



COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

1000 Washington Street, Suite 810 • Boston, MA 02118-6200
(617) 521-7794 • FAX (617) 521-7758
<http://www.mass.gov/doi>

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

GREGORY BIALECKI
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

BARBARA ANTHONY
UNDERSECRETARY OF CONSUMER AFFAIRS
AND BUSINESS REGULATION

JOSEPH G. MURPHY
COMMISSIONER OF INSURANCE

BULLETIN 2013-05

TO: Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts, Inc. and Health Maintenance Organizations Issuing or Renewing Insured Health Products in the Merged Market in Massachusetts

FROM: Joseph G. Murphy, Commissioner of Insurance

DATE: May 7, 2013

RE: Transition Period Rating Rules

Background

The Division of Insurance (“Division”) issues this Bulletin to facilitate an orderly application of certain rules for permissible rating factors and rating periods in the individual/small group health insurance market (“merged market”) with the implementation of final “Health Insurance Market Rules - Rate Review,” as published in the Federal Register on February 27, 2013, in order to implement features of the federal Patient Protection and Accountable Care Act (“ACA”) and Section 2701 of the Public Health Services Act.

On April 5, 2013, the federal Center for Consumer Information and Insurance Oversight (“CCIIO”) granted Massachusetts permission to continue the use of certain state rating factor adjustments during a January 1, 2014 through December 31, 2015 transition period (“Transition Period”). CCIIO staff also has provided further clarifications to the Division regarding the implementation of certain federal calendar year rating and coverage requirements in the merged market during the Transition Period.

Commercial health insurers, Blue Cross and Blue Shield of Massachusetts, Inc. and Health Maintenance Organizations issuing or renewing insured health products in the merged market (“Carriers”) are expected to follow the rules identified in this Bulletin when submitting rate filings no later than July 1, 2013 for rates intended to be effective on and after January 1, 2014.

Use of Rating Factors During Transition Period

CCIIO has identified that there will be a “transition period in Massachusetts for the elimination of current state rating factors (i.e., account group size, industry, participation rate, and allowing the use of intermediary and small group purchasing cooperative factors) that are otherwise disallowed under the Affordable Care Act:

- For policy years beginning on or after January 1, 2014 but before January 1, 2015, issuers may use 2/3 of the disallowed factors;
- For policy years beginning on or after January 1, 2015 but before January 1, 2016, issuers may use 1/3 of the disallowed factors;
- For policy years beginning on or after January 1, 2016, issuers must be in full compliance with the rating rules under Public Health Services Act section 2701.”¹

When submitting filings for rates to be effective during the Transition Period, Carriers shall comply with the following:

- (1) For rates effective beginning January 1, 2014, a Carrier may utilize and apply the rate adjustment factors set forth below in paragraphs (i), (ii), (iii), (iv) and (v) inclusive:
 - (i) The Commissioner of Insurance (“Commissioner”) shall annually file with the federal department of health and human services to establish a standard age rate adjustment factor table so that the ratio of the highest factor for adults over age 20 compared to the lowest factor for adults over age 20 shall not exceed a ratio of two-to-one. A Carrier that elects to apply age rate adjustment factors must apply them based upon the covered person’s age when the rating period begins.
 - (ii) The Commissioner shall annually file with the federal department of health and human services to establish not more than 7 distinct regions of the state for the purposes of area rate adjustments. A Carrier may establish an area rate adjustment for each distinct region, the value of which shall range from eight-tenths to one and two-tenths. If a Carrier chooses to apply area rate adjustments, every eligible small group and every eligible individual within each area shall be subject to the applicable area rate adjustment.
 - (iii) A Carrier shall establish the total premium for family coverage by summing the premiums for each individual family member. With respect to family members under the age of 21, the premiums for no more than the three oldest covered children shall be taken into account in determining the total family premium.
 - (iv) The Commissioner shall annually file with the federal department of health and human services to establish a standard tobacco use factor. A Carrier may apply a

¹ See April 5, 2013 letter from Gary M. Cohen, Deputy Administrator and Director, CCIIO to Commissioner Joseph Murphy, Massachusetts Division of Insurance.

tobacco use rate factor in a manner permitted under state and federal law that applies to both eligible individuals and eligible small groups provided that the Carrier uses a certification of tobacco use process that has been approved by the Commissioner to determine that eligible individuals and their eligible dependents or eligible small group employees and their eligible dependents have not used tobacco products within the past six months.

- (v) A Carrier shall establish a benefit level rate adjustment for all eligible individuals and eligible small groups that shall be expressed as a number. The adjustment shall represent the actuarial value and cost-sharing structure of the benefit plan, its provider network, delivery system characteristics, utilization management practices and plan benefits, and with respect to catastrophic plans, the expected impact of specific eligibility categories for those plans. If a Carrier chooses to establish benefit level rate adjustments, every eligible individual and every eligible small group shall be subject to the applicable benefit level rate adjustment.
- (2) For rates effective beginning January 1, 2014, Carriers shall not be subject to the provisions of Section 66 of Chapter 288 of the Acts of 2010, as amended by Section 234 of Chapter 224 of the Acts of 2012.
- (3) For rates effective during the period between January 1, 2014 and December 31, 2014, a Carrier may utilize and apply the rate adjustment factors set forth below in paragraphs (i), (ii), (iii), (iv) and (v) inclusive, in addition to those rate adjustment factors set forth above in paragraph (1)(i) through (v) inclusive:
 - (i) A Carrier may apply an industry rate adjustment factor in developing premiums for 2014. If a Carrier chooses to apply industry rate adjustment factors in the development of premiums for coverage that is issued or renewed in the period between January 1, 2014 and December 31, 2014, the Carrier may only apply a factor equal to sixty-seven hundredths of the variation from the midpoint of the range of industry rate adjustment factors that the Carrier had in effect as of July 1, 2013. If the Carrier applies an industry rate adjustment to eligible individuals, the industry rate adjustment applicable to an eligible individual shall be based on the industry of the eligible individual's primary employer and shall be the same adjustment applied to eligible small groups in the same industry. If a Carrier chooses to apply industry rate adjustments, every eligible individual and eligible small group shall be subject to the applicable industry rate adjustment factor.
 - (ii) A Carrier may apply a participation-rate rate adjustment factor in developing premiums for 2014. If a Carrier chooses to apply participation-rate rate adjustment factors in the development of premiums for coverage that is issued or renewed in the period between January 1, 2014 and December 31, 2014, the Carrier may only apply a factor equal to sixty-seven hundredths of the variation from the participation-rate rate adjustment factor that at the Carrier had in effect

as of July 1, 2013 and the value of 1.00. The participation-rate rate adjustments must be based upon actuarially sound analysis of the differences in the experience of groups with different participation rates. If a Carrier chooses to apply participation-rate rate adjustments, every eligible small group shall be subject to the applicable participation-rate rate adjustment factor. If an eligible small employer does not meet a Carrier's minimum participation or contribution requirements, the Carrier may separately rate each employee as an eligible individual.

- (iii) A Carrier may apply a group size rate adjustment factor in developing premiums for 2014. If a Carrier chooses to apply group size rate adjustment factors in the development of premiums for coverage that is issued or renewed in the period between January 1, 2014 and December 31, 2014, the Carrier may only apply a factor equal to sixty-seven hundredths of the variation from the midpoint of the range of group size rate adjustment factors that that the Carrier had in effect as of July 1, 2013. If a Carrier chooses to apply group size rate adjustments, every eligible individual and eligible small group shall be subject to the applicable group size rate adjustment factor.
 - (iv) A Carrier may apply an intermediary rate adjustment factor in developing premiums for 2014. If a Carrier chooses to apply intermediary rate adjustment factors in the development of premiums for coverage that is issued or renewed in the period between January 1, 2014 and December 31, 2014, the Carrier may only apply a factor equal to sixty-seven hundredths of the variation from the intermediary rate adjustment factor that the Carrier had in effect as of July 1, 2013 and the value of 1.00.
 - (v) A Carrier may apply a group purchasing cooperative rate adjustment factor in developing premiums for 2014. If a Carrier chooses to apply group purchasing cooperative rate adjustment factors in the development of premiums for coverage that is issued or renewed in the period between January 1, 2014 and December 31, 2014, the Carrier may only apply a factor equal to sixty-seven hundredths of the variation from the group purchasing cooperative rate adjustment factor that that the Carrier had in effect as of July 1, 2013 and the value of 1.00.
- (4) The total allowable rate adjustment that a Carrier may make with respect to an eligible individual or eligible small group for premiums calculated for the period between January 1, 2014 and December 31, 2014, shall be limited to the product of the total calculated rate adjustment amounts allowed under paragraphs (1) and (3), above.
- (5) For rates effective during the period between January 1, 2015 and December 31, 2015, a Carrier may utilize and apply the rate adjustment factors set forth below in paragraphs (i), (ii), (iii), (iv) and (v) inclusive, in addition to those rate adjustment factors set forth above in paragraph (1)(i) through (v) inclusive.

- (i) A Carrier may apply an industry rate adjustment factor in developing premiums for 2015. If a Carrier chooses to apply industry rate adjustment factors in the development of premiums for coverage that is issued or renewed in the period between January 1, 2015 and December 31, 2015, the Carrier may only apply a factor equal to thirty-three hundredths of the variation from the midpoint of the range of industry rate adjustment factors that the Carrier had in effect as of July 1, 2013. If the Carrier applies an industry rate adjustment to eligible individuals, the industry rate adjustment applicable to an eligible individual shall be based on the industry of the eligible individual's primary employer and shall be the same adjustment applied to eligible small groups in the same industry. If a Carrier chooses to apply industry rate adjustments, every eligible individual and eligible small group shall be subject to the applicable industry rate adjustment factor.
- (ii) A Carrier may apply a participation-rate rate adjustment factor in developing premiums for 2015. If a Carrier chooses to apply participation-rate rate adjustment factors in the development of premiums for coverage that is issued or renewed in the period between January 1, 2015 and December 31, 2015, the Carrier may only apply a factor equal to thirty-three hundredths of the variation from the participation-rate rate adjustment factor that the Carrier had in effect as of July 1, 2013 and the value of 1.00. The participation-rate rate adjustments must be based upon actuarially sound analysis of the differences in the experience of groups with different participation rates. If a Carrier chooses to apply participation-rate rate adjustments, every eligible small group shall be subject to the applicable participation-rate rate adjustment factor. If an eligible small employer does not meet a Carrier's minimum participation or contribution requirements, the Carrier may separately rate each employee as an eligible individual.
- (iii) A Carrier may apply a group size rate adjustment factor in developing premiums for 2015. If a Carrier chooses to apply group size rate adjustment factors in the development of premiums for coverage that is issued or renewed in the period between January 1, 2015 and December 31, 2015, the Carrier may only apply a factor equal to thirty-three hundredths of the variation from the midpoint of the range of group size rate adjustment factors that the Carrier had in effect as of July 1, 2013. If a Carrier chooses to apply group size rate adjustments, every eligible individual and eligible small group shall be subject to the applicable group size rate adjustment factor.
- (iv) A Carrier may apply an intermediary rate adjustment factor in developing premiums for 2015. If a Carrier chooses to apply intermediary rate adjustment factors in the development of premiums for coverage that is issued or renewed in the period between January 1, 2015 and December 31, 2015, the Carrier may only apply a factor equal to thirty-three hundredths of the variation from the intermediary rate adjustment factor that that the Carrier had in effect as of July 1, 2013 and the value of 1.00.

- (v) A Carrier may apply a group purchasing cooperative rate adjustment factor in developing premiums for 2015. If a Carrier chooses to apply group purchasing cooperative rate adjustment factors in the development of premiums for coverage that is issued or renewed in the period between January 1, 2015 and December 31, 2015, the Carrier may only apply a factor equal to thirty-three hundredths of the variation from the group purchasing cooperative rate adjustment factor that the Carrier had in effect as of July 1, 2013 and the value of 1.00.
- (6) The total allowable rate adjustment that a Carrier may make with respect to an eligible individual or eligible small group for premiums calculated for the period between January 1, 2015 and December 31, 2015, shall be limited to the product of the total calculated rate adjustment amounts allowed under paragraphs (1) and (5), above.

Calendar Year Rating and Coverage Requirements

The final "Health Insurance Market Rule - Rate Review" provides that Carriers in individual or combined markets (in states that have merged the individual and small group markets) set their index rates and plan-specific pricing once per year, upon filing their rates with the state insurance department. As such, individual coverage shall be issued and renewed beginning January 1 each year, based on rates that are filed for the entire calendar year.

In states with merged markets, like Massachusetts, however, CCIIO has indicated that small employers will *not* be required to issue or renew coverage only on January 1 and, instead, may purchase or renew coverage throughout the calendar year. CCIIO further has clarified that, during the Transition Period, calendar year rating will *not* be required for small employers. Once the Transition Period ends on December 31, 2015, however, Carriers will be required to develop calendar year rates for small employer coverage.

In developing base premium rates during the Transition Period, with respect to the group base premium rate developed for eligible individuals and eligible small groups, a Carrier must consider all enrollees in those health plans (other than grandfathered health plans) offered by such Carrier to be members of a merged individual and small group risk pool, provided as follows:

- (1) For the period between January 1, 2014 and December 31, 2015:
 - (i) The group base premium for eligible individuals shall be developed so that it will be the same for all eligible individuals enrolling or renewing coverage in the same calendar year and shall be submitted as part of a rate filing once for each calendar year;
 - (ii) The group base premium for eligible small employers may be developed so that the group base premium will vary by enrollment or renewal month and shall be filed as part of a rate filing for each calendar quarter; and

- (iii) The group base premium for eligible individuals and eligible small employers shall be developed from the combined experience of the eligible individuals and eligible small employers covered by the Carrier.
- (2) For the period following December 31, 2015, the group base premium for eligible individuals and eligible small employers shall be developed so that it will be the same for all eligible individuals or small employers enrolling or renewing in the same calendar year.
- (3) In calculating the premium to be charged to each eligible individual or eligible small group, a Carrier shall develop a base premium rate and use only those rate adjustment factors identified in this Bulletin, inclusive, for all insured health benefit plans offered to eligible individuals and eligible small groups, respectively, with all other rating adjustments being prohibited.
- (4) If an eligible small group does not meet a Carrier's minimum participation or contribution requirements, the Carrier may separately rate each employee as an eligible individual, as set forth in paragraph (1) above, or inform the small group that it may only enroll during the special open enrollment period held once per year.
- (5) Carriers shall apply the same rating factors when calculating premiums for eligible individuals as are used when calculating premiums for eligible small groups.
- (6) Notwithstanding the provisions of in paragraphs (1) through (5) above, all Carriers offering any coverage to any eligible individual or eligible small group is required to make that coverage available to every other eligible individual and eligible small group.

If you have any questions about this Bulletin, please contact Kevin P. Beagan, Deputy Commissioner of the Health Care Access Bureau at (617) 521-7323 or kevin.beagan@state.ma.us or Nancy Schwartz, Director of the Bureau of Managed Care at (617) 521-7347 or nancy.schwartz@state.ma.us.