American Academy *of* Actuaries

January 3, 2014

Mr. Douglas Pennington
Director, Rate Review Division, Oversight Group
Center for Consumer Information and Insurance Oversight
7500 Security Boulevard
Baltimore, MD 21244

Dear Doug,

On behalf of the American Academy of Actuaries'[1] Rate Review Practice Note Work Group, I offer the following technical comments on the updated versions of the Unified Rate Review Template (URRT) and the actuarial memorandum instructions. This letter also includes comments on the proposed list of changes to URRT (version 2.0) for quarterly 2014 and annual 2015 filings (list of changes). If there are technical issues in the URRT that cannot be addressed for whatever reason, we would encourage CCIIO to provide specific instructions on how to work around those technical issues.

Unified Rate Review Template

- General—With the change in rules that allows states and issuers to continue current plans/products for members until Oct. 1, 2015, we recommend that a clear definition of these "transitional plans/products" be included in the introduction section of the instructions. It is important to be clear that these policies cannot be sold to new members; instead they can be renewed for existing members starting Jan. 1, 2014 through their renewal date of Oct. 1, 2015, which would allow some members to remain on these old policies through Sept. 30, 2016 (if that is the correct definition).

- General—If CCIIO plans to make URRT data or actuarial memoranda transparent to the public, we recommend CCIIO consider adding to the instructions the specific location at which this information will be posted. Because additional detail is being requested in the entire actuarial memorandum (tables with all factors listed by plan), we recommend considering the actuarial memorandum as proprietary and confidential.

- General—The qualified health plan (QHP) calculator's actuarial value (AV) often does not match up to the URRT AV, although it is not clear why this is the case. However, the URRT AV that is input is specifically developed and includes important actuarial adjustments. We would encourage CCIIO to consider relying on the URRT fields and eliminating the QHP

[1] The American Academy of Actuaries is a 17,500-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 qualifications, practice, and professionalism standards for actuaries in the United States.

AV functionality and duplication. The instructions to the URRT should include a note that any adjustments should be described in the actuarial memorandum.

- Page 2—The new instructions state that "The Part I Unified Rate Review template is required to be submitted by all issuers in the individual, small group and/or combined markets that are proposing a rate increase on any single risk pool compliant products (i.e., products that are subject to all ACA requirements.)" Please clarify whether "products that are subject to all ACA requirements" means that "transitional plans" are excluded from the Part I and Part III requirements. If this is the case, we recommend CCIIO also provide clear guidance on what rate filing documentation is required for transitional plans. We understand transitional plans would be required to use the previous preliminary justification forms for filing of rates greater than the threshold for rate review. We recommend including this in the introduction of the URRT instructions.

- Worksheets 1 and 2—We recommend including instructions that the experience of transitional policies be included in the experience sections of the URRT, similar to the 2014 rate filing which included older, non-metal, non-grandfathered plan experience.

- Pages 9-11, Worksheet 1, Section II—The population morbidity, other, cost, and utilization columns should be able to accept factors that are less than 1.0, since sometimes negative trends are expected. The updated instructions say to enter the value as 1.0 plus the adjustment. The list of changes states that the URRT functionality will allow a factor of less than 1.0 for those situations where the adjustment itself is negative, resulting in an adjustment factor of less than 1.0 (1.0 plus a negative number). We recommend CCIIO provide clarification on the allowance of a negative adjustment in the instructions.

- Worksheet 1, Cell T21—The number of months calculated in Cell T21 has an error in cases in which the experience period is three or more years prior to the rate effective date. It has been noted in the list of changes that this will be corrected. The list of changes also states that issuers should not be using experience that is three or more years prior to the rating period. We recommend stating in the instructions on page 5 whether older experience periods—other than 24 months prior to the projection period—can be used. If experience other than 24 months prior is not allowed to be used, we recommend CCIIO include specific instructions as to how to include prior experience (e.g., using the credibility section).

- We recommend CCIIO create instructions that allow $0 experience values for brand new issuers with no previous experience.

- Page 14, Worksheet 1, *Projected Risk Adjustments, PMPM*: The updated instructions say to "Enter the projected PMPM amount of net federal risk adjustment transfers (i.e., net effect of risk adjustment payments and charges)…" However, it is unclear whether this amount also should be net of risk-adjustment fees. We recommend that this amount not be net of risk-adjustment fees and that the risk-adjustment fee should be included in the *Taxes & Fees* section of the URRT. Clarification of treatment of the fees will help with consistency.

- Page 14, Worksheet 1, treatment of the reinsurance premium (assessment) for small groups—The proposed accounting treatment of the reinsurance premium (assessment) for small groups is as an administrative expense. However, proposed accounting treatment of reinsurance premium (assessment) for the individual market is as a negative premium. As such, we recommend that instructions on the treatment of reinsurance assessment reflect these differences in the input of reinsurance in the URRT.

  Therefore, we further recommend that for the small group market, no projected reinsurance recoveries net of reinsurance premium be input in the *Claims* section of Worksheet 1 and that instructions state that small group market reinsurance premium be included in the *Taxes & Fees* section of administrative expenses. However, the instructions requesting reinsurance recoveries net of premium for the individual market are sufficient. In situations in which a state requires a combined individual and small group market, the reinsurance premium should be split between the individual and small group markets. The reinsurance premium for the individual market would be netted out of the reinsurance recoveries, and the reinsurance premium for the small group market would be included in the *Taxes & Fees* section of the administrative expenses. We recommend clarifying this in the instructions. Note that if proposed accounting treatment changes, the instructions should change to match the new guidance. The updated instructions and the list of changes state that the reinsurance assessment should be included in the line "projected ACA reinsurance recoveries, net of premium," for the individual, small group, and combined markets. We believe that changing the instructions about the input would not require a technical change to the URRT.

  Regardless of the recommendations above, it makes sense to have all reinsurance premium (assessments) for both individual and small group included in *Taxes & Fees* since they are not claims. Therefore, we recommend changing the instructions and labeling of the reinsurance line to put the reinsurance premium (assessments) in the *Taxes & Fees* line. Worksheet 2 has instructions in Section II, *Components of Premium Increase*, that include the change in the reinsurance premium (assessments) in *Taxes & Fees*, which aligns with this recommendation. Also, Worksheet 2, Section III, *Net Amt of Rein* (page 31), seems to suggest that this amount is not net of reinsurance assessments (see comments below). However, Section IV of Worksheet 2, *Projected Experience* (page 36), states this amount should be net of reinsurance assessments. Having two sections of Worksheet 2 put the reinsurance premium (assessments) in *Taxes & Fees* and another put the premium (assessments) as an offset to claims could create confusion. Thus, we recommend including the reinsurance premium (assessments) in *Taxes & Fees* throughout the URRT, which would not require changing the functionality of the URRT, just the instructions and input.

- Page 15, Worksheet 1, Section III, *Profit & Risk Load*—We recommend that the instructions for *Profit & Risk Load* be clarified to indicate whether it means pre-tax profit (before federal income tax) or after-tax profit. If it means pre-tax profit, then we recommend that the instructions for *Taxes & Fees* be changed to exclude federal income tax. The current instructions include all taxes and fees that may be subtracted from premiums for purposes of calculating MLR, which would include federal income tax (except tax on investment income and capital gains). If *Profit & Risk Load* were to be on a pre-tax basis while federal income tax is included in *Taxes & Fees*, it would result in double counting of federal income tax in the calculation of the *Single Risk Pool Gross Premium Avg. Rate*, PMPM because both the *Profit & Risk Load* and *Taxes & Fees* are subtracted from the denominator. An illustrative example is as follows:

Projected Incurred Claims	80%
Administrative Expense Load	15%
Federal Income Tax (FIT)	1%
Taxes & Fees other than FIT	2%
Pre-tax Profit & Risk Load	3%
Post-tax Profit & Risk Load	2%

URRT	**Profit Pre-tax; Taxes & Fees exclude FIT**		**Profit Post-tax; Taxes & Fees include FIT**		**Profit Pre-tax; Taxes & Fees include FIT – double counting**	
Projected Incurred Claims		$240.00		$240.00		$240.00
Administrative Expense Load	15%	$45.00	15%	$45.00	15%	$45.57
Profit & Risk Load	3%	$9.00	2%	$6.00	3%	$9.11
Taxes & Fees	2%	$6.00	3%	$9.00	3%	$9.11
Single Risk Poll Gross Premium Avg. Rate, PMPM		$300.00		$300.00		$303.80

- Page 18, Worksheet 2, Section I—We recommend that the instructions state that “transitional” policies be grouped with or treated the same as closed, discontinued, or terminated policies for 2015 and later rate filings.

- Page 20, Worksheet 2, *AV Metal Value and AV Pricing Value*—For terminating products, a zero can be used for the metallic AV, and a near-zero value (e.g., 0.0000001) can be used for the AV pricing value. These entries should be consistent, and we would recommend CCIIO provide the appropriate entries within the instructions.

- Pages 24 and 25, Worksheet 2, *Components of Premium Increase*—Many issuers do not calculate "change" in premiums at the level asked for in Worksheet 2 (e.g., breakouts between inpatient, other, outpatient, and professional) since the medical parameters typically apply holistically and the data is evaluated on a consolidated basis. A breakout between pharmacy and medical is common but not always applicable. We recommend CCIIO consider instructions and entries that would allow issuers to enter the change in premium on the basis on which they actually calculate premiums.

- Page 25, Worksheet 2, *Components of Premium Increase*—Many issuers do not have an *Other* bucket (e.g., ambulance, etc.) or do not have an *Other* definition that matches up to the definition used in the URRT. The *Other* bucket is not material to the analysis, and many issuers had to additionally calculate that bucket without trend analysis at this level. We recommend CCIIO consider allowing issuers to enter $0 in the *Other* field and bucket those claims in a way that matches up to how their trend estimates are formulated.

- Page 31, Section III, *Experience Period Information, Net Amt of Rein*—As noted, this amount should reflect reinsurance recoveries and not be net of reinsurance premium (assessment), which is based on the language on page 31 as follows: "Enter the Federal Reinsurance amount received for each plan during the Experience Period…This value should be consistent with the federal reinsurance amount included in the Allowed Claims which are not the issuer's obligation." For time periods prior to 2014, the instructions state that this value should be zero. However, for 2016 rate filings, which will use experience from 2014, there could be values other than zero included here. On page 36, for Section IV, *Projected experience, Net Amt of Reinsurance*, the instructions state to input this value net of reinsurance assessments. This creates an inconsistency between Section III, *Experience Period Information*, and Section IV, *Projected Experience*, in Worksheet 2. As noted above, to simplify and create consistency, we recommend all reinsurance assessments/premiums be included in *Taxes & Fees* throughout the URRT. This would not require changing the technical functionality of the URRT; it only would require changing the instructions.

Actuarial Memorandum Instructions
The following comments are offered on the updated actuarial memorandum instructions.

- General—The term "transitional" is used in these instructions in two different ways: 1) referring to the "transitional reinsurance program" and 2) referring to the transitional plans allowed to be continued for members until Oct. 1, 2015. We recommend including in the *General Information* section of these instructions a definition of the term "transitional plans" with guidance on their use in the single risk pool for experience but not for rate filings. A similar recommendation was made above for the URRT instructions.

  Note that the term "non-transitional" is used on page 11, under *Single Risk Pool*, which also may need a definition. In addition, we recommend replacing the term "transitional" with the term "temporary" when discussing the "transitional reinsurance program," as the term "transitional" is not used in the instructions to the URRT. It also will help to decrease confusion with the other use of the term "transitional."

- Pages 3 and 4, *Reason for Rate Increase(s)*, Bullet 6 (Bullet 4 on the top of page 4)—The bullet states that "Anticipated changes in the average morbidity of the covered population that is market wide, as opposed to issuer morbidity that is reflected in the risk adjustment." We understand that it is important to project the expected market and state-wide morbidity level when developing rates due to the risk-adjustment program. However, this also assumes that the risk-adjustment program compensates fully for these differences, which may not be the case.

  We suggest the following changes to the language in this bullet: "Anticipated changes in the average morbidity of the covered population that is market wide, as opposed to issuer expected morbidity **~~that is reflected in the risk adjustment~~**." (emphasis added) We note that the information contained on Worksheet 1 of the URRT starts with issuer expected morbidity and includes a market-wide risk-adjustment value to get to an approximate value for the average market-wide morbidity of the total market covered population.

Thus, it would provide clarity if an additional sentence is included in this bullet, as follows: "Note that Worksheet 1 of the URRT includes projections of the expected issuer's morbidity and then includes an adjustment for risk adjustment transfers, which may be slightly different than the average morbidity of the covered population that is market wide should the risk adjustment transfers not fully compensate for the difference."

- Page 4, *Experience Period Premium and Claims*—There is no discussion of the experience period index rate on page 4; however, it is discussed on page 11, under *Index Rate*. We recommend adding a sentence in the *Experience Period Premium and Claims* section referring to the later section. It seems out of place not to discuss it in this section, considering the rest of the instructions related to the URRT discussion are structured in the same format and placement as the URRT.

- Page 4, Premiums (net of MLR rebate) in experience period—If the URRT instructions are changed to allow an experience period other than a calendar year 24 months prior to the projection period (e.g., two calendar years ending 24 months prior), we recommend that additional instructions be included to discuss how the rebate should be combined for the experience period. We recommend language such as, "the premiums reflected in the experience period should be adjusted premiums, net of any MLR rebate. Therefore, if the experience period is for other than a calendar year, use a prorated portion of the rebate for a partial calendar year of experience, and the full rebate for all years, if more than one calendar year is included in the experience period." If the URRT instructions clarify that the experience period must be the calendar year 24 months prior to the projection period, and that additional experience can be used in the credibility section, then no further clarification would be needed.

- Page 8, *Credibility Experience*—There is a reference to a 1996 CAS proceeding. We recommend adding a reference to the Academy Life Valuation Subcommittee's Credibility Practice Note (July 2008).[2]

- Pages 8 and 9, *Projected Risk Adjustments PMPM*—There is no mention of the amounts input in the URRT being net of risk-adjustment fees. As recommended above under the instructions, we suggest that the risk-adjustment fees not be included in the projected risk adjustment PMPM, but that they be included in the *Taxes & Fees*.

- Pages 9 and 10, *Projected ACA Reinsurance Recoveries Net of Premium*—On these pages and in the URRT instructions, we recommend changing the input of the small group reinsurance assessment from a decrease in claims to an increase in the "fees" portion of taxes

[2] http://actuary.org/files/publications/Practice_note_on_applying_credibility_theory_july2008.pdf

and fees. This is important in that the proposed accounting treatment of the individual reinsurance assessment is as negative revenue, but the proposed accounting treatment of the small group reinsurance assessment, since there are no recoveries related to it, is as an administrative expense. We recommend the instructions reflect this similar treatment and that, in a combined market, the reinsurance assessment be split and input as an offset to the recoveries for the individual portion of the market and as a portion of taxes and fees for the small group portion of the market. This would need to be explained in the actuarial memorandum. Note that if proposed accounting guidance changes, the instructions should also change to match any new guidance. Also note that this change would not require a technical correction to the URRT, merely a description of how to fill out the form.

However, if our recommendation to instead include the reinsurance premium (assessment) in *Taxes & Fees* for both individual and small group markets in both Worksheets 1 and 2 of the URRT is implemented, then the instructions will need to be changed.

In addition, the last sentence on page 9 states, "As only non-grandfathered policies in the individual market are eligible for payments under the transitional reinsurance program…" We recommend changing the language here to reflect that only the non-grandfathered metal products in the individual market are eligible for payments under the transitional reinsurance program.

- Page 10, *Taxes and Fees*—The instructions reflect that the URRT shows reinsurance recoveries net of reinsurance premium (reinsurance assessments). If changes are made as recommended above, the actuarial memorandum instructions will need to be changed, as well. Note, however, that the development of the base rates from the index rate would most likely reflect all taxes and fees in the administrative expense.

- Page 11, *Single Risk Pool*—In the second sentence, the word "livers" should be changed to "lives."

- Page 11, *Single Risk Pool*—In this section, the term "non-transitional" is used for the first time without a definition. We are concerned that the term "transitional" could be interpreted multiple ways. For example, it could be interpreted as a non-grandfathered product that the issuer plans to offer for only one year, or it could imply that transitional policies should not be considered as part of the single risk pool. These terms need to be defined, as recommended above.

  In addition, we understand that the transitional plans/products would be included in the experience section of the URRT; however, the single risk pool for the projected period of the new metal-defined products would not include the transitional policies, as these are not subject to all of the ACA requirements. We recommend changing the second sentence to read as follows: "The Single Risk Pool for the projected period reflects all covered lives for every non-grandfathered, non-transitional, metal product/plan combinations for plans subject to all of the ACA requirements for an issuer in a state and market."

- Page 12, last paragraph—This paragraph states, “It is anticipated that Issuers in the small group market will be able to file for quarterly Index Rate changes starting with the third quarter of 2014. While rate adjustments for the small group market may be filed on a quarterly basis…” Is this a new requirement for all state-based and federally facilitated-based SHOP exchanges and all products offered off the SHOP exchanges, which would limit rate changes to quarterly? If a state allows small group rates to change monthly, and an issuer sells QHPs both on and off exchange, would the QHP rates only be allowed to change rates quarterly? Would non-QHP rates be allowed to change monthly? It may depend on whether the QHP sold off exchange is also sold on exchange. We recommend clarification on this issue.

- Page 17, second complete paragraph before *Terminated Products*—When referencing membership projection for cost-sharing subsidies, the instructions should specify this is for the individual market only.

- New language and requirements in the updated actuarial memorandum instructions, starting with *Index Rate* (page 11) through *Plan Premium Rate Development* (through page 16)—We appreciate the need to develop plan premium rates from the index rate, as described in these pages. The description of calculating the market adjusted index rates from the index rate follows the market rating rules in 45 CFR Part 156. The updated instructions describe the development of the plan adjusted index rates, including the allowed adjustment factors, and then describe normalization factor and plan premium rate development (additional normalization factors).

  Applying the normalization factors described after the allowable plan adjustment factors creates a potential problem for calculating the base rates for two reasons:

  1) The adjustment for benefits in addition to the EHBs, which is an allowable plan adjustment, may not be included as a multiple of all other adjustments, but could be included as an addition of a flat dollar amount. In these cases, applying the normalization factors after the flat dollar added amount will result in an inappropriate adjustment for base rates that would have to be readjusted to account for the normalization.

  2) The administrative expense, which is an allowable plan adjustment, for some issuers may be other than a percent of revenue. Some issuers may wish to include fixed and variable expenses as different values (such as a flat PMPM and a percent of revenue). In these cases, applying the normalization factors after the administrative expense load again would result in an inappropriate adjustment that would have to be readjusted.

  To simplify the application and the narrative provided in the actuarial memorandum, we recommend placing the normalization factors before the allowed plan adjustment factors. The requirement that the normalization factors be the same for all plans, if placed before the plan adjustment factors, also would provide a market normalized index rate that could provide additional insight to reviewers when comparing among issuers.

Therefore, we recommend organizing the sections in the actuarial memorandum instructions as follows:

- Index rate
- Market adjusted index rate
- Normalization factors (we recommend combining into the *Normalization Factor* section all normalization factors, including: age, whether the plan coverage covers an individual or family, rating area, tobacco status, and the CSR (cost-share reduction) adjustment to remove potential CSR additional utilization) that would get to a market normalized index rate. Note that the CSR adjustment was not listed in the updated instructions.
- Plan adjusted premium rates, reflecting the allowable adjustment factors

Related to the CSR normalization factor, this was not included in the updated instructions. However, should an issuer project allowed claims costs (part of the index rate) based on assumed higher utilization due to benefit richness for members who receive a CSR, the additional allowed claims due to the projected higher utilization (if assumed) should be removed (normalized) when developing plan premium rates appropriate for the standard plan design. This CSR normalization can be performed using a single factor applied to all products and should be included in the normalization section.

- With respect to the normalization factor discussed on page 15 under *Plan Premium Rate Development*, first bullet, "whether the plan coverage covers an individual or family"—We recommend more description of this component. Is this normalization component to adjust for situations in which no premium is allowed to be charged for families with more than three dependents under the age of 21? Is this component to adjust for composite rating that is allowed for the small group market? Is this component to adjust for the mix of individual only policies compared to family sold policies? It would be helpful to describe the situations needing this kind of normalization in the instructions.

- Page 16, *AV Pricing Values*—The language in this paragraph has not been changed. The third sentence, "For each plan, indicate the portion of the AV Pricing Value that is attributable to each of the allowable modifiers…" is not needed anymore, since the instructions request a table with detail on every factor. In addition, the last sentence, "If the adjustment for plan cost-sharing includes any expected differences in utilization due to these differences in cost-sharing, describe in detail how the difference was estimated and how the methodology ensures that differences due to health status are not included in the adjustment," is best included in the description of the plan allowable adjustment factors.

Proposed List of Changes to URRT (Version 2.0) for Quarterly 2014 and Annual 2015 Filings

- Page 12 of the URRT instructions, *Credibility Manual*—The instructions state that "The credibility manual utilization per 1,000 and Average Cost/Service need only be populated if the experience period claims data is less than 100% credible for projecting future premium rates." Even if 100 percent is input as applied to the experience period claims, the URRT currently results in an error if you leave this section blank. Therefore, CCIIO should consider adding instructions on the 0 entries needed for the *Credibility* section, even when credibility on the manual is not used (in order to avoid errors). An alternative is to correct the URRT so that no error exists if the credibility percentage is 0 percent and the values in the *Credibility Manual* section are left blank.

- The URRT currently does not allow an input of $0 for experience information. This should be an allowed input for new issuers with no previous experience.

- Worksheet 2—We recommend CCIIO allow for the deletion and addition of columns, without the need to start from the beginning as product offerings change. We understand from the list of changes for the URRT that this change is unlikely to be made available in version 2.0 of the URRT.

- Worksheet 2, warning alert in Cell A95—This warning alert tests the values for reinsurance recoveries net of premium from Worksheet 1 to reinsurance recoveries not net of premium from Worksheet 2. If the values are outside of the 2 percent margin of error, an alert will occur. However, there may be situations in which this error could occur, given the fact that 2 very different values are being compared. We recommend that this cell not create an alert.

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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,

Audrey L. Halvorson, MAAA, FSA
Chairperson, Rate Review Practice Note Work Group
American Academy of Actuaries

Cc: Mr. Dennis Yu, Actuarial Branch Director, Oversight Group, CCIIO
Ms. Barbara Curtis