DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C2-21-15
Baltimore, Maryland 21244-1850

February 8, 2011

By Email and Regular Mail

David Sky
Life, Accident and Health Actuary
New Hampshire Insurance Department
21 South Fruit Street, Suite 14
Concord, NH 03301

Re: New Hampshire Request for Adjustment to Medical Loss Ratio Standard

Dear Mr. Sky:

On February 8, 2011, the Office of Consumer Information and Insurance Oversight (OCIIO) emailed you a letter regarding information the State of New Hampshire must submit in order to complete its application for an adjustment to the medical loss ratio ("MLR") standard for its individual health insurance market. Although New Hampshire has not yet finalized its application, OCIIO has, in the interest of expediting the process, performed a preliminary review of the information New Hampshire has already submitted.

Based upon that review, we have some follow-up questions regarding the information New Hampshire already submitted on January 12, 2011. These questions are distinct from the information that our separate February 8 letter indicates New Hampshire must submit before its application is deemed complete. Application completeness, and hence commencement of OCIIO's 30-day application processing period, will not be impacted by the timing of New Hampshire's response to the follow-up questions listed below. Nevertheless, prompt responses to the questions in this letter will greatly assist the Secretary in making a prompt determination as to whether to grant New Hampshire's request for an adjustment to the MLR standard. We would consequently appreciate receiving New Hampshire's responses within seven (7) calendar days from the date of this letter. The responses should be submitted to MLRAdjustments@hhs.gov. Please understand that, after receiving New Hampshire's complete application, we may have some additional questions.

Please provide the following information:

1. Title 45 CFR §158.343 provides that any State that submits a request for adjustment to the MLR standard may hold a public hearing with respect to its application. Please indicate whether the Insurance Department has provided a forum for public input regarding New Hampshire's application for an adjustment to the MLR standard. If there has been public input, please provide copies of the correspondence, comments or other input the Insurance Department has received in connection with its request for an adjustment to the MLR standard.

2. Please provide any analysis the Insurance Department has done regarding the ability of issuers to meet an 80 percent MLR standard or provide rebates to enrollees.

3. On page 2 of the application cover letter, the Department requests that issuers in the individual market be allowed to meet a 70 percent MLR for years 2011, 2012, and 2013. Did the Department consider requesting an adjustment that would incrementally phase in the 80 percent MLR standard, rather than providing a single year transition to the statutorily-required 80 percent standard?

4. On the last page of the Template, New Hampshire indicates that Chesapeake's reported MLR pursuant to State law is 39 percent. OCIIO analysis of NAIC data filed by Chesapeake in New Hampshire suggests a reported MLR pursuant to State law of over 50 percent. Please confirm the accuracy of the Chesapeake MLR data listed in New Hampshire's application.

5. Page 1 of the Template submitted by New Hampshire indicates that New Hampshire's current MLR standard for the individual market is 65 percent, while the last page of the Template indicates that Chesapeake's reported MLR pursuant to State law is 39 percent. Please indicate whether Chesapeake is in compliance with New Hampshire's current MLR standard and describe what discussions, if any, the Department has had with Chesapeake regarding Chesapeake's MLR. If Chesapeake is noncompliant with the New Hampshire standard, please describe what, if any, penalties or remedies the Department has levied on or required of Chesapeake. Please also describe the Department's understanding as to why Chesapeake's MLR is so low.

6. The last page of the Template provides estimated MLRs for the individual market, as determined in accordance with 45 CFR §158.221, for issuers with at least 1,000 enrollees. Please indicate whether these MLRs are based on 2009 data. For 2007 and 2008, please also provide the estimated MLRs for these issuers and any other issuers with at least 1,000 enrollees.

7. Page 1 of New Hampshire's cover letter states, "The loss of carriers providing individual insurance in New Hampshire will have a destabilizing effect on the market." However, New Hampshire's response to 45 CFR §158.321(d)(2)(ix) indicates that no issuers have provided notice of exit. Please provide any information supporting your assessment that issuers may leave the New Hampshire market. If issuers do leave the market, please explain how the exit of these issuers would destabilize the market when, as the Department also notes in the same paragraph, "New Hampshire's individual insurance market is dominated by a single insurance carrier."

8. Page 1 of the Template describes New Hampshire's market withdrawal requirements by citing RSA 420-G:6 VII, and states that this law provides that "the commissioner may waive or otherwise reduce the 5-year period in which the health carrier may not provide coverage in the discontinued market for good cause shown." Please describe any regulatory or other guidance the Commissioner may have issued regarding what may constitute "good cause shown" for waiving the 5-year market reentry bar of RSA 420-G:6 VII. Please describe any additional circumstances in addition to those already set forth in regulatory guidance that might qualify as "good cause" and a reason to terminate the 5-year ban.

9. On page 5 of the Template, the Department discusses permeability between the small group market and the individual market, stating that "New Hampshire's small group market allows groups of one to purchase insurance." Please provide by issuer the number of groups of one each issuer has in New Hampshire. Please also provide examples of the price differential for an individual policy in the small group market versus the individual market for individuals with the same risk profile.

10. The Department indicates on page 5 of New Hampshire's Template that "while the discussion has focused on possible disruptions to the small employer market, there will be rippling effects on neighboring markets, including the individual market." Section 2718(b)(1)(A)(ii) of the Public Health Service Act provides that the Secretary may adjust the 80 percent MLR standard if "the application of such 80 percent may destabilize the individual market in such State." As such, please describe what disruptions the Department foresees specifically in the individual market in New Hampshire as a result of possible disruptions to the small employer market.

11. On page 5 of the Template, the Department states, "If New Hampshire's MLR standard differs from those of its neighbors, New Hampshire's individual carriers may be put at risk for anti-selection." Please quantify the degree to which the Department estimates New Hampshire residents and workers will purchase health insurance across State lines, and how the Department came to that estimate.

12. On the last page of the Template, the Department responds to 45 CFR §158.321(d) by providing data on issuers with at least 1,000 enrollees. The Department provides footnotes (1) and (2) with assumptions regarding the amounts attributed to quality improvement, premium tax, Department assessment, NHHP, vaccine fund, and Federal tax. Please describe the bases for these assumptions.

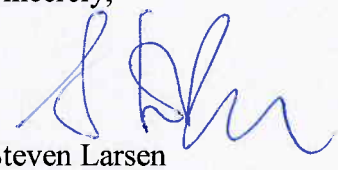
13. On the first page of the cover letter, the Department states that the New Hampshire individual health insurance market MLR is approximately 60 percent, "as reported in the most recent New Hampshire supplement to the annual report for calendar year 2009." Please identify the report referenced and a means to obtain this report.

We look forward to receiving the requested information so that the Secretary can make a fully informed assessment and determination. As noted above, this information is separate and apart

from whether New Hampshire's application for an adjustment to the MLR in its individual market is complete.

We appreciate New Hampshire's cooperation in working together to implement the Affordable Care Act in the best interests of all stakeholders. Please feel free to contact the Office of Oversight by email at MLRQuestions@hhs.gov or by phone at (301) 492-4457 if you have any questions or concerns.

Sincerely,



Steven Larsen
Deputy Administrator and Director,
Center for Consumer Information
and Insurance Oversight