

Congress of the United States
Washington, DC 20515

August 10, 2010

The Honorable Kathleen Sebelius
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Sebelius:

Section 2718 of the Public Health Service Act, as added by section 1001 and amended by section 10101 of the Patient Protection and Affordable Care Act (PPACA) (P.L. 111-148), requires health plans offering coverage in the group and individual markets to meet minimum medical loss ratio (MLR) standards as defined by the National Association of Insurance Commissioners (NAIC) and certified by you.

The MLR requirements are intended to ensure Americans receive the best value for their insurance premiums. In promoting this high-value coverage through MLR requirements, it is essential that the MLR calculation guidelines balance the need to preserve market stability.

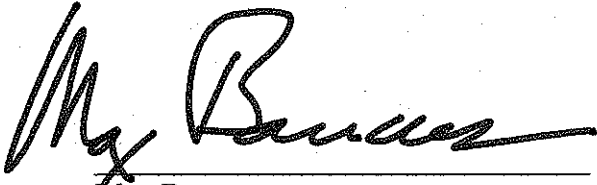
As such, we commend the continued efforts of NAIC and your department to establish guidelines that protect families' already-stretched budgets and ensure stable, competitive health insurance markets. It is important for you to set up a process to work with individual state insurance commissioners to ensure such balance during the transition to full health insurance reform in 2014.

As the NAIC works to craft proposed definitions, we are writing to clarify legislative intent as it pertains to the exclusion of Federal taxes from revenue calculations. Section 2718 sets forth the computation of MLR for purposes of computing annual premium rebates. Section 2718(b)(1)(A) defines the denominator of the MLR for this purpose as "the total amount of premium revenue (excluding Federal and State taxes and licensing or regulatory fees . . .)."

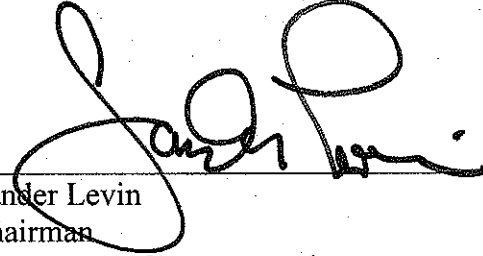
"Federal taxes and fees" in this context is meant to refer only to Federal taxes and fees that relate specifically to revenue derived from the provision of health insurance coverage that were included in the PPACA. Thus, the Federal taxes and fees that fall into this category are: (1) the annual fee imposed by section 9010 based on each health insurer's market share based on net premiums written; (2) the annual fee imposed by section 6301 on each health insurance policy (based on the average number of people covered under the policy), and (3) the tax imposed by section 9001 on high-cost employer-sponsored health coverage. Federal income taxes or payroll taxes were not intended to be excluded from the denominator.

We hope this clarification is helpful and look forward to continuing to work together to ensure successful implementation of PPACA. Thank you for your attention to this important matter.

Sincerely,



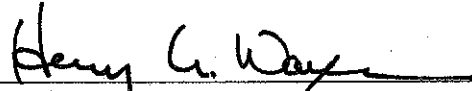
Max Baucus
Chairman
U.S. Senate Committee on Finance



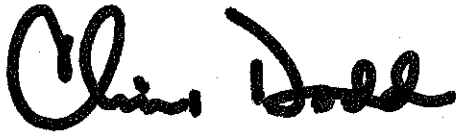
Sander Levin
Chairman
U.S. House of Representatives
Committee on Ways and Means



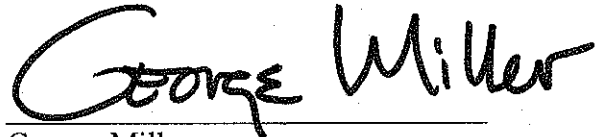
Tom Harkin
Chairman
U.S. Senate Committee on
Health, Education, Labor and Pensions



Henry A. Waxman
Chairman
U.S. House of Representatives
Committee on Energy and Commerce



Christopher J. Dodd
Chairman
U.S. Senate Committee on Banking



George Miller
Chairman
U.S. House of Representatives
Committee on Education and Labor

cc: Jane L. Cline, President, National Association of Insurance Commissioners (NAIC)