Summary Statement -- Secretarial Correspondence Re: NAIC

April 12, 2010

Jane L. Cline
NAIC President
West Virginia Insurance Commissioner
PO Box 50540
Charleston, WV 25305-0540

Therese M. Vaughan, Ph.D.
NAIC Chief Executive Officer
National Association of Insurance Commissioners
Executive Office
444 North Capitol Street NW, Suite 701
Washington, DC 20001

Dear Ms. Cline and Dr. Vaughan:
With the enactment of the Patient Protection and Affordable Care Act on March 23, 2010, and the Health Care and Education Reconciliation Act of 2010 on March 30, 2010, a major milestone in the quest for an affordable and high-quality health system that is accessible to all has been achieved. While this is a historic moment, there is much work ahead and your help will be critical.

The strong partnership between the U.S. Department of Health and Human Services (HHS) and the National Association of Insurance Commissioners (NAIC) has been of great benefit to all Americans. As we move forward, HHS will continue to reach out to States and seek Insurance Commissioners' expertise. State officials will help to guide our efforts and play a key role as we work to implement the new law. Implementing the key provisions of health insurance reform will demand that we work harder, smarter and faster than ever before to strengthen the health care system for all Americans. I am confident that together, we will succeed.
The new law includes a number of insurance market reforms that are designed to provide immediate protections for consumers. For example, the provisions in Section 2718 of the Public Health Service Act (PHS Act), which was added by Sections 1001 and 10101 of the Affordable Care Act, require health insurance issuers to submit data on the proportion of premium revenues spent on clinical services and quality improvement, also known as the medical loss ratio (MLR), and payment of rebates to enrollees if this percentage does not meet minimum standards. The new law also directs NAIC to establish uniform definitions and standardized methodologies for determining what services constitute clinical services, quality improvement, and other non-claims costs for carrying out this provision.
I am writing this letter to request NAIC's assistance relating to implementation of the provisions in Section 2718 of the PHS Act. Per Section 2718(c) of the PHS Act, we seek NAIC's input on:

- Definitions relating to the activities that health insurance issuers offering individual and group coverage must report under Section 2718(a) (clinical services, activities that improve health care quality, and all other non-claims costs and the nature of such costs); and
- Standardized calculation methodologies relating to the abovementioned activities, ensuring that they account for the special circumstances of smaller plans, different types of plans, and newer plans.

HHS also welcomes NAIC's thoughts on a number of other issues pertaining to implementation of the provisions in Section 2718 of the PHS Act – such as the types of supporting documentation that would be helpful for health insurance issuers to include with their data submissions, including any documentation relating to rebates owed for a given plan year and payment of rebates to enrollees. We anticipate that NAIC's assistance will be particularly useful in helping to determine

the best approach, format, and timeframes for health insurers' submission of MLR-related data, and for ensuring the accuracy of these data submissions; and in providing data that will assist us in understanding the current distribution of MLRs at the State and company level and estimating the impact of the MLR provisions. Additionally, we are interested in any insights that NAIC has about the degree of variation that exists in States' current MLR definitions and requirements for the individual, small group and large group markets, States' current approaches for enforcing MLR-related reporting and rebate requirements for these markets (including penalties), and any other information that would be helpful in implementing the MLR provisions.

The new law sets a target date for NAIC to develop these uniform definitions and standardized calculation methodologies of December 31, 2010, subject to certification by the Secretary. However, given that the MLR provisions are effective for plan years beginning six months after enactment, HHS is seeking to publish regulations as soon as possible to allow sufficient time for health insurance issuers to incorporate these changes. For this reason, per our conversations, I ask that NAIC provide the requested information by June 1, 2010. I appreciate the initiative that NAIC has already taken towards ensuring careful and timely implementation of health reform provisions, and appreciate NAIC's continued efforts to meet this accelerated timeline.

I look forward to continuing our work in implementing these and other critical provisions of the new law.

Sincerely,

Kathleen Sebelius