

March 12, 2012

Ms. Sally McCarty  
Center for Medicare and Medicaid Services  
Center for Consumer Information and Insurance Oversight  
Office of Rate Review -738G.05  
7501 Wisconsin Avenue  
Bethesda, MD 20814

**RE: AHIP's Comments on the Discussion Draft for State Specific Thresholds for Rate Review Subject to the Federal Rate Review Process - Released at the NAIC 2012 National Spring Meeting**

Dear Ms. McCarty:

We appreciate the opportunity to provide comments on the Discussion Draft (the "Draft") on State Specific Thresholds for Rate Review. We support the Draft's focus on objective, analytically oriented items and believe it was important to recognize that over 43 states have effective programs in place today to perform these reviews. We also agree with the decision to maintain the current threshold if no state-specific threshold is requested.

Premium rate review should be tied to actuarial soundness, not politics. Therefore, we are concerned that the Draft makes no reference to the key goals of appropriate rate review – ensuring that rates are 1) not inadequate, excessive or discriminatory, 2) reasonable with respect to the benefits offered, and 3) adequate to cover expected expenses and losses. Without consideration of the last factor, health insurers risk becoming financially impaired, or even insolvent.

Rate review is not a cost containment strategy, and arbitrarily capping premiums without focusing on the increasing costs of medical services will jeopardize solvency and undermine the coverage that consumers count on today. Sound rate review should be based on actuarial standards and principles. We recommend that language be added to the document that reflects the importance of balanced actuarial standards of review.

**Concerns about Non-Objective Language**

Since cost increases, adverse selection, and other factors vary from state-to-state, we urge that the Draft utilize neutral language and not suggest that the Department is "more inclined to grant a request from a state that the threshold be lower than 10%." This language appears in "Part II –

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Authority” (last sentence). We believe it should be revised to more straightforwardly present state choices.

**Recommendation:** The Draft should be revised to eliminate the sentence referenced above and the one prior to this sentence should be revised to state, “*The process described below would provide an opportunity for States to present evidence of unique conditions that would justify a state-specific threshold higher than different from 10%.*”

In “Part III – Other Factors”, the Draft provides “examples of items that might give a State *policy* reasons to move their threshold.” One example provided is that “*Evidence that a given threshold might or might not be a burden on the industry (hence warranting a reduction if the possibility of a burden had previously been a concern)*”.

**Recommendation:** The Draft should be revised to eliminate the parenthetical information. If it is not removed, it should be balanced by revising it to include “or increase”. For example: “*(hence warranting a reduction or increase if the possibility of a burden had previously been a concern)*”.

In addition, we have strong concerns with the non-objective language used in the fifth bullet on page 4, which implies that rates filed at a level below the 10% threshold represent “gaming.” Following that logic, one could argue that states that do not approve any rate beyond 10%, even when justified, are “gaming”, when in fact they may be completing an appropriate rate review. We urge that biased language be avoided. Accordingly, we believe the bullet is inappropriate and should be removed or revised.

**Recommendation:** Delete the bullet “Evidence of gaming by the industry (such as a recent unusual volume of rate increase requests just below the present threshold)”.

### **Additional Factors Necessary to Reflect Real World Experience**

In “Part III – Other Factors”, under the examples of analytically-oriented items that might have predictive validity for rate increases, we recommend the addition of several items reflecting real world experience. Specifically, we recommend additional bullets be added that: 1) refer to new state or federally mandated benefits; 2) refer to new issuer fees and taxes; 3) refer to the number of issuers issuing rebates; 4) consider whether actual loss ratios were consistently higher or lower than the projected loss ratios filed; and 5) consider change in solvency of insurers in the state.

**Recommendation:** Include the following additional bullets in the list of analytically-oriented items:

- New state or federally mandated benefits;

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- **New insurer fees and taxes;**
- **Number of insurers issuing MLR rebates;**
- **Actual loss ratios consistently higher or lower than the projected loss ratios filed;**  
**and**
- **Change in solvency of insurers.**

Thank you for considering these comments. We look forward to open discussions with you and the NAIC on future calls on this important issue. If you would like to discuss these comments, please do not hesitate to contact Candy Gallaher at (202) 778-8487 or [cgallaher@ahip.org](mailto:cgallaher@ahip.org).

Sincerely,

A handwritten signature in black ink, appearing to read 'Candy Gallaher', with a long horizontal flourish extending to the right.

Candy Gallaher - Senior Vice President, AHIP State Policy

Cc: Frank Stone, (OK) - NAIC Health Actuarial Task Force, Pricing Subgroup Chair