



Date: February 25, 2013

From: Gary Cohen, Director, Center for Consumer Information and Insurance Oversight

Subject: Sub-Regulatory Guidance Regarding Age Curves, Geographical Rating Areas and State Reporting

I. Purpose

Contemporaneously with the posting of this guidance, the Centers for Medicare and Medicaid Services (CMS) is releasing the final rule on the Health Insurance Market Rules. This final rule implements provisions related to fair health insurance premiums, guaranteed availability, guaranteed renewability, single risk pools, and catastrophic plans, consistent with title I of the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010, referred to collectively as the Affordable Care Act. Specifically, part of the final rule implements section 2701 of the Public Health Service Act (PHS Act), which restricts premium rating factors to age, tobacco use, geography and family size. This guidance provides important information concerning two of the factors, age and geography, and also details the process of state reporting as required by sections 147.103 and 156.80(c) of the final rule.

II. The Default Federal Standard Age Curve

Section 147.102(a)(1)(iii) states, as set forth by the statute, that the premium rate charged by a health insurance issuer for non-grandfathered health insurance coverage in the individual or small group market may vary by age, except that such rate may not vary by more than 3:1 for adults. Section 147.102(d) defines the standard age bands for rating purposes under section 2701 of the PHS Act as follows:

- Children: A single age band for children ages 0 through 20.
- Adults: One-year age bands for adults ages 21 through 63.
- Older adults: A single age band for adults ages 64 and older.

Section 147.102(e) requires that, for age rating purposes under section 2701 of the PHS Act, health insurance issuers use a uniform age rating curve established by the state for the individual market, small group market, or both markets specifying the relative distribution of rates across all age bands. The rule also indicates that if a state does not establish or propose a uniform age curve by March 29, 2013 the federal standard default age curve would apply in both the individual and small group markets in that state for the 2014 plan or policy year. We published the federal standard default age curve in the November 26, 2012 proposed rule (77 FR 70584) and, in the preamble to the final rule, we indicated that we were not changing the default standard age curve from the proposed rule for states that allow a maximum 3:1 ratio for age rating. For states that adopt narrower ratios for age rating, the default age curve would take into account the permissible rating variation for age under state law. We are now establishing through this

guidance that the federal default standard age curve that was published in the November 26, 2012 proposed rule is effective beginning in 2014 in states not specifying their own age curve. The federal default standard age curve is attached as Appendix I.

The federal default standard age curve will be updated as needed but no more frequently than annually.

III. Geographical Rating Areas

Section 147.102(b)(3) of the final rule provides that a state's geographical rating areas must be based on the geographic divisions of counties, three-digit zip codes, or metropolitan statistical areas (MSAs) and non-MSAs and will be presumed adequate if either of the following conditions is met: (1) As of January 1, 2013, the state had established by law, rule, regulation, bulletin, or other executive action uniform geographic rating areas for the entire state; or (2) After January 1, 2013, the state establishes for the entire state by law, rule, regulation, bulletin, or other executive action no more geographic rating areas than the number of MSAs in the state plus one.

Section 147.102(b)(2) specifies that if a state does not establish or report rating areas, or a state's rating areas are determined to be inadequate, the default will be one rating area for each MSA in the state and one rating area for all other non-MSA portions of the state (if any), as defined by the Office of Management and Budget. For the list of MSAs in each state, go to <http://www.census.gov/population/metro/data/def.html>.

The following table shows the maximum number of rating areas permitted in each state, based on the number of MSAs plus one in each state:

State	Maximum Number of Rating Areas
Alabama	13
Alaska	3
Arizona	7
Arkansas	9
California	27
Colorado	8
Connecticut	5
Delaware	3
District of Columbia	2
Florida	21
Georgia	16
Hawaii	2
Idaho	7
Illinois	13
Indiana	17
Iowa	10
Kansas	7
Kentucky	10
Louisiana	9
Maine	4
Maryland	7
Massachusetts	7
Michigan	16
Minnesota	9
Mississippi	6
Missouri	10
Montana	4
Nebraska	4
Nevada	4
New Hampshire	3
New Jersey	8
New Mexico	5
New York	13
North Carolina	16
North Dakota	4
Ohio	17
Oklahoma	5
Oregon	7
Pennsylvania	17

State	Maximum Number of Rating Areas
Rhode Island	2
South Carolina	11
South Dakota	4
Tennessee	11
Texas	26
Utah	6
Vermont	2
Virginia	12
Washington	13
West Virginia	11
Wisconsin	16
Wyoming	2
Puerto Rico	9
Other Territories	1 each

The deadline for a state to report its rating areas for 2014 to CMS is March 29, 2013. The process for reporting geographical rating areas, as well as updating existing rating areas, is described in section IV below.

IV. State Reporting

Section 147.103 of the final rule requires that states submit certain rating information to CMS generally to support the accuracy of the risk adjustment methodology. This includes information about the following, as applicable:

- The use of a narrower age rating ratio than 3:1 for adults age 21 and older.
- The use of a narrower tobacco rating ratio than 1.5:1 for individuals who legally use tobacco.
- The actual state-established or proposed rating areas.
- State-established age rating curves.
- In states with community rating, the use of uniform family tiers and corresponding multipliers.
- A requirement that premiums be based on average enrollee amounts in the small group market.
- Pursuant to §156.80(c), a decision to merge the individual and small group markets in a state into a single risk pool.

For states that do any of the above, the information must be submitted to CMS by no later than March 29, 2013. Attached as Appendix II is a state reporting form that can be used by states to submit information regarding any of the state reporting items listed above. This form must be submitted by the State Department of Insurance or other applicable regulatory agency and signed by an authorized official. All reporting related to the state reporting items listed above should be submitted electronically to CMS at marketreform@cms.hhs.gov. States that have previously submitted rating information and wish to update or amend it can also use the state reporting form to provide the updated information to CMS by March 29, 2013.

If a state is requesting geographic rating areas that were not established by January 1, 2013 and are more than the number of MSAs in the state plus one, the state must provide CMS with an actuarial justification for its proposed geographic rating areas, including but not limited to information about unit claims costs, regional network structures and costs, and census data for income and ethnic distribution.

As provided in section 147.102(b)(5) of the final rule, in determining whether state proposed rating areas are adequate, CMS will consider whether the state's rating areas: (1) are actuarially justified; (2) are not unfairly discriminatory; (3) reflect significant differences in health care unit costs; (4) lead to stability in rates over time; (5) apply uniformly to all issuers in a market; and (6) are based on the geographic boundaries of counties, three-digit zip codes, or MSAs and non-MSAs.

If a state fails to submit geographical rating areas by March 29, 2013 or if CMS determines that a state's proposed rating areas are not adequate, the default of one rating area for each MSA in the state and one rating area for all non-MSA areas in the state will apply. Also, as indicated in section II of this guidance, if a state fails to submit to CMS a standard age curve by March 29, 2013, the default federal standard age curve will apply in that state.

Once CMS receives the data from a state, an automatic reply will be sent acknowledging receipt. When a state submits its own default age curve or submits geographical rating areas that total more than the number of MSAs in the state plus one, CMS will evaluate the submission and contact the State as soon as possible if further information is needed or to let the state know if the submission is approved. For all other data submitted, approval from CMS is not required and CMS will only follow up if more information is needed.

If a state wishes to update previous submissions or did not submit data for a particular provision in 2014 and wishes to do so in a future year, the state can submit the data to marketreform@cms.hhs.gov and the same process will be followed as the one described above for initial submissions for 2014. The form attached as Appendix II can be utilized for updates as well as for initial submissions. States can submit data as needed but no more frequently than annually.

V. Student Health Insurance Coverage and Federal Rate Review

The rate review methodology developed by CMS pursuant to PHS Act section 2794 will, starting in the spring of 2013, encompass the 2014 market reform requirements including the single risk pool. The unified rate review template is designed, at least in part, to monitor for compliance with the single risk pool requirement and does not accommodate health insurance coverage not subject to the single risk pool requirement. Because student health insurance will be exempt from the single risk pool requirement, the rate review process, including the unified rate review template, will not be able to be utilized to review increases in the student health insurance rates. Accordingly, student health insurance plan rate increases will not be subject to the federal rate review process under PHS Act section 2794 until CMS develops a rate review process that accommodates these plans. States, however, can continue to review student health insurance rate increases as permitted by State law.

Where to get more information:

If you have any questions regarding this guidance, please e-mail CCIIO at marketreform@cms.hhs.gov.

Appendix I: HHS Default Standard Age Curve

AGE	PREMIUM RATIO	AGE	PREMIUM RATIO	AGE	PREMIUM RATIO
0-20	0.635	35	1.222	50	1.786
21	1.000	36	1.230	51	1.865
22	1.000	37	1.238	52	1.952
23	1.000	38	1.246	53	2.040
24	1.000	39	1.262	54	2.135
25	1.004	40	1.278	55	2.230
26	1.024	41	1.302	56	2.333
27	1.048	42	1.325	57	2.437
28	1.087	43	1.357	58	2.548
29	1.119	44	1.397	59	2.603
30	1.135	45	1.444	60	2.714
31	1.159	46	1.500	61	2.810
32	1.183	47	1.563	62	2.873
33	1.198	48	1.635	63	2.952
34	1.214	49	1.706	64 and Older	3.000

State Rating Requirements Disclosure Form

February, 2013

PRA Disclosure Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is **0938-XXXX**. The time required to complete this information collection is estimated to average 8 hours (480 minutes) per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

Instructions:

This form must be submitted by the State Department of Insurance or other applicable regulatory agency and signed by an authorized official. Complete this disclosure form to provide rating requirements specific to your state and/or to request approval for geographical rating areas. You must complete all sections of this form. Please provide the names and contact information for at least two people who may serve as contacts for CMS.

Submit the completed form and supporting documents electronically to:
marketreform@cms.hhs.gov

Submit any questions to: marketreform@cms.hhs.gov

PART A

1. **State:** _____

2. **Date of Disclosure:** _____

3. **Primary Contact Information**

Name: _____

Designation: _____

Address: _____

Phone: _____

E-mail: _____

4. **Secondary Contact Information**

Name: _____

Designation: _____

Address: _____

Phone: _____

E-mail: _____

5. **Please indicate whether the state is seeking CMS approval for rating areas not established by law, rule, regulation, bulletin, or other executive action for the entire state as of January 1, 2013 and the number of rating areas in the individual and/or small group market that is greater than the number described in 45 CFR §147.102(b)(3)(ii):**

Yes

No

6. **Official authorized to sign this disclosure:**

Name and Designation: _____

Signature: _____

PART B

I. Age Rating Ratio (45 CFR §147.103(a)(1))

1. Within the individual market, are health insurance issuers in your state required to use an age rating ratio lower than 3:1?

The state has no specific requirements in the individual market and the state uses a 3:1 age rating ratio.

Yes, the ratio is lower – details are provided below.

2. Enter the state's individual age rating ratio (if lower than 3:1): _____

3. Within the small group market, are health insurance issuers in your state required to use an age rating ratio lower than 3:1?

The state has no specific requirements in the small group market and the state uses a 3:1 age rating ratio.

Yes, the ratio is lower – details are provided below.

4. Enter the state's small group age rating ratio (if lower than 3:1): _____

5. Provide details as appropriate, specifying market.

6. List supporting documents attached, if any.

II. Age Rating Curve (45 CFR §147.103(a)(6))

1. Within the individual market, are all health insurance issuers in your state required to use a uniform age rating curve other than the federal default age curve?

Yes

No

2. If yes, provide the age rating curve for the individual market.

3. Within the small group market, are all health insurance issuers in your state required to use a uniform age rating curve other than the federal default age curve?

Yes

No

4. If yes, provide the age rating curve for the small group market.

5. List supporting documents attached, if any.

III. Tobacco Use Rating Ratio (45 CFR §147.103(a)(2))

1. Within the individual market, are health insurance issuers in your state required to use a tobacco use rating ratio lower than 1.5:1?

The state has no specific requirements in the individual market and the state uses a 1.5:1 rating ratio.

Yes, the ratio is lower – details are provided below.

2. Enter the state's individual tobacco use rating ratio (if lower than from 1.5:1): _____

3. Within the small group market, are health insurance issuers in your state required to use a tobacco use rating ratio lower than 1.5:1?

The state has no specific requirements in the small group market and the state uses a 1.5:1 rating ratio.

Yes, the ratio is lower – details are provided below.

4. Enter the state's small group tobacco use rating ratio (if lower than 1.5:1): _____

5. Provide details as appropriate, specifying market.

6. List supporting documents attached, if any.

IV. Risk Pools (45 CFR §156.80(c))

1. Are health insurance issuers in your state required to merge the individual and small group insurance markets into a single risk pool?

Yes, details are provided below.

No, the markets are always separate and distinct.

No, however, it is allowed.

2. Provide details as appropriate.

3. List supporting documents attached, if any.

V. Small Group Market Premiums (45 CFR §147.103(a)(5))

1. Are health insurance issuers in the small group market in your state required to offer to a group premiums that are based on average enrollee amounts?

Yes

No

2. Provide details as appropriate.

3. List supporting documents attached, if any.

VI. Geographical Rating Areas (45 CFR §147.103(a)(3))

1. Within the individual market, are health insurance issuers in your state required to use state-defined geographical rating areas?

Yes, details are provided in 2, 3, 4 and 5 below.

No, the state has no specific rating areas in the individual market.

2. Enter the number of rating areas (if applicable): _____

3. Basis for rating areas (if applicable)

Rating areas based on counties

Rating areas based on three-digit zip codes

Rating areas based on metropolitan statistical areas (MSAs) and non-MSAs

4. Date rating areas were established by law, rule, regulation, or other executive action (if applicable):

5. Is the state seeking CMS approval for a number of rating areas in the individual market that is greater than the number described in 45 CFR §147.102(b)(3)(ii)?

Yes

No

If yes, provide details in 11 and 12 below.

6. Within the small group market, are health insurance issuers in your state required to use state-defined geographical rating areas?

Yes, details are provided in 7, 8, 9 and 10 below.

No, the state has no specific rating areas in the small group market.

7. Enter the number of rating areas (if applicable): _____

1

8. Basis for rating areas (if applicable)

Rating areas based on counties

Rating areas based on three-digit zip codes

Rating areas based on metropolitan statistical areas (MSAs) and non-MSAs

9. Date rating areas were established by law, rule, regulation, or other executive action (if applicable):

10. Is the state seeking CMS approval for a number of rating areas in the small group market that is greater than the number described in 45 CFR §147.102(b)(3)(ii)?

Yes

No

If yes, provide details in 11 and 12 below.

11. Provide detailed description of the proposed rating areas, specifying market.

12. List supporting documents attached, if any.

VII. Family Tier Structure (45 CFR §147.103(a)(4))
(For states with community rating)

1. Within the individual market, are health insurance issuers in your state required to determine premiums for family coverage by using uniform family tiers and the corresponding multipliers established by the state?

Yes

No

2. If yes, provide details regarding family tiers and corresponding multipliers for the individual market.

3. Within the small group market, are health insurance issuers in your state required to determine premiums for family coverage by using uniform family tiers and the corresponding multipliers established by the state?

Yes

No

4. If yes, provide details regarding family tiers and corresponding multipliers for the small group market.

5. List supporting documents attached, if any.