



January 3, 2014

Comments Submitted Electronically at: <http://www.regulations.gov>

Center for Medicare and Medicaid Services
Office of Strategic Operations and Regulatory Affairs,
Division of Regulations Development,
Room C4-26-05,
7500 Security Boulevard, Baltimore,
Maryland 21244-1850.

Attention: Document Identifier/OMB Control Number CMS-10418

Re: Annual MLR and Rebate Calculation Report and MLR Rebate Notices
Form Number: **CMS-10418**

[AHIP Supplemental Comments to our Comments on December 19 on the Draft 2013
Instructions and Forms](#)

Dear Ms. McCune,

America's Health Insurance Plans (AHIP) appreciates the opportunity to provide these additional comments to supplement our comments submitted December 19, 2013 on the materials in the PRA Information Collection Request published in the Federal Register November 22, 2013. AHIP is the national trade association representing the health insurance industry, with members providing health and supplemental benefits to more than 200 million Americans through employer-sponsored coverage, the group and individual insurance markets, and public programs such as Medicare and Medicaid.

Based on further review and discussion with our member plan experts, we have the following additional comments and recommendations:

ACA Fees Collected in 2013 - We very much appreciate the guidance issued¹ on December 30, 2013 which addresses premiums collected for 2014 ACA assessments on non-calendar year policies during 2013 in 2013 MLR and rebate reporting. It notes that for the 2013 MLR reporting year, issuers may defer including in their MLR and rebate calculations the portion of 2013 premiums collected for 2014 ACA assessments or fees on non-calendar year policies. If issuers elect to defer this portion of premium in the 2013 MLR and rebate calculations, they must disclose the deferred amount for each respective state and market. In addition, issuers must disclose and reduce the MLR tax adjustment to premium by the amount of federal and state taxes and fees associated with the deferred portion of premium.



We also strongly recommend that this be the standard for treatment of the ACA portion of issuer fees collected in the data year of calendar-year policies moving forward in the MLR calculation methodology.

PCORI Fee treatment - For the PCORI fee treatment in Section 3 - 3.1b the instructions state “PCORI fees paid related to applicable policies during the MLR reporting year,” but we ask if this is intended. It would suggest that PCORI would not have been covered under the CY2012 MLR, since that payment was made in 2013, not 2012. We recommend that language be added to refer to “*or attributed to.*”

Clarification on this point is requested since the PCORI reporting instruction last year, under the CY2012 MLR instructions, may have led issuers to include accrued PCORI fees, which the CY2013 MLR instructions now appear to call for reporting on a cash basis only.

CY2013

Line 3.1 – Federal taxes and assessments incurred by the reporting issuer during the MLR reporting year

3.1a – Federal income taxes deductible from premiums in MLR calculations

Include: Federal income taxes attributed to the MLR reporting year allocated to the respective lines of business reported.

Exclude: Federal income taxes on investment income and capital gains.

3.1b – Patient Centered Outcomes Research Institute (PCORI) Fee

This fee is imposed on an issuer of a specified health insurance policy and a plan sponsor of an applicable self-insured health plan.

Include: PCORI fees paid related to or attributed to applicable policies during the MLR reporting year.

PCORI Schedule

Calendar year	Applicable Policies (based on policies end date)	Corresponding Fee	Payment Due
2012	Oct. 1 to Dec. 31, 2012	\$1 per covered life	July 31, 2013
2013	Jan. 1 to Sept. 30, 2013 & Oct. 1 to Dec. 31, 2013	\$1 per covered life & \$2 per covered life	July 31, 2014
2014	Jan. 1 to Sept. 30, 2014	\$2 per covered life	July 31, 2015



	& Oct. 1 to Dec. 31, 2014	& \$2 (+ 2014 NHE %-based increase) per covered life	
2015	Jan. 1 to Sept. 30, 2015 & Oct. 1 to Dec. 31, 2015	\$2 (+ 2014 NHE %-based increase) per covered life & \$2 (+ 2015 NHE %-based increase) per covered life	July 31, 2016
2016	Jan. 1 to Sept. 30, 2016 & Oct. 1 to Dec. 31, 2016	\$2 (+ 2015 NHE %-based increase) per covered life & \$2 (+ 2016 NHE %-based increase) per covered life	July 31, 2017

We note that we were unable to provide robust comments on the spreadsheet provided, as it did not include the formulas/macros, (as was provided for the [2012 reporting](#)). We will be happy to review them for consistency with the MLR and Rebate Report Draft Instructions

We would be happy to discuss any of these comments with you, or provide further information as needed.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Colleen M. Gallaher", with a long horizontal flourish extending to the right.

Colleen M. (Candy) Gallaher
Senior Vice President - State Policy

cc: William Weller, OmegaSquared - Consultant to AHIP

ⁱ <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/mlr-guidance-aca-fees-carveout-2013-12-30.pdf>