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Bulletin 185

MEDICAL LOSS RATIO REQUIREMENTS IN THE SMALL GROUP MARKET

This Bulletin is directed to all insurers writing group policies of accident and sickness insurance, as defined by IC 27-8-5-1, and all health maintenance organizations, as defined by IC 27-13-1-19 (collectively, Health Insurers). The Affordable Care Act (ACA) added new section 2718 to the Public Health Service Act (PHSA) requiring health insurance issuers offering coverage in the small group market to provide an annual rebate to each enrollee under such coverage if the ratio of the amount of premium revenue expended by the issuer on costs attributable to reimbursement for clinical services provided to enrollees for such coverage and activities that improve health care quality to the total amount of premium revenue (with certain exclusions) for the plan year (the "Medical Loss Ratio") is less than 80 percent, or such higher percentage as a state determines by regulation. The ACA medical loss ratio rules apply as of the first plan or policy year on or after January 1, 2011. This Bulletin is intended to provide guidelines for implementing these new medical loss ratio requirements in the small group market in Indiana.

Section 1304 of the ACA defines the term "small group market" to mean the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) through a group health plan maintained by a "small employer." However, ACA and Indiana law contain differing definitions of the term "small employer." Under Section 1304 of the ACA, the term "small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 1 but not more than 100 employees on business days during the preceding calendar year and who employs at least 1 employee on the first day of the plan year. IC 27-8-15-14 defines "small employer" to mean any person, firm, corporation, limited liability company, partnership, or association actively engaged in business who, on at least 50 percent of the working days of the employer during the preceding calendar year, employed at least 2 but not more than 50 eligible employees, the majority of whom work in Indiana. In the case of plan years beginning before January 1, 2016, ACA allows a state to elect to define a small employer for purposes of Medical Loss Ratio rebates by substituting "50 employees" for "100 employees."

Notwithstanding the definition of small employer in Indiana law, the Department is electing not to substitute "50 employees" for "100 employees." Accordingly, for purposes of applying the minimum loss ratio and premium rebate requirements of Section 2718 of the PHSA, a "small employer" in Indiana means an employer who employed on average at least one but not more than 100 employees on business days during the preceding calendar year and who employs at least 1 employee on the first day of the plan year.

In addition, the Department will not apply a higher percentage medical loss ratio requirement with respect to the small group market for purposes of Section 2718 of the PHSA. As a result, the premium rebate requirements of Section 2718 of the PHSA will apply to the

small group market in Indiana if the medical loss ratio of a Health Insurer in the small group market is less than 80%.

Questions regarding this Bulletin should be addressed to Logan P. Harrison, Deputy Commissioner for Health Compliance, who can be reached at (317) 234-7734 or lharrison@idoi.IN.gov. Answers to questions concerning the federal law can also be found at *https://www.cms.gov/marketplace/private- healt h-insurance/medical-loss-ratio or http://www.in.gov/aca*.

INDIANA DEPARTMENT OF INSURANCE

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