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January 16, 2015

Mr. Dennis K. Yu
Actuarial Branch Director
Oversight Group, Center for Consumer Information and Insurance Oversight
Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Recommended Changes to the URRT and Actuarial Memorandum Instructions

Dear Dennis,

On behalf of the American Academy of Actuaries'[1] Rate Review Practice Note Work Group, I would like to provide the following recommendations for potential clarification and/or modification to the Unified Rate Review Template (URRT) and Actuarial Memorandum instructions. Our recommendations are specific to the following topics:

- Experience period plan adjusted index rate
- Experience period inputs
- Treatment of proprietary information
- Inclusion of current membership data
- Risk adjustment input for 2016 filings
- Development of geographic area factor
- Illustration of market-wide adjustments

Item 1: Experience Period Plan Adjusted Index Rate

In 2016, there is a new requirement to include the experience period plan adjusted index rate. We request clarification be included in the instructions on what should be used in the input on URRT Worksheet 2 for the experience period plan adjusted index rate. Below, we highlight four potential inputs for the experience period plan adjusted index rate, including the advantages and disadvantages of each option. First, however, it is important to understand the purpose of including the experience period plan adjusted index rate in the URRT (i.e., how it is expected to be used) in order to determine what input should be used and, as a result, what clarification is needed in the instructions. A few potential purposes are noted below.

[1] The American Academy of Actuaries is an 18,000+ member professional association whose mission is to serve the public and the U.S. actuarial profession. The Academy assists 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.

- *Comparison to rate increases from two years prior.* Since the threshold rate increase is not based on rates from two years prior, this information may not be useful.
- *Understanding actual experience so that a reviewer can be informed regarding projected experience.* This would only reflect differences in actual versus projected demographics. However, in the current environment, there can be significant change from one period to the next, resulting in projected demographics being vastly different than prior periods.
- *Comparison of the accuracy of issuers' projections.* The plan-by-plan actual enrollment experience does not reflect the averages required to be used in the rate filings, although it does in the aggregate (i.e., when being filed, plan adjusted index rates must use the average demographics of the projected population, whereas actual would be used by a plan for the experience period if based on actual results). Therefore, there would be differences in age, geographic area, and tobacco status. As a result, the comparison may not be useful. In addition, actual experience likely would need to show the different risk adjustment by member by plan, but the filing had to reflect an average risk adjustment. Therefore, there would need to be instructions on allocation of the risk adjustment revenue or payment not by plan actual but on an average basis.
- *Comparison of three different values.* One option is to collect filed plan adjusted index rate information from two years ago (experience period), one year ago (current), and the projected plan—all calculated based on the projected demographics. Thus, there would be three comparable values: the current year compared to the projected period rates showing the actual rate increase (which could be used to determine whether a threshold rate increase has been filed) and the rates from two years ago, from which could be calculated the previous rate increase and the two year rate increase. However, this would require additional input on the URRT or in the actuarial memo. This option would allow for clearer URRT instructions to be provided surrounding the total rate increase calculation in Section II, as it could then represent the impact on plan-adjusted index rates and restore consistency between this calculation and Section IV of the URRT. Currently, page 32 of the URRT instructions states that the total rate increase value should "equal the difference between the projected average rate PMPM and the Average Current Rate PMPM." When the projected average rate PMPM was replaced by the plan adjusted index rate, this field ceased to provide a connection between Section II and Section IV.

Depending on what the purpose is for including this information, we have identified options to consider for the calculation of the experience period plan adjusted index rates. These four options along with advantages and disadvantages follow.

Option 1: Input 2014 Filed Plan Adjusted Index Rate	
Advantages	**Disadvantages**
	2014 filings did not require that a plan adjusted index rate be filed, so issuers would have to develop it. This may create review issues.
Provides information on the change in the rates.	The difference in demographics from the filed experience period to the projection period does not allow a direct comparison.
	“Filed” (assuming it can be developed now) for transition states was based on population assumptions, which were different from what would have been assumed if transition was known before rates were filed. As such, this does not provide a good comparison.

Option 2: Apply Actual Experience Period Demographic Factors to Premium Rates Excluding Tobacco Factor	
Advantages	**Disadvantages**
Provides the experience period average premium rate based on actual membership, assuming no tobacco status. If compared to the filed plan adjusted premium rate, the difference would be the demographics enrolled by plan and overall as compared to required average projected demographics used in the filing two years prior.	Since using experience period actual demographics, these values would not be able to be compared to projected period plan adjusted index rate or the filed plan adjusted index rate from the filing two years prior.

Option 3 – Input Issuer Filed Final Rates Developed from Index Rate	
Advantages	**Disadvantages**
Reviewers can look back at 2014 filing to make sure the input is correct.	Plan adjusted index rates were not required in the 2014 filing, so may not get values that would be comparable across issuers. Some issuers may have filed rates for age 21 non-smoker and average geographic area (base rates); some may have filed with different demographics.
By the 2017 rate filing, issuers would have the filed plan adjusted index rate for 2015, and reviewers could look back and test that.	Value would not be comparable to projected plan adjusted index rate due to different demographics.

Option 4 – Input Experience Period Premium Rates Calculated Using the Projected Demographics and all Appropriate Factors, Excluding Tobacco Status	
Advantages	**Disadvantages**
Result would be the calculated 2014 plan adjusted index rate based on projected demographics, which could be compared directly to the projected period plan adjusted index rate.	The comparison to projected plan adjusted index rate would be over two years and could not be used for threshold testing.
In addition, if the value entitled, "average current rate PMPM," on URRT Worksheet 2, Section II also was calculated using the current plan adjusted index rate but using the projected demographics with all the allowed rating factors except tobacco, then there would be three years' worth of comparable values.	

We recommend Option 4—having issuers provide 2014 experience period average rates calculated across the projected membership for 2016, using allowable rating factors except tobacco, to calculate the 2014 experience period average premium rate for non-smokers using the projected membership. In later years, issuers could use the filed plan adjusted index rate for the experience period, calculating the average premium rate for non-smokers using the projected membership and allowable filed rating factors (except for tobacco). The experience period plan adjusted index rates recalculated using the projected membership would then be comparable to the projected period plan adjusted index rates.

Item 2: Experience Period Inputs

We also request clarification in the instructions on what should be included in the experience period claim and revenue information in URRT Worksheet 1. Specifically, for individual business, if transition plans exist, should the transition experience be included in the experience period? Many of the same considerations hold for the small group 51-100 experience that needs to be considered in 2016, when all states (under current law) would base small group size on 1-100 rather than 1-50. While we recommend including only ACA-compliant experience in the experience period for both individual and small group markets unless an issuer does not have such ACA-compliant experience, below we outline several options for consideration, including the advantages and disadvantages of each approach:

Option 1: *Include transition plans in the experience period for the individual market, but remove them in the projection period if they continue (similar to the 2015 filings). If they are being discontinued, the membership could be assumed to move into ACA-compliant plans, at which point they would be included in the projection period.*	
Advantages	**Disadvantages**
The experience period would include all transitional and ACA-compliant experience, but the projected period would only be for ACA-compliant projected plans. The method is	Since carriers now have ACA-compliant experience, and the single risk pool only applies to ACA-compliant plans, it makes more sense to only have ACA-compliant

similar to that used in the 2015 filing, except that there was no ACA-compliant plan experience.	experience in the experience period, to which trends and other projection factors are applied. Only having ACA compliant experience in the experience period makes the trends and other projection factors more direct, based only on the population in the ACA-compliant single risk pool, and adjustments to remove the effect of transition plans would not need to be made in the factors.

Option 2: *Do not include transition plans in the experience period at all for the individual market; only include ACA-compliant experience. For the small group market, only use ACA-compliant experience if the carrier is in a state where the market size will be changing from 1-50 to 1-100. The one exception would be if the issuer has no ACA-compliant experience in the experience period—if the issuer has transition plans in the experience period or old small group non-ACA compliant experience in the experience period, then that experience should be included. If the issuer is new to the market, the requirements would be the same as the previous year.*	
Advantages	**Disadvantages**
Only ACA-compliant plans are subject to the single risk pool. Therefore, only the ACA-compliant plan experience should be included in the experience period. This also makes the projection factors more straightforward, such that the removal of the effect of the transition plans, if included in the experience period, would not have to be made. For example, morbidity adjustment factors would be more straightforward, as would benefit adjustments.	This methodology is different from prior years.
In the small group market, the 2016 rates must be for group sizes 1 to 100 for all states. In those states in which small group was defined as 1 to 50 prior to 2016, by having only ACA-compliant plans in the experience period, this would make explaining the adjustments for morbidity more straightforward to account for the change in size. It will be important to include language in the instructions regarding how to handle the experience period claims for small group due to the change in the size for some states.	

Option 3: *Only include the transition experience in the experience period if those plans are being discontinued.*	
Advantages	**Disadvantages**
If transition plans will be discontinued, the experience period would include all transitional and ACA-compliant experience, but the projected period would only be for ACA-compliant projected plans. The method is similar to that used in the 2015 filing, except that there was no ACA-compliant plan experience.	If ACA-compliant plans were in existence, using just the ACA-complaint experience meets the single risk pool requirement.

As noted above, we recommend Option 2—only use ACA-compliant experience in the experience period unless an issuer does not have ACA-compliant experience.

<u>Item 3: Treatment of proprietary information</u>

During our initial conversation with CCIIO, we understood that specific information regarding the treatment of proprietary information could not be added to the instructions until the Freedom of Information Act (FOIA) issue is resolved. This refers to an ongoing FOIA review to examine what information from the URRT and the actuarial memorandum should be public and what information should remain proprietary. Examples of information that many issuers believe should be protected include provider reimbursement levels and other confidential negotiated payment rate information between the insurance issuer and the providers. In addition, many of the models used to develop assumptions are based on innovation and/or substantial effort, and may need to be considered proprietary.

Once the issue is resolved, we recommend adding guidelines to the actuarial memorandum and rate filing instructions that will facilitate the identification of proprietary information in a uniform manner. We recognize that this may pose a conflict with certain state laws and regulations. Without consistent instructions, however, each filing may include various identification methods making it difficult for the reviewer to clearly identify proprietary information. Filing details may include information related to sensitive and valuable proprietary information (e.g., provider reimbursement levels).

<u>Item 4: Inclusion of current membership data</u>

We recommend the actuarial memorandum instructions for membership projections be modified in order to require more information regarding current enrollment data. The following is our recommended modification to the language on page 22 of the actuarial memorandum instructions:

> **Membership Projections**
> Describe how the membership projections found in Worksheet 2 of the Part I Unified Rate Review Template were developed. Items impacting these projections could include but are not limited to changes in the size of the market due to introduction of guarantee

issue requirements (individual market), the individual mandate, expansion of Medicaid, and the introduction of a Basic Health Program.

~~Describe any differences between the distribution of projected member months relative to the current membership distribution.~~ *Describe how projected member months by plan were developed relative to current membership by plan and explain any differences.*

For Silver level plans in the individual or combined markets, describe the methodology used to estimate the portion of projected enrollment that will be eligible for cost sharing reduction subsidies at each subsidy level. State the resulting projected enrollment by plan and subsidy level.

Item 5: Risk adjustment input for 2016 filings

With respect to risk adjustment for 2016 filings, there is a concern that issuers may not have sufficiently complete information on the risk adjustment for 2014 to project an appropriate value for 2016. Therefore, we recommend adding a sentence in the URRT instructions (page 18 under Projected Risk Adjustments PMPM) that states "It is possible that an issuer may anticipate no risk adjustment charge or payment."

The actuarial memorandum instructions already state: “In the Part III Actuarial Memorandum issuers must explain how they developed their estimated risk adjustment revenue...,” and such revenue could be zero. This should be sufficient for these instructions, so a statement is only needed in the URRT instructions.

Item 6: Development of geographic area factor

We recommend that CCIIO specifically request information, via the instructions, on how geographic rating factors were developed to exclude the estimated impact of morbidity differences by geographic area. The following provides draft language that could be added to the first paragraph on page 20 of the actuarial memorandum instructions:

A detailed description of the development of the geographic rating factors *(including a description of how the methodology results in factors that reflect delivery cost differences only, or are otherwise adjusted for differences in population morbidity)* and a demonstration of how these factors are applied to the Plan Adjusted Index Rate is to be included in the Actuarial Memorandum. For example, if the weighted average of the geographic factors does not equal 1.0, the calibration adjustment that is applied should be included in the Actuarial Memorandum along with documentation of the calculation of the calibration adjustment. Note that the geographic calibration adjustment is not plan specific. In other words, the same geographic calibration would be applied to all plans in the projected single risk pool. If an issuer has multiple networks within a given rating area and wants to develop premiums specific for each network, the issuer must have a separate plan for each network with the rating area.

In addition, CCIIO may want to consider adding language to the certification section stating that geographic rating factors reflect only differences in the costs of delivery (which can include both unit cost and provider practice pattern differences) or are, otherwise, adjusted for differences in population morbidity by geographic area.

Item 7: Illustration of market-wide adjustments

The market-wide adjustments (i.e., reinsurance, risk adjustment, and exchange fee) are illustrated on different bases in the various forms/worksheets. In the actuarial memorandum, all three items are applied to the index rate (an allowed claims amount) to get to the market-adjusted index rate. In the URRT, both reinsurance and risk adjustment are applied on a paid basis as part of the incurred claims development, and the exchange fee is applied to premium proportionally as part of the taxes and fees administrative expense item. In the actuarial memorandum and URRT instructions, amounts are required to be developed as proportional adjustments (to premium).[2]

We suggest clarification on how these adjustments should be included on the URRT and in the market adjusted index rate. For the URRT, we recommend explicit clarification in the instructions that paid amounts should be entered regardless of how reinsurance and risk adjustment are built into the market adjusted index rate.

We also request clarification on the intended structure of the market-wide adjustments as included in the index rate. Our recommendation would be one of two approaches:

- The effect could be entered on an allowed basis (i.e., the paid amount from the URRT divided by the composite paid-to-allowed ratio), as the actuarial value and cost-sharing adjustment includes a value that will convert this amount to a paid basis.
- The effect could be entered as the proportional adjustment to premium, consistent with the language in the instructions regarding how the market-wide adjustments are to be built into rates.

The first approach has the advantage that the value on a PMPM basis illustrated aligns with the composite PMPM value as included in rates. The biggest drawback of this method is that the plan level adjustment factors likely do not composite to 1.0 (i.e., the composite plan-adjusted index rate is likely not equal to the composite of the market adjusted index rate due to the effect of composite actuarial value, benefits other than EHB, administrative expenses excluding the exchange fee, and an index rate that includes tobacco utilization effects but the plan-adjusted index rate does not). As such, the PMPM value would be adjusted unless some consideration is taken to preserve that PMPM value in the development of the plan-adjusted index rate.

The second approach has the advantage of directly reflecting the instructions that reinsurance and risk adjustment be included in rates as proportional adjustments to premium. This makes it simpler to demonstrate that the various components of the plan level adjustment factors do not further adjust the prescribed plan-level premium impacts of reinsurance, risk adjustment, and the exchange fee. The largest drawback of this method is that the PMPM impact on the index rate is not as obviously tied to the PMPM impact on premiums, although the prescribed proportional impact is clear.

[2] See the Health Insurance Market Rules; Rate Review final rule (Feb. 27, 2013): http://www.gpo.gov/fdsys/pkg/FR-2013-02-27/pdf/2013-04335.pdf

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We appreciate the opportunity to provide you with these comments and would be happy to discuss these comments with you further. If you have any questions, please contact Heather Jerbi, the Academy's assistant director of public policy, at 202.785.7869 or Jerbi@actuary.org.

Sincerely,

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American Academy of Actuaries