

Health Reform

NAIC Adopts Medical Loss Ratio Model Regulation

Recent Developments

On Oct. 21, 2010, the National Association of Insurance Commissioners (NAIC) adopted a model regulation concerning the calculation of medical loss ratios (MLR) under the Patient Protection and Affordable Care Act (PPACA). The model was submitted to Kathleen Sebelius, secretary of Health and Human Services (HHS) for final review and certification, which Sebelius indicated would be promulgated in the coming weeks.

The model regulation provides that starting Jan. 1, 2011, an MLR of 80 percent is applied to the individual and small group market (100 and under lives) and an MLR of 85 percent is applied to large group plans. Importantly, if health insurance plan issuers do not meet these MLR requirements, they must make a rebate payment to policyholders.

Of concern to insurance agents and producers was how the NAIC would classify insurance commissions under the MLR formula. The NAIC kept agent commissions under the administrative expense category, instead of recommending that commissions be treated as a pass-through cost, due to concern that the NAIC did not have legal authority to make such a recommendation. However, the NAIC created an executive committee subgroup to work with HHS officials on the issue of producer compensation in recognition of the important role that brokers play.

Jessica Waltman, senior vice president of government affairs, National Association of Health Underwriters, stated that “We’re excited that the ball is still moving forward.”

We will watch closely for any developments in this area.

Medical Expenses vs. Administrative Expenses

The PPACA requires the MLR calculation to include only two categories of medical expenses (with everything else being deemed an administrative expenses): (1) incurred claims and (2) quality improvement expenses.

The model regulation defines quality improvement expenses as follows:

“Quality improvement (QI) expenses are expenses, other than those billed or allocated by a provider for care delivery (i.e., clinical or claims costs), for all plan activities that are designed to improve health care quality and increase the likelihood of desired health outcomes in ways that are capable of being objectively measured and of producing verifiable results and achievements.”

The NAIC also stated that quality improvement expenses “should be grounded in evidence-based medicine, widely accepted best clinical practices, or criteria issued by recognized professional medical societies, accreditation bodies, government agencies, or other nationally recognized health care quality organizations. They should not be designed primarily to control or contain cost, although they may have cost reducing or cost neutral benefits as long as the primary focus is to improve quality.”

The NAIC standards include five categories of quality improvement expenses:

Improvement in Health Outcomes

- Case management
- Care coordination and chronic disease management
- Making/verifying appointments
- Medication and care compliance initiatives
- Programs to support shared decision-making with patients, their families and the patient's representative
- Reminding insured of physician appointment, lab tests or other appropriate contact with specific providers
- Providing coaching or other support to encourage compliance with evidence-based medicine
- Use of the medical homes model

Activities Design to Prevent Hospital Readmission

- Discharge planning
- Arranging and managing transitions from one setting to another (such as hospital discharge to home or to a rehabilitation center)
- Activities to promote the sharing of medical records with all clinical providers participating in patient's care

Activities to Improve Patient Safety and Reduce Medical Errors

- Identification and use of best clinical practices
- Utilization review to identify potential adverse drug interactions
- Quality reporting for activities that improve patient safety and reduce medical errors

Wellness and Health Promotion Activities

- Wellness assessment and coaching programs to achieve measurable improvements
- Educate individuals about effective means for dealing with specific chronic disease or condition
- Certain rewards and incentive programs (including reductions to co-pay) if rewards and incentive programs are not already reflected in premium or claims

Health Information Technology (HIT) Expenses for Quality Improvements

- HIT expenditures used to accomplish activities in the first four categories
- Expenses related to monitoring, measuring or reporting clinical effectiveness, including reporting and analysis costs related to maintaining accreditation, or costs for public reporting of quality of care
- HIT expenses for advancing the ability to efficiently communicate clinical or medical information to determine patient status, avoid harmful drug interactions or direct appropriate care

The NAIC also identified the following to be excluded as quality improvement expenses (and thus constitute administrative expenses):

- All retrospective and concurrent utilization review
- Fraud prevention activities
- The cost of developing and executing provider contracts and fees associated with establishing or managing a provider network
- Provider credentialing
- Marketing expenses
- Most accreditation fees
- Costs associated with calculating and administering individual enrollee or employee incentives

This summary does not include an exhaustive list of services approved by the NAIC as quality improvement expenses, which can be found in the model regulation. It is important to note that the list of excluded expenses includes a catch-all for any activity not expressly listed as a quality improvement expense.

We will watch for the final regulations to be released by HHS and for any information disclosed by the executive committee subgroup on broker compensation.

Additional Resources

Model Regulation: www.naic.org/documents/committees_ex_mlr_reg_asadopted.pdf

MLR Blanks Proposal: www.naic.org/documents/index_health_reform_mlr_blanks_proposal.pdf

This material was created by National Financial Partners Corp., (NFP), its subsidiaries, or affiliates for distribution by their Registered Representatives, Investment Advisor Representatives, and/or Agents.

This material was created to provide accurate and reliable information on the subjects covered. It is not intended to provide specific legal, tax or other professional advice. The services of an appropriate professional should be sought regarding your individual situation. Neither NFP nor its affiliates offer legal or tax services.

56557 11/10

Copyright © 2010. All rights reserved.