



April 19, 2016

**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: OMB Control Number: 0938-1164**

Re: AHIP Additional Comments on the Draft 2015 Risk Corridor Plan-level Data Report  
Instructions in the PRA Form Number: CMS-10418

Dear Ms. Jaya Ghildiyal (CMS/CCIIO Division of Policy Analysis)

America's Health Insurance Plans (AHIP) appreciates the opportunity to provide comments on the materials in the PRA Information Collection Request published in the Federal Register February 19, 2016 by the Center for Medicare and Medicaid Services (CMS).

We previously submitted a number of detailed comments and recommendations on the MLR reporting instructions and the Risk Corridor Plan-level Data Report Instructions. With this comment letter we add one additional recommendation to address QHPs offered Off-Exchange.

We recommend CMS include clarification to address the unique scenario that occurs when an active purchaser state exchange limits the options or number of standard plans to be offered on a state based exchange. This has already occurred, affecting some QHP issuers' QHP plan offerings in active purchaser states in 2015, and may impact QHPs in 2016.

The uniquely affected QHPs in these scenarios, previously approved QHPs in the state exchanges, now offered only off-exchange by merit of the ACA guaranteed issue requirements, or by the requirement of the state regulators, should not be denied risk corridor protection simply because the state exchange determined to limit the number of QHP offerings.

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We therefore recommend that the additional underlined language included below be added to the "substantially the same" definition in the Risk Corridor Plan-level Data Report Instructions on page 3.

#### Substantially the Same as an Exchange QHP

As defined in 45 CFR 153.500, a plan offered outside of the Exchange is substantially the same as an Exchange QHP, if it is the same as an Exchange QHP (according to the definition above), except for any variations in benefits and cost-sharing structure that are directly tied to Federal or State requirements or prohibitions on the coverage of benefits (for example, coverage of the pediatric dental essential health benefit) that apply differently to plans depending on whether they are offered through the Exchange. These plans may also vary from the corresponding QHP with respect to changes in network (for example, addition of dentists to provide pediatric dental services) and cost sharing (for example, the addition of a copay for pediatric dental services) to the extent relating directly to the required or prohibited benefits.

Substantially the same as a QHP includes a plan that the issuer intended and filed to offer as a QHP on the Exchange, and that was required to be offered by state regulation or state insurance regulator decision, and that meets all QHP certification standards specified in 45 CFR Part 156 and by the applicable exchange, and that would have been offered on the Exchange except that the Exchange, under its discretion to limit which plans to offer in the exchange, either declined to offer the plan on the exchange, or limited its service area to less than that for which the issuer applied.

We welcome further discussion on these comments and appreciate your consideration of these recommendations. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Colleen M. Gallaher", followed by a long horizontal flourish.

Colleen M. (Candy) Gallaher  
Senior Vice President - State Policy  
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cc: Jeffrey Grant, CMS/CCIIO Payment Policy and Financial Management Group  
Christine Whitefield, CMS/CCIIO MLR Division