AMERICAN ACADEMY *of* ACTUARIES

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April 27, 2017

Ms. Megan Mason
Director, Rates Review Division
Center for Consumer Information and Insurance Oversight
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Comments on the 2018 Unified Rate Review Template (URRT) Final Instructions

Dear Ms. Mason,

The Premium Review Work Group of the American Academy of Actuaries[1] has outlined below a number of comments and questions with respect to the recently released final Unified Rate Review Template (URRT) instructions. Our comments are organized by topic, and we include a section at the end that addresses certain inconsistencies we've noted within the instructions.

Total Premium Input

We would like to confirm that the new total premium input in Section IV of Worksheet 2 of the URRT (v4.1) does <u>not</u> reflect the impact of quarterly trend in the small group market, consistent with the comparison to total premium illustrated on Worksheet 1.

Inclusion of the High-Cost Enrollee Risk Pooling Portion of the Permanent Risk Adjustment Program

The new instructions do not address the new high-cost enrollee risk pooling portion of the permanent risk adjustment program finalized in the 2018 Notice of Benefit and Payment Parameters.[2] According to the payment notice, this program was intended to be accounted for in the risk adjustment transfer payment formula. We would like to confirm that issuers should reflect both assessments and recoveries under the high-cost enrollee risk pooling program as part of risk adjustment transfer payments and charges, and that no portion of this program should be reflected in risk adjustment user fees, other expenses, or the reinsurance program line (given the similarities of high-cost enrollee risk pooling to the terminated transitional reinsurance program).

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[1] The American Academy of Actuaries is a 19,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels 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.

[2] Federal Register, Vol. 81, No. 246, December 22, 2016.

Consumer Adjusted Premium Rate and Tobacco Rating

We recommend that the last bullet on page 11 be further specified by adding "non-tobacco" as follows:

> "A tobacco use surcharge (limited to 50% of the **non-tobacco** Consumer Adjusted Premium Rate) may be applied to individuals who may legally use tobacco under Federal and State law." **(emphasis added)**

Without that clarification, this language could be read to allow a 100 percent surcharge. For example, if the non-tobacco Consumer Adjusted Premium Rate is $300, the tobacco Consumer Adjusted Premium Rate could be $600, because the $300 surcharge would be 50 percent of the Consumer Adjusted Premium Rate.

Experience Period Total Allowed Claims on Worksheet 2 of the URRT

Page 45 of the final 2018 URRT instructions states that

> "The Total Allowed Claims (TAC) across all benefit plans for the Experience Period should be consistent with the Allowed Claims entered in Section I of Worksheet 1, except it should be net of Risk Adjustment transfers. Claims should be increased for any Risk Adjustment receivables, and decreased by the amount of payments made into the Risk Adjustment programs."

Experience Period Total Allowed Claims composited in cell F61 on Worksheet 2 are compared to Total Allowed Claims entered in cell F16 on Worksheet 1 of the URRT. As noted in the instructional text, this results in a discrepancy in the check shown in cell A61 of Worksheet 2 of the URRT. We note that this change will cause Total Incurred Claims on Worksheet 2 in cell F68 to be gross of risk adjustment, so this field would now be consistent with Total Incurred Claims shown in cell F15 on Worksheet 1 of the URRT.

We suggest that the Center for Consumer Information and Insurance Oversight (CCIIO) modify the "Changes To The Instructions" section on Page 5 of the instructions to reference this change, especially in light of the fact that this could reasonably create a warning indicator where none would have been present previously.

Projection Period Total Allowed Claims on Worksheet 2 of the URRT

Page 49 of the 2018 instructions states that

> "The Total Allowed Claims (TAC) across all benefit plans for the projection period should be consistent with the total allowed claims and the projected risk adjustments entered in Section III of Worksheet 1. The template includes a "Warning" indicator when the sum of the allowed claims, the projected risk adjustments and the projected ACA reinsurance recoveries in Worksheet 1 and the allowed claims in Worksheet 2 are significantly different."

This language has been similarly stated in previous versions of the instructions. However, the validation described in cell A87 is a direct comparison of Total Allowed Claims from cell X32 of Worksheet 1 to the Allowed Claims amount on Worksheet 2, in contradiction of the instructions.

Additionally, were Total Allowed Claims on Worksheet 2 to include risk adjustment receivables and exclude risk adjustment payables (i.e., net of risk adjustment) similar to that described for experience period Total Allowed Claims in Section III of Worksheet 2, Total Incurred Claims illustrated in row 94 of the URRT would then be gross of risk adjustment.

Currently, this field is compared to Total Incurred Claims in cell X38 of the URRT, which is net of risk adjustment. If Total Allowed Claims are shown net of risk adjustment as described previously, then the check on Total Incurred Claims would be off by a similar amount, potentially triggering two warnings. Finally, these instructions reference the transitional reinsurance program, which is no longer operational in 2018.

We recommend that CCIIO maintain the previous definition of Total Allowed Claims in Section III (i.e., gross of risk adjustment), and apply that same logic in Section IV, so that Total Allowed Claims are developed based on a consistent definition in both Worksheet 1 and Worksheet 2 and in the Experience and Projection Period. While this will potentially result in a warning indicator for Experience Period Total Incurred Claims (because Worksheet 1 is gross of risk adjustment and Worksheet 2 is net of risk adjustment), it would potentially prevent three additional warning indicators in cells A61, A87, and A94. Regardless of the validation, CCIIO should consider updating any checks to the extent feasible to avoid warnings that result from different definitions of comparable values.

Inconsistencies in Instructions

Page 6 versus Page 62

On page 6, the second "Tip" box states that "Issuers may only introduce new plans for sale through the FFMs at the beginning of a calendar year." Page 62, second sentence under "4.6.2.1 Small Group Quarterly Rate Filings" states that "These quarterly filings may include adjustments for other items, such as new products, more recent experience period claims, etc."

It is unclear whether the tip on page 6 refers only to individual and merged markets, because it uses the term "FFMs" rather than "FFMs and FFM SHOPs." We recommend changing the tip box on page 6 to say, "Issuers may only introduce new plans for sale through the FFMs at the beginning of a calendar year for the **individual and merged markets only**," if that is the correct interpretation. **(emphasis added)** If, instead, that tip applies to all ACA markets, then the statement on page 62 needs to be corrected.

Page 64

On page 64, first sentence states that "The AV and cost-sharing adjustment (plan level adjustment) would take into account the benefit differences, utilization differences due to differences in cost-sharing and an adjustment for non-tobacco user status."

We believe that because the tobacco status adjustment has been moved to the calibration, the sentence should read, "The AV and cost-sharing adjustment (plan level adjustment) would take into account the benefit differences and utilization differences due to differences in cost-sharing. ~~and an adjustment for non-tobacco user status.~~"

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We appreciate the opportunity to provide these comments and would welcome the opportunity to discuss them with you in more detail. If you have any questions or would like to discuss further, please contact Heather Jerbi, the Academy's assistant director of public policy, at 202-785-7869 or Jerbi@actuary.org.

Sincerely,

Karen Bender, MAAA, ASA, FCA
Chairperson, Individual and Small Group Markets Committee
American Academy of Actuaries