February 2, 2010

Linda Ziegler and Dalora Schafer
Co-Chairs, Medicare Supplement Compliance Manual Subgroup
NAIC Accident and Health Working Group of the Life and Health Actuarial Task Force

Subject: Draft revisions to the Medicare Supplement Compliance Manual

Dear Linda and Dalora:

The American Academy of Actuaries'[1] Medicare Supplement Work Group ("work group") recently met to discuss proposed new compliance manual language presented on the January 12 call of the Medicare Supplement Compliance Manual Subgroup ("subgroup"):

> *The experience of all 1990 standard plans shall be pooled with the experience of all 2010 standard plans of the same letter designation for all rating purposes.*

As mentioned by a number of those on the call, we believe that additional clarification is needed. We have identified the following areas as needing additional explanation.

1. As written, the proposed language identifies the plan letter as the driver for pooling. In the compliance manual, the plan letter has additional meaning as the first level of a hierarchy, followed by the "Type Level" and "Form Level" (page 5). The compliance manual identifies the four different types, and notes that each type can have up to five forms. As a matter of clarification, the language should identify the intended level at which pooling is recommended. Based on our understanding of the discussion on the subgroup's call, separation by Type was considered appropriate, while separation at the Form Level was not (i.e., a new policy form for the 2010 Plan B is to be pooled with the policy form for the 1990 Plan B within the same Type). However, states may have existing practices when it comes to the pooling of the possible combinations of 1990 Plans/Types/Forms (e.g., agency forms may be pooled separately from direct response forms). In our view, the compliance manual should note that these practices should be allowed to continue according to each insurance department's expectations.

2. Annual filings and rate increase filings are meant to demonstrate compliance with loss ratio standards. Federal law specifies that those standards apply at the policy form level. Pooling should not prevent rate adjustments by policy form necessary to achieve compliance with loss ratio standards. That is, if the pooled experience suggests a rate increase of 10%, yet one policy form within the pool does not meet the loss ratio standards, a different, lesser increase should be allowed for that policy form alone.

3. The compliance manual states: "If an issuer's statewide experience is not credible for purposes of projecting expected future experience, the projection should be based on a larger block" (page 26). In the

[1] The American Academy of Actuaries is a professional association with over 16,000 members, whose mission is to assist public policymakers by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

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context of the release of the 2010 standardized plans, the loss ratio experience of these new plans will likely not be fully credible for some time, and given similar expectations for experience of corresponding 1990 and 2010 plans (we can foresee cases where this may not be the case), pooling corresponding plans would be appropriate for a period of time. However, the unique experience of 1990 and 2010 plans will eventually gain some, if not full credibility. At this point, reflecting the credibility-weighted experience in the re-pricing process (separately by policy form for the 1990 version and 2010 version) would be consistent with actuarial standards and federal law.

4. One of the expectations of the subgroup is that rate increases should be similar, if not the same, for the corresponding 1990 and 2010 plans. From observations of regulatory filings, one work group member noted that in some of the filed and approved 2010 plans, the original rate levels were different than the corresponding 1990 rate levels (some higher, some lower). All else being equal, it is not unreasonable to expect that over time, emerging experience will suggest that these rate levels converge. With this possibility in mind, different rate increases should be allowed to occur provided the proposed rate change is expected to move the rates closer together.

5. The earliest effective date of coverage for the 2010 plans is June 1, 2010. Given this effective date, our work group expects that a number of companies have priced their products to be effective for the twelve-month period starting June 1, 2010, and that revised rates for these companies will be effective starting June 1 of each following year. Many 1990 plans have new rates effective for twelve-month periods starting January 1. The work group noted that companies may have selected a June 1 cycle for their 2010 plans as a better alternative than projecting to an initial 19-month period ending December 31, 2011 (assuming an intent to wait at least twelve months before changing rates), or as a way to allow for more efficient utilization of resources that file and implement rate changes. As such, the timing and basis (period of past experience used) for 1990 plan rate changes going forward may not be in synch with 2010 plan rate changes. Deviations from the same rate increase should be expected based on these timing differences.

In the timeframe allowed, these are the concerns and suggestions we have identified. If you have any questions, or would like to discuss these comments further, please contact Tim Mahony, the Academy's state health policy analyst (202-785-7880; *mahony@actuary.org*).

Sincerely,

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