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November 9, 2020

Randy Pate
Deputy Administrator and Director
Center for Consumer Information & Insurance Oversight
Centers for Medicare & Medicaid Services (CMS)
200 Independence Avenue SW, Room 739H-02
Washington, DC 20201

Dear Mr. Pate:

On behalf of the Individual and Small Group Markets Committee of the American Academy of Actuaries,[1] we would like to provide comments on the claims data updates finalized in the 2021 Actuarial Value (AV) Calculator for your consideration in preparing the draft 2022 AV Calculator.

Concerns Regarding AVs Across Metal Levels

The 2021 AV Calculator had a material impact on the AV for plan design at all metal levels, with the greatest impact being for bronze and gold plans. Importantly, the 2021 AV Calculator did not maintain the same relationships among metal levels that existed in prior years. In prior years, the AV Calculator used a standard population for all metal levels. As a result, for a given plan design, the AVs increased monotonically from bronze to platinum, reflecting only the effect of induced utilization. The 2021 AV Calculator, however, calculates inconsistent AVs across metal levels for a given plan design. These results, illustrated in Table 1, are counterintuitive.

It is important that a single standard population be used for all metal levels (and only adjust for induced utilization differences[2] for each metal level's continuance table), in particular to ensure morbidity differences are not reflected across the metal levels' AVs. It appears that CMS is reflecting morbidity differences in the continuance tables, or otherwise using inconsistent populations for the determination of actuarial values across different metal tiers.

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[1] The American Academy of Actuaries is a 19,500 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] Utilization differences for silver plans should be based on the standard silver plan benefit and not the actual utilization of silver plan enrollees, which will include individuals with cost-sharing reductions that raise their AVs to 87% and 94%.

Table 1. Actuarial Values Produced by the 2020 and 2021 AV Calculators, Select Plan Designs

Plan Option		Bronze	Silver	Gold	Platinum
$8,250 Deductible 100% Coinsurance $8,250 MOOP*	2020	59.07%	59.78%	59.96%	60.85%
	2021	61.94%	60.90%	63.82%	61.31%
$3,000 Deductible 80% Coinsurance $6,000 MOOP	2020	69.42%	70.35%	70.68%	71.55%
	2021	71.06%	70.87%	73.51%	71.50%
$1,500 Deductible 80% Coinsurance $5,000 MOOP $25 PCP/MH/SA copay** $35 SCP copay***	2020	78.96%	79.43%	79.50%	80.01%
	2021	79.74%	79.69%	81.44%	80.04%
$500 Deductible 90% Coinsurance $1,000 MOOP $2 / $5 / $25 / $100 pharmacy copays	2020	91.28%	91.79%	92.03%	92.35%
	2021	91.28%	91.69%	92.77%	92.06%

*MOOP—Maximum out-of-pocket

**PCP—Primary care physician/MH – Mental Health/SA – Substance abuse

***SCP—Specialty care physician

The metal levels are meant to indicate the relative richness of the cost-sharing designs to help consumers make their plan choice, so the AVs should be standardized to be measured on the same population so that only benefit richness is being measured, and not morbidity differences. The benefit richness measure is being distorted by the morbidity differences in the AV Calculator, which reduces the usefulness of the AV measure for consumers. In addition, the Patient Protection and Affordable Care Act (PPACA)[3] requires the use of a standard population and is referenced in Actuarial Standard of Practice (ASOP) No. 50.

The inclusion of morbidity in the continuance tables also is inconsistent with pricing requirements and risk adjustment assumptions. Issuers are required to price plans using a single risk pool, but they are not required to use the AVs produced by the AV Calculator in pricing. Instead, issuers are allowed to determine a pricing AV assuming a single risk pool. If the AV Calculator AVs reflect morbidity differences among the populations enrolled, there may be more differences between pricing AV and AV Calculator AV, which may lead to greater premium rate differentials within a metal level, less distinction of plans by richness of cost sharing design, and more consumer confusion. In addition, the risk adjustment formula assumes that issuers are pricing based on the metal level AVs. As noted above, issuers actually use a pricing AV to price plans, but this assumption will be more accurate if the metal level AVs do not reflect morbidity differences.

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[3] Sec. 1302(d)(2): Under regulations issued by the Secretary, the level of coverage of a plan shall be determined on the basis that the essential health benefits described in subsection (b) shall be provided to a standard population (and without regard to the population the plan may actually provide benefits to).

Another issue with the increase in bronze AVs is the difficulty in designing a bronze AV. The leanest possible PPACA-compliant plan design[4] produced by the 2021 AV Calculator has an actuarial value of 61.35%, only 0.65 percentage points below the current upper de minimis threshold of 62% for plans that do not satisfy the expanded bronze standard. Eventually it will likely be impossible to design a plan that has a bronze AV, resulting in no bronze plans available in the market. This is driven at least in part by the disconnect between the claims trends applied to the AV calculator and the use of the premium adjustment percentage (which reflects other factors and has been significantly lower than the aggregate claims trend used to update the AV Calculator in recent years).

Other Concerns Regarding the AV Calculator

We note that the discrete component continuance tables in the AV Calculator do not typically align with the composite claims in the cumulative table. For example, consider the silver combined continuance table. For claims capped at $2,000, the silver population spent $1,102.64 on average. Meanwhile, component costs for those members (the sum of all service-specific continuance tables) is only $593.93. The model's calculation logic makes an assumption that the total $1,102.64 is essentially allocated similarly to the component services underlying the $593.93. However, differences in service mix at the various utilization levels may potentially drive actuarial value differences in the standard population relative to that implied by the model.

Along this line, we appreciate that CMS has corrected longstanding issues in basic continuance table construction whereby the "Avg. Cost per Enrollee (Max'd)" and "Avg. Cost per Enrollee (Bucket)" were inconsistent in various metal tiers, as well as issues wherein the "Avg. Cost per Enrollee (Max'd)" occasionally would decrease as the cost threshold increased.

We would also like to note that the AV Calculator by default accumulates copays paid prior to the deductible toward the deductible, which is not standard practice for many health plans. While this can in theory be addressed through post hoc adjustments to the actuarial values in accordance with regulations and ASOP No. 50, it may be appropriate for CMS to consider updates to the calculator to permit a more standard insurer practice wherein copays do not accumulate toward the deductible, or to permit the user to select between the two methodologies.

Lastly, we also recommend that CMS work with the Department of Treasury to update the Minimum Value (MV) Calculator, which has never been updated, to reflect more current, large group data and to incorporate appropriate model changes that have been made to the AV Calculator. Going forward, the MV Calculator should be updated as often as the AV calculator and in a manner consistent with improvements that are made to the AV Calculator, including higher maximum out-of-pocket (MOOP) limits, fixes to underlying logic, and trend. As the current MV Calculator reflects 2014 plan year experience and plan limits, the calculator cannot accommodate many legal plan designs, and results are increasingly unlikely to provide an accurate representation of the generosity of plan designs in 2021 and beyond. Assuming 5% cost trend from 2014 through 2021, total cost levels for 2021 plans would be over 40% higher than suggested by the current MV Calculator. This increased level of costs means the current MV

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[4] Plan design with an $8,550 deductible and MOOP and 100% coinsurance.

Calculator will underestimate generosity of a given plan design when that plan design can even be entered into the calculator. Given the differences in the underlying population used for the MV Calculator and for the AV Calculator, actuaries working with large employers may increasingly be left without uniform usable federal guidance as to how to assess whether a given plan design complies with the minimum value requirement.

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We would welcome the opportunity to speak with you in more detail and answer any questions you have regarding these comments. If you have any questions or would like to discuss further, please contact Matthew Williams, the Academy's senior health policy analyst, at williams@actuary.org.

Sincerely,

Barbara Klever, MAAA, FSA
Chairperson
Individual and Small Group Markets Committee
American Academy of Actuaries

CC: Jeff Wu, Deputy Director for Policy, Center for Consumer Information & Insurance Oversight