this finding and has established procedures to ensure that 45 CFR §158.150 is reviewed annually during the completion of the MLR filing to confirm the proper classification of QIA expenses. Supporting documentation is consistently maintained to validate administrative QIA expenses in accordance with the definition provided in §158.150.

CCIIO Reply

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

Corrective Action #6

The Company must adopt and implement procedures to ensure the allocation methodology used to allocate expenses to each market yields the most accurate results, in accordance with §158.170, including the proper allocation of QIA expenses and federal income taxes.

Company Response

The company acknowledges this finding and will adjust the allocation of tax expenses to yield the most accurate results in accordance with §158.170.

CCIIO Reply

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

Corrective Action #7

The Company must adopt and implement procedures to ensure that it reports its taxes and licensing and regulatory fees in compliance with §158.161 and §158.162, including accurately calculating and reporting the PCORI fee, state income taxes, and all other licensing and regulatory fees.

Company Response

The Company acknowledges this finding and has adopted and implemented procedures to ensure that it reports taxes, licensing and regulatory fees in compliance with §158.161 and §158.162, including accurately calculating and reporting the PCORI fee, state income taxes, and all other licensing and regulatory fees.

CCIIO Reply

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

Corrective Action #8

The Company must adopt and implement procedures to ensure that it calculates the average deductible in accordance with §158.232(c), including correctly calculating the per person deductible for policies with a family deductible, and 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 acknowledges this finding and has implemented processes in accordance with §158.232(c) for the calculation of the average deductible.

CCIIO Reply

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

Corrective Action #9

The Company must adopt and implement procedures to ensure the proper and accurate calculation of rebates paid to its enrollees, in accordance with the requirements of §158.240, including ensuring rebates are allocated to enrollees based on the pro rata proportion of premium revenue.

Company Response

The Company acknowledges this finding and has adopted and implemented procedures to ensure the proper and accurate calculation of rebates paid to its enrollees in accordance with the requirements of §158.240.

CCIIO Reply

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

Corrective Action #10

The Company must adopt and implement procedures to ensure Rebate Notices include accurate information, including the applicable MLR and aggregate adjusted premium revenue, as required by §158.250.

Company Response

The Company acknowledges this finding and has adopted and implemented procedures to ensure Rebate Notices include accurate information, including the applicable MLR and aggregate adjusted premium revenue, as required by §158.250.

CCIIO Reply

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

Corrective Action #11

The Company must re-file its 2017 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

The Company has reviewed the exam findings and agrees with the proposed adjustments. The Company will complete a re-filing of the 2017 MLR form inclusive of the adjustments referenced in this report and will process additional rebate payments within 60 days of issuance of the final report.

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.

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