Legislative Alert: Medical Loss Ratio

The Medical Loss Ratio (MLR) guidelines contained in the Health Care Reform bill may be the most concerning issue for agents and brokers at this time. In this alert, we will focus specifically on what MLR is, what the new rules are, and how it will impact both the brokers and their clients.

What is Medical Loss Ratio?
A medical loss ratio is the percentage of dollars paid out as benefits to policyholders in relation to the premiums collected for the policies.

Timeline
The new law requires that the National Association of Insurance Commissioners (NAIC), subject to the certification of the Department of Health and Human Services (HHS) secretary, provide guidance and establish uniform definitions and standardized methodologies for calculating these activities of health insurance carriers no later than December 31, 2010. While the law requires guidance by the end of the year, HHS Secretary Kathleen Sebelius has issued a letter urging the NAIC to provide this guidance earlier than the deadline to allow for a timely implementation of the new law.

Who’s in charge?
The new rules will be set by NAIC, a coalition of state insurance regulators.

Purpose of Reform
The purpose of this particular provision is to improve affordability and transparency of private health insurance in the United States. The law calls for annual state review of unreasonable increases in the health insurance premiums. In addition, the law requires that health insurers submit to the states and HHS a justification for any unreasonable premium increase prior to implementing the increase. According to Sebelius, the provisions are meant to protect consumers from unjustified and/or excessive premium increases

Some also contend that agent/broker fees and commissions add an unnecessary expense to the cost of health insurance. The minimum MLR is meant to restrict the percentage of premium dollars health insurers can spend on other “administrative” costs, including fees and commissions paid to the agent.

What’s in the bill?
The provisions in Section 1001 and 10101 of the Affordable Care Act require health insurers to submit data on the proportion of premium revenues spent on clinical services and quality improvement, also known as MLR. For individuals and small groups, the ratio is set at 80 percent medical to 20 percent administration. For larger groups the ratio is set at 85 percent medical to 15 percent administration. Insurers who do not meet this threshold will be required to pay rebates to their policyholders. Under certain conditions, states may increase small group or individual percentages, or HHS may decrease these threshold percentages.

Insurers will be required to report premium revenue that such coverage expends:

- On reimbursement for clinical services provided to enrollees under such plan or coverage
- For activities that improve health care quality

- On all other non-claims costs, including costs associated with compliance with the Patient Protection and Affordable Care Act (PPACA), with an explanation of the nature of such costs

Specifically carved out or excluded from premium ratios in the MLR standards are federal and state taxes and licensing or regulatory fees. The ratios must also account for insurance carrier payments or receipts for risk adjustment, risk corridors, and reinsurance.

Unresolved issues
While the NAIC is charged with writing the regulations for MLR, hopefully before the end of 2010, the issue at hand will be determining what will be considered a "medical expense" when it comes to the mandated MLR in the new law. To enforce the new health care spending requirement, the NAIC must now determine which costs should be classified as medical expenses and which will be considered administrative (i.e., payroll, advertising, overhead, agent commissions and fees and profits).

HHS has requested state insurance commissioners submit proposals for how expenditures should be classified. According to Kim Holland, Secretary of the NAIC, many states already have a minimum MLR and most take a "fairly conservative view" on what counts as health care; however the criteria can vary widely.

Impact on Brokers/Agents
The new laws specifically include health insurance agents and brokers as the marketing force and source of subsidy assistance for the purchase of private health insurance coverage both inside and outside the new exchanges. Agent and Broker commissions and compensation will continue to be established in the marketplace with state oversight – through negotiations between agents/brokers, insurance carriers, and those for whom they provide services, based on the particular services involved and the competitive environment. What is important to note is that the Government regulators will NOT set agent commissions and fees as was initially proposed when the Senate was considering the legislation.

In addition:

- Administrative costs for carriers in the form of underwriting, outreach and enrollment, claims processing and coverage continuation are likely to be reduced through efficiencies of the individual and employer coverage mandate requirements; new consumer protections on pre-existing conditions, rescissions and annual/lifetime limits; and more uniform standards of coverage. In general, insurance carriers should be able to operate with less administrative overhead than before, making it easier to meet the new MLR requirements.
- Professionally licensed agents, brokers and benefit specialists will still be in demand. With the implementation of health care reform and a host of new insurance and tax compliance issues for both individuals and employers, we believe agents will continue to play a critical role.

Remember… As a licensed health insurance agent, your role is not simply to sell your clients insurance but to be their advocate. You are there to help navigate and educate your clients through a complex industry with a wide variety of choices.

While some will continue to contend that agents add unnecessary expense to the system and that a government-run entity could easily substitute for the role and value of a professional benefit specialist, the record clearly indicates that government bureaucrats are ill-equipped to provide the personal service, timely objective information, guidance, and most importantly, accountability that professionally trained and licensed agents deliver on a daily basis!

Upcoming Webinar
BenefitMall will be hosting a one-hour Legislative Webinar on Friday, August 6, 2010 at 1:00 pm CST. View more details.

In order for you to conveniently share this information with your clients, please view the fillable document, Medical Loss Ratio Letter.

Please visit www.BenefitMall.com to view past Legislative Alerts in the "Newsroom" section. Or, you may visit www.HealthcareExchange.com for blog posts, polls, surveys and numerous resources. If you have any questions, please contact your local BenefitMall Sales Team and they will be happy to assist you. Thank you for taking the time to read through this important notification.

Sincerely,

Michael Gomes
Executive Vice President

www.benefitmall.com