AMERICAN ACADEMY *of* ACTUARIES

January 24, 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 second draft of revisions to the Unified Rate Review Template (URRT) and the actuarial memorandum instructions. As we have noted before, 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 and Actuarial Memorandum Instructions

- Page 3, second bullet under *Allowable rating methods and factors*—Both sets of instructions state: "As a result, the Index Rate should be the same value for ALL non-grandfathered plans for an issuer in a state and market. This includes claims and enrollment in transitional products/plans in both the experience period and the projection period. Note that if an issuer opted to continue policies under the President's transitional memorandum, experience for these policies should be included in the issuer's 2013 experience for developing rates for the 2015 year. These plans will become part of the Single Risk Pool for 2015 and therefore should be included in the issuer's experience data. Appropriate adjustments should be made in Worksheet 1 – Section II of the Unified Rate Review Template to bring these policies in line with all requirements of non-grandfathered policies projected in the Single Risk Pool in 2015."

  In addition, on page 15 in the first paragraph, the actuarial memorandum instructions state: "For example, for transitional policies first issued on July 1, 2013 the experience of these policies should be included in projecting the January 1, 2015 Index Rate, and adjusted to reflect benefits, trend, market rules, etc. as if the policies were going to be renewed on January 1, 2015 with rates effective through December 31, 2015, despite the actual post-transition renewal not being scheduled to occur until July 1, 2015."

  We request clarification regarding the intent of these two paragraphs. When rating for 2014 plans, depending on state rules, many issuers likely included the experience of the non-ACA

[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.

compliant, non-grandfathered plans as “closed” for the projection period, since they would not be available for sale as of Jan. 1, 2014, even though the plans would still have members until the 2014 renewal date. Membership in the new ACA-compliant plans, when these members rolled over, would then be projected to be included in the new ACA plans, starting when they rolled over on their anniversary/renewal date. Because they were closed plans in 2014, the projected experience for these non-ACA compliant, non-grandfathered plans was not included in Worksheet 2 of the URRT in the *Projection Period* section. Furthermore, since they were not included in the projection on Worksheet 2, they also were not included in the projected values included in Worksheet 1.

This could be one interpretation of the language included on page 3 in both sets of instructions. However, the language on page 15 of the actuarial memorandum instructions suggests that the projection period include projected claims and membership for these non-ACA compliant transitional non-grandfathered plans as if they rolled over to ACA-compliant plans on Jan. 1, 2015, rather than on their actual renewal date.

We suggest including the non-ACA compliant transitional non-grandfathered plans for the index rate development in the 2013 experience (and the 2014 and 2015 experience in future URRT fillings). However, they should be reflected as “closed” plans for projecting ACA-compliant 2015 index rates at the point the membership rolls into the ACA-compliant plan (on their renewal), if the issuer closes these plans. Similarly, if the non-ACA compliant transitional non-grandfathered plans are adjusted to meet ACA requirements (rather than closing the plans), then experience for these plans for the projection period also would be at the point the members renew these plans as ACA-compliant plans. Therefore, the index rate for the projection period would reflect claims and member months for a partial year for these plans. The index rate would then be based on only the ACA-compliant projected experience for the time period during which these members are included in the single risk pool. Because the ACA-compliant plan adjusted index rates must be shown as adjusted from the projected index rate, we recommend this method for including the non-ACA compliant transitional (and non-transitional) non-grandfathered plan experience in the URRT.

As such, we recommend the following edits be made to the instructions on page 3 and page 15 to reflect the comments above:

Page 3 of both instructions (addition in bold): “… Appropriate adjustments should be made in Worksheet 1 – Section II of the Unified Rate Review Template to bring these policies in line with all requirements of non-grandfathered policies projected in the Single Risk Pool in 2015. **For example, in the projection period, include projected experience and membership at the point when these products become ACA-compliant (Jan. 1, 2015) and the membership renews to the ACA-compliant plan, or at the point when the members in these plans move to an ACA-compliant plan, if the plans are closed to new membership as of Jan. 1, 2015.**”

Page 15 of actuarial memorandum instructions (addition in bold): “… For example, for transitional policies first issued on July 1, 2013 the experience of these policies should be included in projecting the January 1, 2015 Index Rate, and adjusted to reflect benefits, trend, market rules, etc. as ~~if the policies were going to be renewed on January 1, 2015 with rates effective through December 31, 2015, despite the actual post-transition renewal not being scheduled to occur until July 1, 2015~~ **of the date at which members renew onto an ACA-compliant plan with rates effective through Dec. 31, 2015 (for individual or combined markets), in this example as of July 1, 2015.**

- Page 1, first paragraph—The URRT instructions state: "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."

  Page 1 (second paragraph) and page 6 (second paragraph) under *Effective Date* of the URRT instructions, and page 15 (second paragraph) of the actuarial memorandum instructions—The instructions state: "All issuers are required to file the Part I Unified Rate Review Template and Part III Actuarial Memorandum annually for an effective date of January 1 of each year."

  The rules require that the URRT be submitted when an issuer is proposing a rate increase on any single risk pool compliant product. However, we do not believe the rules require the submission of the URRT when rates are not changing or are decreasing. Therefore, we recommend adding the following phrase to the URRT (pages 1 and 6) and actuarial memorandum instructions (page 15) (additions in bold): "**When issuers are proposing a rate increase on any single risk pool compliant product, they** ~~All issuers~~ are required to file the Part I Unified Rate Review Template and Part III Actuarial memorandum ~~annually~~ for an effective date of January 1 of ~~each~~ **that** year."

- Page 3, last bullet point, second paragraph—Both sets of instructions state: "For each allowable rating factor (i.e. age, geography and tobacco) there is only one calibration allowed." In the actuarial memorandum instructions, the phrase "and family structure" was deleted. We understand that family structure is not a specific rating factor allowed; however, the rating rules require that three dependents under the age of 21 are allowed to be charged a premium, as noted on page 20 of the actuarial memorandum instructions. Therefore, the calibration needs to include a small upward adjustment to reflect the fact that no premium will be collected for some members. We recommend including "and family structure" in the parenthetical on page 3 of the URRT instructions and adding it back into the parenthetical on page 3 of the actuarial memorandum instructions. We also recommend that the last paragraph under the same bullet of both sets of instructions be revised to read: "The result of this calibration process should be that the Consumer Adjusted Premium Rate for a non-tobacco user of the average age of the projected single risk pool in a given region is equal to the Plan Adjusted Index Rate calibrated for **family structure,** geography and tobacco, multiplied by the geographic factor for the given region."

- General—The term "normalization" is a relatively common term in actuarial practice; however, this has been changed to "calibration" in the instructions. We recommend returning to the use of the term "normalization."

Part I Unified Rate Review Template (URRT) Instructions

- Page 29, *Worksheet 2, Section 2, Taxes & Fees*: With the addition of the changes in the risk adjustment and reinsurance payments and charges included in this cell, *Taxes and Fees*, it is very possible that negative values will result. We recommend changing the name of this from *Taxes & Fees* to *Taxes, Fees, & Risk Mitigation Payments and Charges*.

- Page 30, *Projected Member Months*, paragraph 3 states: "With the exception of terminated plans, the projected member months for a plan should not be zero or an unusually low number." Many issuers may have offered plans in 2014 that have very low membership. This could be due to the transition slowing the enrollment of members into the ACA-compliant plans or benefit design or pricing making plans less attractive. An issuer may choose to leave the plan open for 2015 because of guaranteed renewability concerns or other decisions. With non-ACA compliant transitional non-grandfathered plans rolling over on anniversary dates, it may be likely that member months in those plans could be low in 2015. We recommend changing the language as follows (addition in bold): "With the exception of terminated plans, **if the projected member months for a plan is zero or unusually low, please explain why this is expected in the Actuarial Memorandum**."

Actuarial Memorandum Instructions:

- Page 4, first full paragraph—The first sentence states: "The calibration to the age curve is allowed and is expected to be a value consistent with the factor associated with the average age on the standard age curve." We request clarifying this by changing it to (addition in bold): "The calibration to the age curve is allowed and is expected to be a value consistent with the **weighted average age factor on the standard age curve**."

  If issuers are required to calibrate to the age curve using the age factor assigned to the average age rather than the weighted average age factor, the resulting calculation would be mathematically incorrect. The premium rates using the average age methodology would result in insufficient or excessive premium levels.

  For example, if the plan adjusted index rate is $400 and 10 members are projected, then $4000 in revenue would be needed. The following example of 10 members at different ages illustrates that using the weighted average age factor would be an appropriate approach, resulting in revenue of $4000. Using the factor for the average age, however, would result in too much revenue.

Plan Adjusted Index Rate			$ 400			
Needed Premium for 10 Members			$ 4,000			
			Calibrated	Calib Rate (1) x Age	Calibrated	Calib Rate (2) x Age
Age	Members	Age Factor	Plan Rate (1)	Factor X # Members	Plan Rate (2)	Factor X # Members
25	2	1.004	$ 312.99	$ 628.48	$ 276.51	$ 555.23
35	3	1.222	$ 312.99	$ 1,147.42	$ 276.51	$ 1,013.69
45	3	1.444	$ 312.99	$ 1,355.87	$ 276.51	$ 1,197.84
55	2	2.230	$ 312.99	$ 1,395.93	$ 276.51	$ 1,233.24
Total	10			$ 4,527.70		$ 4,000.00
Weighted Average						
Age	40	1.278	= Age 40 factor from age curve			
Factor		1.4466	= weigthed average age factor			
Calibrated Plan Adjusted Rate						
(1) Using Factor for Average Age			$ 312.99	=400/1.278		
(2) Using Weighted Average Factor			$ 276.51	=400/1.4466		

This is also true on page 18, under *Age Curve Calibration*. In the first sentence and in the second paragraph, we recommend changing "average age" to "weighted average age factor." Since the federal age factor for a 21 year old is 1.00, calibrating the plan adjusted index rate using the weighted average age factor results in a plan adjusted index rate for a 21 year old. We recommend deleting the sentence "An example of a practice we have observed in past filings that will not be allowed is the practice of normalizing the Plan Adjusted Index Rate to age 21 on the standard curve using the issuer's specific age or claims cost distribution." The practice of normalizing the plan adjusted index rate to age 21 on the standard curve using the issuer's specific age distribution is necessary in order to develop rates that are not inadequate or excessive.

- Page 4, last paragraph—The instructions state: "Geographic rating areas are set specific to each state and all issuers in the state are required to follow them and may only set one rating factor per rating area per state per market and that factor is applied to all plans the issuer has in that rating area uniformly." For 2014 rating, an FAQ allowed for differing geographic rating factors for different networks. Costs may vary by network by geographic rating area. Different geographic factors by network have been used in the past, as allowed, to reflect these different costs on an actuarial basis. For this reason, we request continuation of the allowance for having different geographic factors for different networks.

- *Index Rate* (page 14) through *Consumer Adjusted Premium Rate Development* (page 20)—In our letter dated Jan. 3, 2014,[2] we proposed to CCIIO that the normalization factors (now called "calibration") should be applied after the allowable plan adjustment factors due to the

[2] http://actuary.org/files/Comments_to_CCIIO_on_URRT_and_Act_Memo_and_List_of_Technical_Corrections_010314_final.pdf

potential for an issuer to have a flat adjustment value for either benefits in addition to EHBs or for administrative expenses. This was not changed in the second draft of the instructions.

We note that on page 17 of the instructions, the first sentence under *Plan Adjusted Index Rates* states: “The Plan Adjusted Index Rates are included in Worksheet 2, Section IV of the Part I Unified Rate Review Template in 2015.” We have not seen the 2015 Unified Rate Review Template, but the one used for 2014 did not have a line labeled “Plan Adjusted Index Rate.” Does this refer to row 80 of the 2014 URRT, released April 16, 2013, in Worksheet 2, which is labeled “Average Rate PMPM?” If so, it may be valuable to include another step in the calculation of the consumer adjusted premium rates from the index rate that would match it to the URRT.

The index rate is in the URRT, however, and having the calibration occur after the plan adjusted index rate calculation would require another calibration factor not described in the instructions. This factor would account for the fact that having flat adjustments for benefits in excess of EHB and flat administrative expense assumptions for some plans would create values that would be subsidized by other plans.

For example, assume an issuer is offering three plans—a gold, a silver, and a bronze. The gold plan has a benefit in excess of EHBs worth $25 PMPM. Administrative expenses are modeled two different ways for all plans: 1) a flat 20 percent of premium, and 2) a flat 15 percent of premium plus a flat dollar amount of $20 added to cover fixed costs.

This example keeps all other items the same and illustrates the difference in the resulting consumer adjusted premium rate that occurs when 1) the calibration is performed after the allowed plan factors are applied, and 2) when the calibration is performed before the allowed plan factors.

The results with calibration performed after the plan adjustment factors, as proposed, are shown below.

Development of Plan-Specific Base Rates from Index Rate	Test Flat Dollar Amts on Proposed Methodology - Apply Plan Adj Factors before calibration					
	Admin as % of premium			Admin as % of Premium plus fixed dollar		
	=	20%		=	15%	$ 20.00
	Gold	**Silver**	**Bronze**	**Gold**	**Silver**	**Bronze**
Index Rate PMPM - Average 2014	$ 400.00	$ 400.00	$ 400.00	$ 400.00	$ 400.00	$ 400.00
Market-Wide Adjustments						
Federal Reinsurance Program Adjustment	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Risk Adjustment	-10.0%	-10.0%	-10.0%	-10.0%	-10.0%	-10.0%
Exhange User Fees	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%
Market-Wide Adjusted Index Rate	$ 369.00	$ 369.00	$ 369.00	$ 369.00	$ 369.00	$ 369.00
Plan Adjusted Index rate Adjustments						
Actuarial Value and Cost Sharing Adjustment	90%	80%	70%	90%	80%	70%
Network, delivery system and utilization mgmt	100%	100%	100%	100%	100%	100%
Benefits in addition to EHBs (additive)	$ 25.00	$ -	$ -	$ 25.00	$ -	$ -
Catastrophic Plan Adjustment	0%	0%	0%	0%	0%	0%
Distribution and Administrative Costs	20%	20%	20%	15% + $20	15% + $20	15% + $20
Plan Adjusted Index Rate	$ 446.38	$ 369.00	$ 322.88	$ 440.12	$ 367.29	$ 323.88
	$ 89.28					
Calibration Factors						
Normalization for Age (1.0 = Age XX)	0.85	0.85	0.85	0.85	0.85	0.85
Individual versus Family Adjustment	1.01	1.01	1.01	1.01	1.01	1.01
Rating Area Normalization	0.95	0.95	0.95	0.95	0.95	0.95
Tobacco Status Normalization	0.99	0.99	0.99	0.99	0.99	0.99
(missing CSR adjustment)						
Final Base Rates (Premium rates by plan)	$ 360.41	$ 297.94	$ 260.70	$ 355.36	$ 296.56	$ 261.51

In this example, the $25 additional cost for benefits in excess of EHB in the gold plan is multiplied by the calibration factors of 0.85, 1.01, 0.95 and 0.99. Therefore, instead of $25 being added to the claims cost, only $20.19 is added (25 x 0.85 x 1.01 x 0.95 x 0.99). In the example in which administrative expense has a flat fixed dollar value of $20 added, this also is multiplied by the calibration factors of 0.85, 1.01, 0.95 and 0.99, so only $16.15 is added.

In addition, because the flat amount for EHB is lowered by the normalization factors in this example, applying the flat percent of premium administrative expense assumption results in an administrative expense that is too low, in total by (25 – 20.19)/(1-0.2) = 6.02 PMPM. This can be seen in the first column in the table below, showing base premium rates developed using calibration before the plan adjustment factors.

Development of Plan-Specific Base Rates from Index Rate	**Apply Calibration before Plan Adjustment Factors**					
	Admin as % of premium			Admin as % of Premium plus fixed dollar		
	=	20%		=	15%	$ 20.00
	Gold	**Silver**	**Bronze**	**Gold**	**Silver**	**Bronze**
Index Rate PMPM - Average 2014	$ 400.00	$ 400.00	$ 400.00	$ 400.00	$ 400.00	$ 400.00
Market-Wide Adjustments						
Federal Reinsurance Program Adjustment	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Risk Adjustment	-10.0%	-10.0%	-10.0%	-10.0%	-10.0%	-10.0%
Exhange User Fees	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%
Market-Wide Adjusted Index Rate	$ 369.00	$ 369.00	$ 369.00	$ 369.00	$ 369.00	$ 369.00
Plan Adjusted Index rate Adjustments	Apply after normalization			Apply after normalization		
Actuarial Value and Cost Sharing Adjustment	90%	80%	70%	90%	80%	70%
Network, delivery system and utilization mgmt	100%	100%	100%	100%	100%	100%
Benefits in addition to EHBs (additive)	$ 25.00	$ -	$ -	$ 25.00	$ -	$ -
Catastrophic Plan Adjustment	0%	0%	0%	0%	0%	0%
Distribution and Administrative Costs	20%	20%	20%	15% + $20	15% + $20	15% + $20
Plan Adjusted Index Rate						
Calibration Factors						
Normalization for Age (1.0 = Age XX)	0.85	0.85	0.85	0.85	0.85	0.85
Individual versus Family Adjustment	1.01	1.01	1.01	1.01	1.01	1.01
Rating Area Normalization	0.95	0.95	0.95	0.95	0.95	0.95
Tobacco Status Normalization	0.99	0.99	0.99	0.99	0.99	0.99
(missing CSR adjustment)						
Final Base Rates (Premium rates by plan)						
Market Wide Calibrated Index Rate	$ 297.94	$ 297.94	$ 297.94	$ 297.94	$ 297.94	$ 297.94
Base Rates	$ 366.43	$ 297.94	$ 260.70	$ 364.88	$ 300.41	$ 265.36
Difference	$ 6.02	$ -	$ -	$ 9.52	$ 3.85	$ 3.85

The difference is exacerbated when a flat dollar administrative expense is included. Looking again at the gold product in the fourth column, the $9.52 PMPM difference in premium between the proposed methodology, which applies calibration after plan adjustments, and our recommended methodology, which applies calibration before plan adjustments, is composed of the following differences:

- EHB: ($25 less calibrated value of $20.19) divided by (1 less the admin % amount of 15%) = $5.66
- Admin: ($20 flat admin less calibrated value of 20 x 0.85 x 1.01 x 0.95 x 0.99) = $3.85
- Total: $9.52

Thus, by applying calibration after the plan adjustment factors, the flat dollar adjustment amounts are not reflected appropriately in the consumer adjusted premium rates due to the resulting cross subsidization of other plans.

However, it will be important that the issuer that has flat dollar values to add must determine the flat dollar amount based on the projected membership, such that when applying the allowable rating factors, the total amount collected meets the revenue requirement.

In addition, as can be seen in the table above, in the situation in which an issuer has a flat dollar amount added for one plan, but not other plans, the required normalization factor for the difference in the required premium would need to vary across plans (see the last three columns). In this situation, with the additional $25 for benefits in addition to EHBs only affecting the gold plan, by requiring a calibration for this plan that is the same across all plans would mean subsidization of the additional benefit cost across all other plans.

Therefore, we continue to recommend that the calibration be performed before the plan adjustment factors. This would allow issuers the flexibility to add flat dollar adjustments without having to use another calibration factor to account for the adjustments resulting in the proposed method, which applies the calibration after the plan adjustment factors.

- In our letter dated Jan. 3, 2014, we recommended that a cost sharing reduction (CSR) normalization factor be included in the instructions. The allowed claims costs in the index rate includes members projected to be in the CSR plan options. If an issuer projects that a CSR member will have higher utilization than a member in the same standard plan (e.g., due to benefit richness) this higher utilization needs to be removed from the index rate by use of a calibration factor. Otherwise, the standard consumer adjusted plan premium rate will be too high. The second draft of the actuarial memorandum instructions did not include this calibration adjustment, and we continue to recommend adding instructions related to this necessary calibration.

- The section on *Calibration* on pages 18-19 currently has subsections for *Age Curve Calibration*, *Geographic Factor Calibration*, and *Tobacco Calibration*. Consistent with our comment above on calibration, we recommend that a subsection relating to *Family Structure Calibration* be added.

- Consistent with our comment above on age calibration, we recommend that the *Age Calibration* subsection on page 18 be revised as follows (additions in bold):

  "Issuers must provide ~~the age associated~~ ~~**with**~~ **the weighted average age factor (weighted by projected enrollment) for th**e single risk pool in the actuarial memorandum.

  The plan adjusted index rate is expected to align with the premium rate derived from **this weighted average age factor**. We recognize that there may be variation between the plan adjusted index rate and the premium rate derived from the **weighted average age factor**; any variation must be explained and justified in the actuarial memorandum. Note that the standard age factors must be used, and not an issuer's own age factors developed from claims cost distribution by age. ~~An example of a practice we have observed in past filings that will not be allowed is the practice of normalizing the plan adjusted index rate to age 21 on the standard age curve using the issuer's specific age or claims cost distribution.~~

  A demonstration of how the age factors are applied to the plan adjusted index rate is to be included in the actuarial memorandum. For example, if the plan adjusted index rate does vary from premium rate derived from the ~~point on the standard age curve associated with the~~ weighted average age factor, the calibration adjustment applied should be included in the actuarial memorandum along with documentation of the calculation of the calibration adjustment. Note the age curve calibration adjustment is not plan specific; in other words, the same age curve calibration must be applied to all plans in the projected single risk pool."

- Page 19, *Tobacco Calibration*—The second paragraph states: "The issuer must provide the tobacco calibration that is applied to the projected single risk pool if one is necessary. For example, if the weighted average of the tobacco factors does not equal 1.0, a calibration adjustment may be required." Unless some factors are less than 1.0, the weighted average can only be 1.0 if all the tobacco factors are 1.0 (i.e., no tobacco rating). We recommend slightly different language to make this clearer, such as: "If the issuer uses tobacco factors, as allowed, the issuer must provide the tobacco calibration that is applied to the projected single risk pool."

- In our letter dated Jan. 3, 2014, we recommended a change to the language in the *AV Pricing Values* section, now on page 21. With the change in the requirements that each adjustment from index rate to consumer adjusted premium rate development be shown, it is not necessary to include, as stated on page 21: "For each plan, indicate the portion of the AV Pricing Value that is attributable to each of the allowable modifiers to the Index Rate." We recommend removing this sentence.

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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