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Attention: Document Identifier: CMS-10532

Centers 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

RE: Comments in response to CMS' Information Collection Activities: Proposed Collection; Comment Request of 79FR 53069, (September 5, 2014), Risk Corridors Transitional Policy

Dear Sir or Madam:

UnitedHealthcare (UHC), a prominent subsidiary of UnitedHealth Group, is dedicated to making our nation's health care system work better. Our core strengths are in care management, health information and technology. Recognized as America's most innovative company in our industry by *Fortune* magazine, we bring innovative health care to scale to help create a modern health care system that is more accessible, affordable and personalized for all Americans. UHC is pleased to provide the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS or the Agency), our comments regarding the Risk Corridors Transitional Policy Proposed Collection Request.

1. CMS' Data Request Should Remain with the Scope Established by 45 CFR 153.530; and Request Data ONLY from Transitional Relief States and Data Described in the Regulation

The "Supporting Statement" issued by CMS with the proposed data request indicates that:

The report must be submitted to CMS by January 23, 2015 for the 2014 benefit year in a manner specified by CMS Section 153.530(e)...

45 CFR 153.530(e) is unambiguous regarding both its scope and content:

A health insurance issuer in the individual or small group market of a transitional relief State must submit, in a manner and timeframe specified by HHS, the following:

- (1) A count of its total enrollment in the individual market and small group market; and*
- (2) A count of its total enrollment in the individual market and small group market policies that meet the criteria for transitional policies outlined in the CMS letter dated November 14, 2013.*

The request for data from non-transitional relief states goes beyond the scope outlined in 45 CFR 153.530(e) set forth above. The rationale for “state-specific percentage adjustment to the risk corridor formula” is to mitigate any unexpected losses that are attributable to the effects of the transitional policy. In other words, transitional relief plans are outside of the “single risk pool” and thus, their existence impacts the single risk pool for that State. However, it goes without saying, that if a state does not permit transitional relief (i.e., there are no transitional relief plans in the state), there can be no unexpected impact from transitional relief to the single risk pool or the risk corridor provision. Thus, the request for data related to non-transitional relief states clearly is unnecessary for the stated purpose and should be omitted from the data request.

Similarly, the request to break data down into multiple categories: (1) transitional policies; (2) early renewal policies; (3) grandfathered policies; and (4) all other policies, goes well beyond what is set forth 45 CFR 153.530(e) and the information necessary to determine the impact of transitional relief plans on the single risk pool. The regulation again is clear that issuers need only provide two (2) categories of data:

- (1) A count of its total enrollment in the individual market and small group market; and*
- (2) A count of its total enrollment in the individual market and small group market policies that meet the criteria for transitional policies outlined in the CMS letter dated November 14, 2013.*

The above two categories of data will provide the necessary information to determine the impact of transitional relief. The additional breakdown of data in the CMS proposal is unnecessary for the stated purpose and will greatly increase the burden and cost to issuers related to this data request, costs that ultimately will be passed on to consumers.

The proposed data collection requests four categories of information from all fifty states plus the District of Columbia. In review of 45 CFR 153.530(e), the regulations that implement Section 1342 of the Patient Protection and Affordable Care Act of 2010, it states that each issuer conducting business in the individual and small group markets in states that adopted the transitional policy (announced by CMS’s letter of November 14, 2013), is required to submit enrollment data, including enrollment in transitional policies. CMS states in this notice that it will be using the data to calculate the risk corridors adjustment percentage, if any, in the transitional states. Since only 39 states adopted transitional relief, this is the universe of enrollment data the regulations should be addressing. If the intent of the amended risk corridor calculation is to provide adjustments for those health insurance issuers that were adversely impacted by the transitional relief decision, then the additional data is overly broad and not necessary.

The 2015 Notice of Benefit and Payment Parameters was finalized on March 12, 2014. CMS finalized the risk corridors adjustment policy as it was proposed, adding a definition of “adjustment percentage” to § 153.500, and amending the definitions of risk corridors “profits” and “allowable administrative costs” in § 153.500 to account for the adjustment percentage. CMS also added a definition of “transitional State” to § 153.500. And more specifically, added paragraph (e) to § 153.530 as referenced above.

Recommendation: CMS should modify the proposed data request to be consistent with 45 CFR 153.530(e). Specifically, CMS should request data only for transitional relief states and only within the two categories: (1) A count of its total enrollment in the individual market and small

group market; and (2) A count of its total enrollment in individual market and small group market policies that meet the criteria for transitional policies outlined in the CMS letter dated November 14, 2013 as outlined in the Regulation.

2. CMS' Data Request Due Date Should be Extended

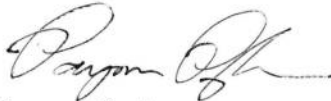
The PRA Notice states that this one-time Excel spreadsheet reporting form must be submitted via email by January 23, 2015. UHC requests that this date be moved to April 30, 2015, due to the following factors:

- 2014 year-end data will be time consuming and difficult to collate that quickly after 2014 year-end. The reporting requirements identified in this PRA along with other reporting requirements of the Premium Stabilization and the MLR programs require issuers to properly categorize and synchronize reporting between various definitions of small group size and various reporting forms including the MLR Form and the NAIC Supplemental Health Care Exhibits, as well as the Edge Server database for the Transitional Reinsurance and Risk Adjustment programs. This effort will take additional time on the part of all issuers and should be coordinated with the due dates of the other reporting requirements, while allowing HHS sufficient time to analyze the data and publish its adjustments.
- Issuers will need to complete the requisite programming and collection of the data during the fourth quarter of 2014, and perhaps the first quarter of 2015 once this PRA notice is finalized, and it will be excessively operationally burdensome in conjunction with other open enrollment fourth quarter business information technology compliance requirements.
- Since the final reinsurance and risk adjustment data will not be submitted until April 30, 2015, we believe coordination with this date will ensure that the membership reporting can be properly synchronized with the filed SHCE forms, which use similar reporting instructions and forms as the MLR reporting requirements, and the ACA complaint policies (including QHPs) required to be reported in the Edge Server database.

Recommendation: The required due date for this report should be April 30, 2015.

On behalf of the 45 million consumers served by UnitedHealthcare, we thank you for your thoughtful consideration of our comments. Please do not hesitate to contact me if you have any questions regarding our recommendations.

Sincerely,



Payman Pezhman
General Counsel
United Healthcare Employer & Individual