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June 29, 2011

Ms. Therese Goldsmith
Commissioner
Maryland Insurance Administration
200 St. Paul Place
Suite 2700
Baltimore, MD 21202

Subject:

Addendum to Report Issued May 18, 2011 Titled "Recommendations to the Commissioner to Enhance Regulatory Review and Oversight"

Dear Commissioner Goldsmith:

As you know, our work underlying the above captioned report issued May 18, 2011 was based on draft regulations released by the US Department of Health and Human Services (HHS) on December 21, 2010, titled "Rate Increase Disclosure and Review." Since the time our report was issued HHS published final regulations. These final regulations differ slightly from the draft regulations and, as a result, impact some of the recommendations documented in our report. We are providing you with this addendum that identifies these changes and any errata that have been identified in the original report.

1. The final regulations include additional criteria that a state's rate review program must "provide access on a State website to Parts I and II of the Preliminary Justifications for those proposed rate increases that meet or exceed the threshold" and "have a mechanism for receiving public comments on those proposed rate increases" in order to be considered an effective rate review program. Therefore, we recommend the Administration implement the necessary changes to its website to provide access to Parts I and II of the Preliminary justification and put in place a mechanism for receiving public comment.
2. The effective date of the final rule, and the date by which states must demonstrate that they have an effective rate review program in place, has been revised from July 1, 2011 to September 1, 2011. We recommend the Administration make the changes necessary to have an effective rate review program by September 1, 2011.

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3. We would like to revise our recommendation that the Administration perform a review of RBC levels for all individual and small group rate filings to a recommendation that the Administration perform a review of capital and surplus levels for all individual and small group rate filings, where applicable, to be consistent with the final HHS regulations.
4. Our report references that HHS will publish state-specific thresholds each September 15, and rate filings where the average increase requested for a given product offering is above the threshold will be deemed "subject to review." We note that the final regulations revise the September 15 date to July 1.
5. Draft regulations indicated that one of the criteria that must be met in order to have an effective rate review program is that a State must "have the legal authority to obtain data and documentation from health insurers to conduct an effective examination and determine whether a rate increase is reasonable." The final regulations modify this requirement to read "the State receives from issuers data and documentation in connection with rate increases that are sufficient to conduct the examination described in paragraph (a)(3)." This does not impact our recommendations since we were already recommending that the Administration conduct an examination described in the referenced paragraph (a)(3), however we note this change between the draft and final regulations for completeness.
6. Final regulations clarify that states "must take into consideration the following factors to the extent applicable to the filing under review" and that they will "have flexibility to use their expert judgment in evaluating the relevance of the different factors in the context of a particular rate filing" when referring to the twelve items that must be reviewed under an effective rate review program. Therefore we would like to revise our recommendation that the Administration review each of these twelve items for each filing deemed "subject to review" to instead recommend the Administration review each of these twelve items for each filing deemed "subject to review" to the extent that each item is applicable to the filing.

In addition we have one correction that we would like to make to the report. On page 66, the last sentence of the first paragraph that reads "The main disadvantage of a rolling 12-month methodology is that it is slightly more complex" should read "The main disadvantage of a regression methodology is that it is slightly more complex."

Sincerely,



Tammy Tomczyk, FSA, MAAA