



National Association of Insurance Commissioners

July 22, 2008

Mr. Mike Carstens  
Chair, Medicare Supplement Work Group  
American Academy of Actuaries  
1100 Seventeenth St. NW, Seventh Floor  
Washington, DC 20036

Subject: Medicare Supplement Refund Formula - Request for Assistance

Dear Mike,

As you know the Medicare Supplement Refund Formula Subgroup of the Accident and Health Working Group has been considering proposing changes to the Medicare Supplement Refund Formula for several years. After considering the issues the Subgroup decided to pursue adoption of changes to the Social Security Act to remove some of the restrictions on the refund formula. This would allow for the flexibility needed to make appropriate modifications to the refund formula. The proposed changes are attached and would allow for aggregation by plan or by state. Although these changes were adopted by the Accident and Health Working Group (AHWG), Senior Issues (B) Task Force and the Health Insurance and Managed Care (B) Committee, the Subgroup was informed by NAIC staff that in order to gain the necessary support in Congress to adopt these changes, it is very important that all parties including the Centers for Medicare & Medicaid Services, the insurance industry and consumers are in full support of changes to the federal law and the refund formula. The chair of the Senior Issues Task Force suggested that the Subgroup proceed with developing changes to the refund formula assuming the changes to the Social Security Act were adopted. The Subgroup would like to have a revised refund formula essentially complete by the summer of 2009 in time to get the Social Security Act changes into an appropriate bill for adoption by Congress in 2009.

The purpose of this letter is to formally request that the American Academy of Actuaries (Academy) assist the Subgroup by developing recommended changes to the refund formula with the following parameters:

1. The Subgroup understands that the most recent available national experience is the 1996-2000 experience used in developing the recommendations in the March 10, 2004, Academy "Report on Loss Ratio Curves for Redetermination of Refund Benchmarks," but that this experience may still be relevant. Because of the short timeframe for developing the revisions to the refund formula, the Subgroup asks that the Academy review this experience for its continued relevance in developing changes to the refund formula. If the Academy determines that the experience is no longer relevant or appropriate and a new study is needed, please notify the Subgroup as soon as possible. The Subgroup asks that the Academy include consideration of the homogeneity of the experience data in its review of the appropriateness of the data for developing the refund formula.
2. Consider combining one or more plans (including different select, pre-standardized, and standardized plans); describe pros and cons to different combinations of plans.
3. Consider combining plan/s by state; describe pros and cons.
4. Consider treatment of plans by rating method (i.e. issue age, attained age, community rated).
5. Recommend precise definitions of rating method: issue age, attained age, and community rated.

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<b>EXECUTIVE HEADQUARTERS</b>	2301 McGee Street, Suite 800	Kansas City, MO 64108-2662	p   816 842 3600	f   816 783 8175
<b>GOVERNMENT RELATIONS</b>	444 N. Capitol Street, NW, Suite 701	Washington, DC 20001-1509	p   202 471 3990	f   202 471 3972
<b>SECURITIES VALUATION OFFICE</b>	48 Wall Street, 6th Floor	New York, NY 10005-2906	p   212 398 9000	f   212 382 4207

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6. Analyze the impact of a requirement to meet the minimum (lifetime standard) loss ratio value (65% or 75%) at specified duration/s and recommend the duration (i.e. comparable to the 3<sup>rd</sup> year loss ratio in the current formula).
7. Consider allowing for appropriate adjustments to later years' assumptions for differences in cumulative experience to date in order to reflect current premium levels versus those expected from the initial calendar year by the benchmark (effect of trend, persistency, benefit changes, etc.).
8. Smooth the tolerance levels and recommend tolerance levels such that the probably of inappropriately paying a refund is comparable with the probability in the current formula. Provide a sensitivity analysis of how different tolerance levels impact the probability of appropriately or inappropriately paying a refund.
9. Identify issues that may arise with respect to the transition between the current and revised formulas.

The AHWG is very appreciative of the technical support provided by the Academy over the years, and is hopeful that the Academy will accept this request. The Medicare Supplement Refund Formula Subgroup is happy to provide any assistance the Academy might need in completing this request. Please do not hesitate to contact me, if you have any questions.

Sincerely,

Katie Campbell  
Chair, Medicare Supplement Refund Formula Subgroup  
Accident and Health Working Group of the Life and Health Actuarial Task Force

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Accident and Health Working Group  
9/29/07

## Social Security Act, Title XVIII Health Insurance for the Aged and Disabled

### Section 1882 – Certification of Medicare Supplemental Health Insurance Policies

r) (1) A medicare supplemental policy may not be issued or renewed (or otherwise provide coverage after the date described in subsection (p)(1)(C) of this section) in any State unless -

(A) the policy can be expected for periods after the effective date of these provisions (as estimated for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for such periods and in accordance with a uniform methodology, including uniform reporting standards, developed by the National Association of Insurance Commissioners) to return to policyholders in the form of aggregate benefits provided under the policy, at least 75 percent of the aggregate amount of premiums ~~collected~~ in the case of group policies and at least 65 percent in the case of individual policies; and

(B) the issuer of the policy provides for the issuance of a proportional refund, or a credit against future premiums of a proportional amount ~~based on the premium paid and in accordance with paragraph (2), of the amount of premiums received necessary~~ to assure that the ratio of aggregate benefits provided to the aggregate premiums ~~collected~~ (net of such refunds or credits) complies with the expectation required under subparagraph (A); ~~treating policies of the same type as a single policy for each standard package.~~

For purposes of applying subparagraph (A) only, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies. ~~For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C) of this section, the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all such policies issued by an insurer in a State (separated as to individual and group policies) and shall be based only on aggregate benefits provided and premiums collected under such policies after the date specified in section 171(m)(4) of the Social Security Act Amendments of 1994.~~

~~(2)(A) Paragraph (1)(B) shall be applied with respect to each type of policy by standard package. Paragraph (1)(B) shall not apply to a policy until 12 months following issue. The Comptroller General, in consultation with the National Association of Insurance Commissioners, shall submit to Congress a report containing recommendations on adjustment in the percentages under paragraph (1)(A) that may be appropriate. In the case of a policy issued before the date specified in subsection (p)(1)(C) of this section, paragraph (1)(B) shall not apply until 1 year after the date specified in section 171(m)(4) of the Social Security Act Amendments of 1994.~~

(B) A refund or credit required under paragraph (1)(B) shall be made to each applicable policyholder insured, ~~under the applicable policy as of the last day of the year involved.~~

(C) Such a refund or credit shall include interest from the end of the calendar year involved until the date of the refund or credit at a rate as specified by the Secretary for this purpose from time to time which is not less than the average rate of interest for 13-week Treasury notes.

(D) For purposes of this paragraph and paragraph (1)(B), refunds or credits against premiums due shall be made, with respect to a calendar year, not later than the third quarter of the succeeding calendar year.

(3) The provisions of this subsection do not preempt a State from requiring a higher percentage than that specified in paragraph (1)(A).

(4) The Secretary shall submit in October of each year (beginning with 1993) a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on loss ratios under medicare supplemental policies and the use of sanctions, such as a required rebate or credit or the disallowance of premium increases, for policies that fail to meet the requirements of this subsection (relating to loss ratios). Such report shall include a list of the policies that failed to comply with such loss ratio requirements or other requirements of this section.

(5)(A) The Comptroller General shall periodically, not less often than once every 3 years, perform audits with respect to the compliance of medicare supplemental policies with the loss ratio requirements of this subsection and shall report the results of such audits to the State involved and to the Secretary.

(B) The Secretary may independently perform such compliance audits.

(6)(A) A person who fails to provide refunds or credits as required in paragraph (1)(B) is subject to a civil money penalty of not to exceed \$25,000 for each policy issued for which such failure occurred. The provisions of section 1320a-7a of this title (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1320a-7a(a) of this title.

(B) Each issuer of a policy subject to the requirements of paragraph (1)(B) shall be liable to the policyholder or, in the case of a group policy, to the certificate holder for credits required under such paragraph.

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