

MEMORANDUM

June 9, 2011

TO: Kevin McCarty, Chair
Professional Health Insurance Advisors (EX) Task Force

FROM: Sandy Praeger, Chair
Health Insurance and Managed Care (B) Committee

RE: Committee report on options for amending the Medical Loss Ratio formula to address concerns about access to agent and broker services

On March 27, 2011, the Professional Health Insurance Advisory (EX) Task Force charged the Health Insurance and Managed Care (B) Committee with the task of collecting, analyzing and reporting to the Task Force available data on agent and broker commissions and identifying “options to modify MLR definitions, methodology and/or numerical standards that may be necessary to protect insurance consumers, and to preserve the important role of producers in the health insurance transaction and in the resolution of disputed health insurance claims.” The final report adopted by the Committee on June 7, 2011, is attached.

To complete its charge, the (B) Committee referred the task to the Health Care Reform Actuarial (B) Working Group which collected data from the National Association of Health Underwriters (NAHU), Connecticut, three large health insurance companies, and several states. However, each of these data sets proved to be incomplete and have significant limitations.

The Working Group, therefore, relied heavily on the data from the NAIC Supplemental Health Care Exhibit (SHCE) for 2010. Using the SHCE data, the Working Group was able to analyze the potential impact of various MLR amendment proposals on potential rebates. It must be noted that the MLR and rebate numbers listed in the report are for analytical use only. These are not the final numbers for 2010, even if the MLR and rebate program were effective in 2010. The final MLR and rebates would be adjusted for credibility based on average deductible and membership instead of membership only, 3-month runoff, and deferrals. More importantly, future years may differ significantly from 2010. As detailed in the report, carriers will likely make changes in their operations as they implement and react to the various provisions of the Affordable Care Act. Therefore the numbers in the report should only be used to demonstrate the relative impact of the various options, not the actual level of rebates expected.

As noted during Working Group and Committee deliberations, the report does not address the issue of whether an adjustment to the MLR formula is necessary or whether consumers will be negatively impacted by agent and broker commission cuts. The charge given the Committee specifically states that they are to provide the options “without determining whether any change is necessary.” In addition, the

Working Group determined that there was not enough verifiable data readily available and there was not enough time to collect such data. The Working Group and Committee did receive data from California on commission trends over the past ten years that may be of assistance to the Task Force as you look at the bigger issue of whether a change in the MLR formula is necessary. That data is included as a supplement to the report. The Committee is prepared to collect similar data from other states if the Task Force believes it would be helpful to your deliberations, but it will require more time.

We hope you find the options listed in the attached report, and the analysis of their impact on rebates, useful as the Task Force considers this very important issue. We would be glad to answer any questions regarding the report or provide any additional information the Task Force may need.

Report of the Health Care Reform Actuarial (B) Working Group to the Health Insurance and Managed Care (B) Committee on Referral from the Professional Health Insurance Advisors (EX) Task Force Regarding Producer Compensation in the PPACA Medical Loss Ratio Calculation

May 26, 2011

Introduction

The Professional Health Insurance Advisors (EX) Task Force made the following referral on March 27, 2011 to the Health Insurance and Managed Care (B) Committee at the NAIC's 2011 Spring National Meeting in Austin, TX:

Referral Language: *Health Insurance and Managed Care (B) Committee is to complete the following:*

- *Collect, analyze and report on relevant data regarding the level of commissions and/or other payments to producers in the individual, small and large group markets, including, but not limited to evaluating 2010 gross commission or fee payments as a portion of the denominator in the medical loss ratio (MLR).*
- *Without determining whether any change is necessary, identify options to modify MLR definitions, methodology and/or numerical standards that may be necessary to protect health insurance consumers, and to preserve the important role of producers in the health insurance transaction and in the resolution of disputed health insurance claims.*
- *Other related matters as necessary.*

This was then referred to the Health Care Reform Actuarial (B) Working Group (HCRAWG) of the Health Actuarial (B) Task Force on April 4, 2011 for completion.

Executive Summary

The Working Group received various suggestions as to possible ways to modify MLR definitions, methodology and/or numerical standards to support producer compensation. Some of these variations could be combined as appropriate. All of these options are in addition to the default option of making no changes to the current MLR formula. Here is a summary of the variations identified:

- 1. Types of compensation in addition to commissions, if any, eligible for special treatment;**
- 2. Types of producers for which compensation is eligible for special treatment;**
- 3. Limits, if any, on the amount of compensation given special treatment;**
- 4. Increase the numerical MLR standards (85% and 80%) to reflect the exclusion of commissions;**
- 5. Substitute producer compensation deduction for the federal tax deduction;**
- 6. Limit the number of years that special treatment of producer compensation will be applicable to the period prior to 2014 when guaranteed issue will apply and exchanges will be in place.**

The Working Group collected data from the National Association of Health Underwriters (NAHU), Connecture, three large health insurance companies, and several states, regarding commission levels. Each of these data sets are incomplete and have significant limitations and none of the private data was fully exposed for public review and comment, reducing our ability to draw meaningful conclusions from them. In reviewing this data, the Working Group has the following observations:

- 1. The numerical data from the three companies, NAHU, and Connecture do not provide a clear trend in commission reductions prior to 2011.**
- 2. However, some of the states with higher MLR requirements do report reductions in commissions over several years in their states.**
- 3. In 2011, a significant number of companies have reduced commission levels, particularly in the individual market. However, a significant number of companies have not reduced commissions in 2011.**
- 4. The states with higher MLR requirements have not observed any problems with consumer access to insurance or to producers.**

The Working Group also evaluated options based upon data derived from the Supplemental Health Care Exhibit (SHCE) for 2010. Highlights from the SHCE 2010 data include the summary tables below showing rebates that would have been payable had the rebate requirement been in effect for calendar year 2010 (“PMPM” refers to “per member per month”).

Table A-MLR and Rebate Levels

MLR and Rebate Levels	% of Companies Paying Rebates*	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM	Member Months (Millions)
Individual Market	14.2%	52.9%	73.6%	\$978.3	\$8.09	121
Small Group Market	15.7%	22.8%	82.3%	\$447.4	\$2.13	210
Large Group Market	15.0%	14.7%	89.4%	\$526.7	\$1.13	465

* 3,196 company/state combinations in data, each company counted for each state in which it writes.

The following table captures the relative levels of compensation included in the SHCE data.

Table B-Compensation Levels

Compensation Levels	Producer Commissions (SHCE 10.2) % of Earned Premium	PMPM	Other Sales Expenses (SHCE 10.1) % of Earned Premium	PMPM	Member Months (Millions)
Individual	5.86%	\$12.28	1.04%	\$2.18	121
Small Group	4.52%	\$15.08	0.65%	\$2.17	210
Large Group	1.84%	\$6.12	0.52%	\$1.73	465

Using the SHCE 2010 data, we were able to estimate the effect of 12 modifications had they been in effect in 2010. These modifications reflect changing different components of the MLR calculation, including various caps on those modifications. The basic modification is the first one, excluding agents and brokers fees and commissions. The other modifications are variations from this basic change. Below is a table showing the impact of this basic modification, followed by results of capping the commission adjustment at various levels. The tables showing results for the complete set of modifications considered are contained in the body of the report.

It should be noted that our analysis of rebates that would have been paid for 2010 reflects federal income taxes (FIT) as reported in the SHCE. We had extensive discussions as to whether FIT would have been lower, and rebates therefore higher, if rebates were actually required for 2010. The thinking was that a liability would be held for anticipated rebates, which would reduce profits and therefore reduce FIT. However, an alternate view was that the rebate rules require FIT to be stated ignoring the impact of rebates. Language in the NAIC Regulation for Uniform Definitions and Standardized Methodologies for Calculation of the Medical Loss Ratio for Plan Years 2011, 2012 and 2013 contains language that can be interpreted to support that position. The federal regulation, which is the one that applies, seems unclear on this point. We believe this is an important issue that must be resolved before rebates are calculated next year and we stand ready to investigate it further through discussions with federal regulators and interested parties if requested. However, it is only a secondary issue for purposes of this report and we concluded that we did not need to resolve it in order to finalize our report on producer compensation.

The results in Table C are intended to illustrate the relative impact of the first modification, not the actual level of rebates expected. Results for 2011 and later years are likely to differ from 2010 for several reasons. Carriers will likely make changes in their operations as they implement and react to the various provisions of the Affordable Care Act. Changes in commission scales are just one example of this. In addition to operational changes, they are likely to fine-tune accounting procedures with respect to the SHCE reporting. For example, many carriers may not have had time to consider all of the administrative expenses that might qualify as quality improvement expenses for 2010, but may pay more attention to this for 2011, when this item will affect actual rebate calculations.

Modification 1 subtracts agents and brokers fees and commissions (SHCE Part 1, Line 10.2) from the adjusted earned premium used in the rebate formula.

Table C-Modification 1

	% of Companies Paying Rebates	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM
Individual Market	11.1%	31.3%	78.8%	\$401.3	\$3.32
Differences from Table A	-3.1%	-21.6%	5.2%	-\$577.0	-\$4.77
Small Group Market	8.4%	7.6%	87.0%	\$146.2	\$0.70
Differences from Table A	-7.3%	-15.2%	4.7%	-\$301.2	-\$1.43
Large Group Market	8.9%	5.4%	91.6%	\$215.9	\$0.46
Differences from Table A	-6.1%	-9.3%	2.2%	-\$310.8	-\$0.67

It has been suggested that rather than excluding all producer compensation from the formula, the exclusion be capped. We evaluated various caps, both on a percentage of premium basis and a PMPM basis. Generally a cap of about 3-4% would restore half the rebate reduction for individual, while a cap of under 2% would have a similar impact for the small and large group markets. Similarly, a cap of about \$6 PMPM would restore half the rebate reduction for individual and a cap under \$6 PMPM would do so for both group markets.

As evidenced in Table C, adjusting the MLR calculations for producer compensation, results in an increase in the MLR by several percentage points. The Working Group calculated the “break-even” MLR level that would preserve the level of rebates prior to the commission adjustments. For the three markets (and no commission cap), this break-even level is about 86%, with some variation by market.

The Working Group did not consider modifications to the MLR calculations based on producer type.

Finally, it has been suggested that the producer compensation deduction should replace the federal tax deduction. As discussed above, it is unclear whether FIT would have been lower, and rebates therefore higher, if rebates were actually required for 2010. If the answer is no, then the impact of the suggestion to replace the federal tax deduction with a deduction for producer compensation, had it been in effect in 2010, can be seen by comparing Tables 0 and 11 in the report. This comparison shows a reduction in rebates of 29% in the individual market, 7% in the small group market, and 5% in the large group market. If, on the other hand, FIT would have been lower if rebates were required, we believe rebates in Table 0 would be in the range of 30% higher. This would increase then the reduction in rebates that would result from replacing the federal tax deduction with a deduction for producer compensation to roughly half for the individual market and roughly a quarter in the group markets, thus having a significant impact on the rebate levels if the numerical standards remain the same.

Data Collection

Data to perform analyses to complete the charge were of two general types: NAIC Supplemental Health Care Exhibit (SHCE) Data and producer reimbursement data from outside sources.

NAIC Supplemental Health Care Exhibit Data

Our primary source of data was the Supplemental Health Care Exhibit (SHCE), a new exhibit added to the annual statement reporting requirements to provide data needed for the MLR calculation under the Affordable Care Act (ACA). Data for the year 2010 from the SHCE (a list of elements can be found in Appendix A) as of 4/14/11 was extracted from the NAIC database. The data is unaudited and was used without modification. The collected SHCE data was used to calculate the approximate MLR and rebates in the manner detailed in the NAIC’s *Regulation for Uniform Definitions and Standardized Methodologies for Calculation of the Medical Loss Ratio for Plan Years 2011, 2012 and 2013 per Section 2718 (b) of the Public Health Service Act (#190)*. The data was also used to calculate MLRs and rebates using modifications to the standardized calculation to reflect some of the options identified regarding commissions.

Producer Compensation Data from Outside Sources

Because the SHCE is not available for years other than 2010, we needed to rely on outside sources for data regarding commission trends in prior years and changes occurring in 2011.

National Association of Health Underwriters (NAHU)

NAHU provided compensation schedules by company by state, generally from 2009 through 2011, with a few schedules provided back to 2008. The data was blinded as the information is considered proprietary and is used for competitive differentiation. This blinding presented analytical challenges and, consequently, conclusions reached from the analysis of the data are debatable. It appears that while some commission schedules went down from 2009 to 2010, many more have dropped from 2010 to 2011. Many carriers maintained stable commission schedules between 2009 and 2011, however, and in a few cases schedules went up between 2009 and 2010 or between 2010 and 2011. Complicating the analysis, some schedules were restructured year over year with no apparent indication of the relative level of the subsequent schedule. In particular, some carriers have moved from percentage commissions to PMPM or PEPM (per employee per month) compensation or introduced tiered commission structures. It is not apparent if these restructurings were for new product packaging, strategic positioning, reflection of relative inconsistencies in prior schedules, or for some other reason. There was no indication that reductions in scheduled compensation were intended to offset the growth in premium to maintain a consistent income level for producers, although that may have been a motivating factor for some companies, since premium rates have increased dramatically over the past decade.

On the basis of our analysis we conclude that companies did not systematically decrease the percentage of premium provided as provider compensation between 2009 and 2010. We further conclude there has been a widespread decrease in first year percentage of premium compensation in the individual market in 2011, although trends are less evident with respect to renewal commissions or the group markets. We were unable to analyze changes in absolute dollar amounts of producer compensation, which are the results of applying changing producer compensation schedules to changing premium amounts.

Connecture

Connecture is a software company that provides technology to Health Insurance Carriers, Brokers, and Exchanges, both public & private. Connecture's source for the submitted data was a third-party market research company; not Connecture's clientele. Given the sensitive nature of the data it supplied, Connecture insisted that the data not be made public. The Connecture data is based on broker commission schedules for large carriers from 2005 through 2011. The data appears to show for some larger carriers in the individual market that first year commission percentages have dropped in some states by as much as 30% - 50% in 2011. In other states commissions stayed level or did not drop as dramatically. No pattern can be seen in the individual market renewal commission percentages nor the group market commission percentages. No pattern can be seen in any market for years prior to 2011. The data generally provides validation to conclusions reached with the NAHU data.

Major carriers

The Working Group asked the three largest groups of health insurers, Aetna, United Healthcare, and WellPoint, to submit data showing company experience by individual, small group, and large group lines of business by state for the years 2006-2010. At the suggestion of the companies, a template was prepared to clarify the data request and promote uniformity in the data being submitted to the Working Group. The companies were not able to provide data for all states within the short time available, but provided data for three or four representative states. They also were not able to provide information on current commission scales. The Working Group has identified this as a lower priority. The data was submitted to the Working Group through AHIP (America's Health Insurance Plans), a national association of health insurers, with the names of the companies and states replaced by "1, 2, 3" and "A, B, C". The companies requested confidentiality with respect to the data submitted, even though it was blinded, due to a concern that it would be possible to identify the company and state based on the data. Therefore, it was not available for review by interested parties.

The companies provided data for total direct premiums earned, agents and brokers fees and commissions, and member months. They were unable to break out first-year versus renewal experience in the time allowed. Using this data, the Working Group calculated commission rates both on a percentage basis and a member month basis over the years reported. In reviewing these summary results, there were no detectable commission trends in any of the lines of business leading up to and including 2010. Please note that this is an aggregate result, which is affected by factors such as the states reported, product mix over time, and the relative proportions of new business versus renewal business in each reported year.

States

The Working Group contacted 11 states that have relatively high required minimum loss ratios and asked them to provide comments about the impact of those loss ratios in their states. Ten states responded and Appendix B contains a summary of the responses. The following are general comments about the responses:

1. State calculations of MLR differ from the federal MLR calculation in important ways – especially with respect to the deductions from premium allowed in the federal MLR.
2. Consumers continue to have access to insurance and producers without noticeable problems.
3. There have been some reductions in both individual and small group producer compensation, with more individual health insurance being sold directly to consumers.
4. For several states, the MLR changes have been too recent to allow for changes to be observed.

There were 4 states in addition to the 11 surveyed states that provided data related to producer compensation. Maryland provided some data on compensation arrangements for specific companies. The data went back as far as 2005, but in most cases only the most recent schedules are provided. There are three companies where previous and current compensation schedules can be compared.

For the first company, only the small group schedules can be compared. This shows a switch from a percentage of premium method for commissions to a per employee per month (PEPM) schedule. A second company has reduced per capita per month commission (PCPM) levels by about 15% for both small group and individual business, although it has apparently introduced new incentives, so the overall effect is not known. Finally, a third company introduced a new small group schedule which appears to increase agent compensation, since the percentages are unchanged, but new incentives are added. While this information is limited, it is basically consistent with other information discussed above in that it suggests movement from commission arrangements based on percentages of commissions to a flat dollar amount per employee, particularly for group business.

Maryland provided data from 2002 through 2010 for the ratio of total producer compensation to earned premium for the individual, small group, and large group. The data for all three markets shows sizeable increases in that percentage over the time period. Without more specific data it is only possible to hypothesize about the cause of the increases. This data is only for one state so it is not possible to make nationwide inferences.

California provided data from 2000 through 2010 for the ratio of total producer compensation to earned premium for the individual, small group, and large group. For the individual market, the data were comparable for 2005 through 2010, and for the group markets (large and small) the data were comparable for the period 2003 through 2010. The data for the individual and small group markets shows very modest decreases in commission percentages (substantially less than the increases in premium rates over the observation period) and very modest increases in commission percentages in the large group market.

Data received from the other states is useful for background purposes but does not add to the above analysis.

Options

The following options to modify MLR definitions, methodology and/or numerical standards are ones communicated to us by various parties during our discussions. All of these are variations on the initial proposal to exclude broker compensation from the MLR calculation. Some of these variations could be combined as appropriate. All of these options are in addition to the default option of making no changes to the current MLR formula.

1. Types of compensation in addition to commissions, if any, eligible for special treatment:
 - a. Bonuses
 - b. Incentives
 - c. Direct sales salaries and benefits
 - d. Payments by one carrier to another to market the first carrier's health plans
 - e. Fees paid to exchanges (beginning in plan year 2014)
2. Types of producers for which compensation is eligible for special treatment:
 - f. Independent
 - g. Captive
 - h. Employees of the carrier

3. Limits, if any, on the amount of compensation given special treatment:
 - i. Cap on percentage of premium excluded
 - j. Cap on dollar amount per individual policy or group certificate or per member month
4. Increase the numerical MLR standards (85% and 80%) to reflect the exclusion of commissions
5. Currently, the MLR formula allows all federal taxes to be excluded from the calculation. A possible modification to the formula would allow producer compensation to be excluded from the calculation, but would allow the deduction of only those federal taxes that result from the enactment of the ACA. (These taxes will not be levied until 2014.)
6. Limit the number of years that special treatment of producer compensation will be applicable to the period prior to 2014 when guaranteed issue will apply and exchanges will be in place. A variation on this would be grading the allowable excluded amounts from a maximum in the first plan year to no allowable excludable amounts in 2014.

As discussed below, we were able to estimate the effect of many of these options had they been in effect in 2010, from the SHCE. This analysis assumes options 1.a, 1.b, and 1.d, are all treated the same as commissions and that commissions include those paid to captive as well as independent producers. The data in the SHCE did not allow quantification of other options.

As another option, exclusion of producer compensation up to a maximum percentage of earned premium from the MLR calculation could be at the option of each state. The default would be that no producer compensation would be allowed for exclusion. This option was not quantifiable, as there is no way to determine which states would choose this option. However, SHCE data is segregated by state, so the effects of a capped exclusion for a given state could be quantified. SHCE data by state is summarized in Appendix E.

MLR Rebate Estimate Modeling

2010 SHCE data was used to calculate an estimate of MLRs and rebates that would have been payable had the rebate requirement been in effect for calendar year 2010. The exact calculation is given in Appendix D. There are differences between some of the data elements that would be used for an actual MLR rebate calculation and the data that is found in the SHCE, which lead to differences in the calculation used in this analysis and the actual calculation under Section 2718 of PPACA:

- The SHCE defines incurred claims as any claims paid in the reporting year, irrespective of incurral year, plus the year-over-year change in year-end reserve estimates. The actual MLR calculation defines incurred claims as claims incurred in the reporting year and paid as of 3/31 of the following year, plus the estimate of remaining amounts unpaid as of 3/31 of the following year.
- The actual MLR calculation incorporates a credibility adjustment based on the number of life years and the average deductible for a given block of insurance plans. The SHCE does not give deductible information, so it was assumed the deductible adjustment factor in the credibility adjustment was 1.0, implying all deductibles in the SHCE data were less than \$2,500. The effect of this assumption is to overstate the rebates
- The impact on federal income taxes that result from rebates is not considered in the calculation for this analysis. Only taxes as reported in the SHCE enter the calculation. Because no rebates are actually payable for 2010, reported taxes do not reflect any adjustment for rebates. It is unclear whether the reported taxes and the rebates calculated would be affected if rebates were payable. (See Appendix C for discussion of this issue).

The variances between the calculated and actual MLRs due to these differences cannot be accurately determined.

The results of the rebate estimate modeling are as follows (PMPM = per-member-per-month). Please see Appendix D for the detailed calculation:

Table 0: no change to current formula

	% of Companies Paying Rebates	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM	Member Months (Millions)
Individual Market, Nationwide	14.2%	52.9%	73.6%	\$978.3	\$8.09	121
Small Group Market, Nationwide	15.7%	22.8%	82.3%	\$447.4	\$2.13	210
Large Group Market, Nationwide	15.0%	14.7%	89.4%	\$526.7	\$1.13	465

*3,196 company/state combinations in data, each company counted for each state in which it writes.

The following table shows the relative level of compensation included in the SHCE.

Compensation Levels

Compensation Levels	Producer Commissions (SHCE 10.2) % of Earned Premium	PMPM	Other Sales Expenses (SHCE 10.1) % of Earned Premium	PMPM	Member Months (Millions)
Individual	5.86%	\$12.28	1.04%	\$2.18	121
Small Group	4.52%	\$15.08	0.65%	\$2.17	210
Large Group	1.84%	\$6.12	0.52%	\$1.73	465

The results in the following tables are intended to illustrate the relative impact of the various options, not the actual level of rebates expected. Results for 2011 and later years are likely to differ from 2010 for several reasons. Carriers will likely make changes in their operations as they implement and react to the various provisions of the Affordable Care Act. Changes in commission scales are just one example of this. In addition to operational changes, they are likely to fine-tune accounting procedures with respect to the SHCE. For example, many carriers may not have had time to consider all of the administrative expenses that might qualify as quality improvement expenses for 2010, but may pay more attention to this for 2011, when this item will affect rebate calculations.

Quantifiable Options

As previously mentioned, we were able to estimate the effects of many of the options identified above, assuming they had been applicable in 2010, using 2010 SHCE data.

These modifications exclude either all or some of payments made to producers from the adjusted earned premium, which is both the denominator of the MLR formula, and the amount to which the rebate percentage is applied.

The following table shows which of the items listed in the “Options” section above relate to the various modifications discussed below:

Modification	1.c. Exclude Direct Sales Salaries and Benefits in addition to Commissions	3.a. Cap exclusion as percent of premium	3.b. Cap exclusion per member month	4. Increase the numerical MLR standards	5. Exclude only federal taxes that result from the ACA (none in 2010)
1					
2	X				
3		X			
4	X	X			
5			X		
6	X		X		
7		X		X	
8	X	X		X	
9			X	X	
10	X		X	X	
11					X
12	X				X

Modification 1

This modification subtracts agents and brokers fees and commissions (SHCE Part 1, Line 10.2) from the adjusted earned premium used in the rebate formula (please see Appendix D for the detailed calculation). Line 10.2 should include bonuses and incentives as well as commissions. However, because this is the first year the SHCE has been completed and the data has not been audited, we cannot verify this with certainty. The results of the rebate estimate modeling are as follows:

Table 1

	% of Companies Paying Rebates	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM	Member Months (Millions)
Individual Market, Nationwide	11.1%	31.3%	78.8%	\$401.3	\$3.32	121
Small Group Market, Nationwide	8.4%	7.6%	87.0%	\$146.2	\$0.70	210
Large Group Market, Nationwide	8.9%	5.4%	91.6%	\$215.9	\$0.46	465

Modification 2

This modification subtracts agents and brokers fees and commissions (SHCE Part 1, Line 10.2), and direct sales salaries and benefits (SHCE Part 1, Line 10.1) from the adjusted earned premium used in the rebate formula (please see Appendix D for the exact calculation). The results of the rebate estimate modeling are as follows:

Table 2

	% of Companies Paying Rebates	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM	Member Months (Millions)
Individual Market, Nationwide	10.9%	30.9%	79.5%	\$358.6	\$2.96	121
Small Group Market, Nationwide	7.9%	7.5%	87.7%	\$126.4	\$0.60	210
Large Group Market, Nationwide	7.8%	4.1%	92.1%	\$195.9	\$0.42	465

Modification 3

This modification subtracts agents and brokers fees and commissions (SHCE Part 1, Line 10.2), capped at a maximum percentage of earned premium, from the adjusted earned premium used in the rebate formula (please see Appendix D for the exact calculation). The results of the rebate estimate modeling are as shown in the three tables below. The results under current law and the results with no cap are shown for comparison. Generally, a cap of between 3% and 4% would restore half the rebate reduction for the individual market, while a cap of under 2% would do so for the group markets (i.e. in Table 3a, $978 - 401 = 577$, $577 / 2 = 288$, $288 + 401 = 689$, $655 < 689 < 800$.)

Table 3a

Individual Market, Nationwide						
Percentage of Earned Premium Cap on Excluded Commissions	% of Companies Paying Rebates	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM	Member Months (Millions)
Current Law	14.2%	52.9%	73.6%	\$978.3	\$8.09	121
2%	13.4%	46.7%	74.5%	\$800.1	\$6.62	121
4%	12.7%	41.3%	75.6%	\$655.7	\$5.42	121
6%	12.1%	33.0%	76.9%	\$556.5	\$4.60	121
8%	11.8%	32.7%	77.7%	\$485.9	\$4.02	121
10%	11.4%	31.5%	78.5%	\$425.7	\$3.52	121
No Cap	11.1%	31.3%	78.8%	\$401.3	\$3.32	121

Table 3b

Small Group Market, Nationwide						
Percentage of Earned Premium Cap on Excluded Commissions	% of Companies Paying Rebates	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM	Member Months (Millions)
Current Law	15.7%	22.8%	82.3%	\$447.4	\$2.13	210
2%	12.4%	17.0%	83.9%	\$259.9	\$1.23	210
4%	10.5%	9.7%	85.2%	\$181.3	\$0.86	210
6%	9.1%	7.8%	86.0%	\$157.7	\$0.75	210
8%	8.9%	7.8%	86.5%	\$152.1	\$0.72	210
10%	8.7%	7.7%	86.7%	\$148.9	\$0.71	210
No Cap	8.4%	7.6%	87.0%	\$146.2	\$0.70	210

Table 3c

Large Group Market, Nationwide						
Percentage of Earned Premium Cap on Excluded Commissions	% of Companies Paying Rebates	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM	Member Months (Millions)
Current Law	15.0%	14.7%	89.4%	\$526.7	\$1.13	465
2%	12.0%	9.2%	90.8%	\$281.6	\$0.61	465
4%	10.0%	5.6%	91.3%	\$221.9	\$0.48	465
6%	9.4%	5.4%	91.4%	\$217.5	\$0.47	465
8%	9.4%	5.4%	91.4%	\$217.0	\$0.47	465
10%	9.4%	5.4%	91.5%	\$216.6	\$0.47	465
No Cap	8.9%	5.4%	91.6%	\$215.9	\$0.46	465

Modification 4

This modification subtracts agents and brokers fees and commissions (SHCE Part 1, Line 10.2) and direct sales salaries and benefits (SHCE Part 1, Line 10.1), the sum of both capped at a maximum percentage of earned premium, from the adjusted earned premium used in the rebate formula (please see Appendix D for the exact calculation). The results under current law and the results with no cap are shown for comparison.

Table 4a

Percentage of Earned Premium Cap on Excluded Commissions + Direct Sales	Individual Market, Nationwide					
	% of Companies Paying Rebates	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM	Member Months (Millions)
Current Law	14.2%	52.9%	73.6%	\$978.3	\$8.09	121
2%	13.4%	46.7%	74.3%	\$799.5	\$6.61	121
4%	12.6%	41.0%	75.5%	\$649.2	\$5.37	121
6%	12.0%	32.7%	76.8%	\$540.0	\$4.47	121
8%	11.7%	32.3%	77.7%	\$465.5	\$3.85	121
10%	11.2%	31.1%	78.4%	\$401.8	\$3.32	121
No Cap	10.9%	30.9%	79.5%	\$358.6	\$2.96	121

Table 4b

Percentage of Earned Premium Cap on Excluded Commissions + Direct Sales	Small Group Market, Nationwide					
	% of Companies Paying Rebates	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM	Member Months (Millions)
Current Law	15.7%	22.8%	82.3%	\$447.4	\$2.13	210
2%	12.4%	17.0%	83.9%	\$256.6	\$1.22	210
4%	10.4%	9.6%	85.5%	\$171.9	\$0.81	210
6%	8.9%	7.7%	86.6%	\$142.4	\$0.67	210
8%	8.7%	7.7%	87.1%	\$135.6	\$0.64	210
10%	8.2%	7.5%	87.3%	\$130.4	\$0.62	210
No Cap	7.9%	7.5%	87.7%	\$126.4	\$0.60	210

Table 4c

Percentage of Earned Premium Cap on Excluded Commissions + Direct Sales	Large Group Market, Nationwide					
	% of Companies Paying Rebates	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM	Member Months (Millions)
Current Law	15.0%	14.7%	89.4%	\$526.7	\$1.13	465
2%	11.6%	8.1%	90.9%	\$272.1	\$0.59	465
4%	9.5%	4.5%	91.6%	\$206.1	\$0.44	465
6%	8.6%	4.2%	91.8%	\$198.0	\$0.43	465
8%	8.3%	4.1%	91.9%	\$197.1	\$0.42	465
10%	8.3%	4.1%	91.9%	\$196.7	\$0.42	465
No Cap	7.8%	4.1%	92.1%	\$195.9	\$0.42	465

Modification 5

This modification subtracts agents and brokers fees and commissions (SHCE Part 1, Line 10.2), capped at a maximum PMPM amount multiplied by member months, from the adjusted earned premium used in the rebate formula (please see Appendix D for the exact calculation). The results under current law and the results with no cap are shown for comparison. Generally, a cap of between \$6 and \$12 PMPM would restore half the rebate reduction for the individual market and a cap under \$6 PMPM would do so for both group markets.

Table 5a

Individual Market, Nationwide						
PMPM Cap on Excluded Commissions	% of Companies Paying Rebates	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM	Member Months (Millions)
Current Law	14.2%	52.9%	73.6%	\$978.3	\$8.09	121
\$6	13.0%	43.5%	75.3%	\$724.9	\$6.00	121
\$12	12.0%	34.1%	77.0%	\$548.5	\$4.54	121
\$18	11.5%	31.7%	78.0%	\$445.0	\$3.68	121
\$24	11.3%	31.5%	78.6%	\$412.5	\$3.41	121
\$30	11.3%	31.5%	78.8%	\$406.2	\$3.36	121
No Cap	11.1%	31.3%	78.8%	\$401.3	\$3.32	121

Table 5b

Small Group Market, Nationwide						
PMPM Cap on Excluded Commissions	% of Companies Paying Rebates	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM	Member Months (Millions)
Current Law	15.7%	22.8%	82.3%	\$447.4	\$2.13	210
\$6	12.7%	17.2%	83.6%	\$269.9	\$1.28	210
\$12	10.4%	9.9%	84.9%	\$192.0	\$0.91	210
\$18	9.3%	8.4%	85.7%	\$161.0	\$0.76	210
\$24	8.8%	7.7%	86.3%	\$152.9	\$0.72	210
\$30	8.7%	7.7%	86.5%	\$149.6	\$0.71	210
No Cap	8.4%	7.6%	87.0%	\$146.2	\$0.70	210

Table 5c

Large Group Market, Nationwide						
PMPM Cap on Excluded Commissions	% of Companies Paying Rebates	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM	Member Months (Millions)
Current Law	15.0%	14.7%	89.4%	\$526.7	\$1.13	465
\$6	11.6%	9.2%	90.7%	\$288.0	\$0.62	465
\$12	9.2%	5.5%	91.4%	\$223.4	\$0.48	465
\$18	8.8%	5.4%	91.5%	\$217.0	\$0.47	465
\$24	8.8%	5.4%	91.5%	\$215.8	\$0.46	465
\$30	8.8%	5.4%	91.6%	\$215.5	\$0.46	465
No Cap	8.9%	5.4%	91.6%	\$215.9	\$0.46	465

Modification 6

This modification subtracts agents and brokers fees and commissions (SHCE Part 1, Line 10.2) and direct sales salaries and benefits (SHCE Part 1, Line 10.1), the sum of both capped at a maximum PMPM amount multiplied by member months, from the adjusted earned premium used in the rebate formula (please see Appendix D for the exact calculation). The results under current law and the results with no cap are shown for comparison.

Table 6a

Individual Market, Nationwide						
PMPM Cap on Excluded Commissions + Direct Sales	% of Companies Paying Rebates	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM	Member Months (Millions)
Current Law	14.2%	52.9%	73.6%	\$978.3	\$8.09	121
\$6	13.0%	43.3%	75.6%	\$719.2	\$5.95	121
\$12	11.8%	33.7%	77.5%	\$534.1	\$4.42	121
\$18	11.3%	31.3%	78.5%	\$420.8	\$3.48	121
\$24	11.1%	31.1%	79.2%	\$378.2	\$3.13	121
\$30	11.1%	31.1%	79.3%	\$365.9	\$3.03	121
No Cap	10.9%	30.9%	79.5%	\$358.6	\$2.96	121

Table 6b

Small Group Market, Nationwide						
PMPM Cap on Excluded Commissions + Direct Sales	% of Companies Paying Rebates	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM	Member Months (Millions)
Current Law	15.7%	22.8%	82.3%	\$447.4	\$2.13	210
\$6	12.7%	17.2%	83.7%	\$266.3	\$1.27	210
\$12	10.3%	9.8%	85.1%	\$178.2	\$0.85	210
\$18	9.2%	8.3%	86.1%	\$146.0	\$0.70	210
\$24	8.7%	7.6%	86.8%	\$135.2	\$0.64	210
\$30	8.3%	7.5%	87.2%	\$130.8	\$0.62	210
No Cap	7.9%	7.5%	87.7%	\$126.4	\$0.60	210

Table 6c

Large Group Market, Nationwide						
PMPM Cap on Excluded Commissions + Direct Sales	% of Companies Paying Rebates	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM	Member Months (Millions)
Current Law	15.0%	14.7%	89.4%	\$526.7	\$1.13	465
\$6	11.2%	8.1%	90.9%	\$277.3	\$0.60	465
\$12	8.7%	4.4%	91.6%	\$207.5	\$0.45	465
\$18	8.0%	4.2%	91.9%	\$198.5	\$0.43	465
\$24	7.8%	4.1%	92.0%	\$196.0	\$0.42	465
\$30	7.8%	4.1%	92.0%	\$195.6	\$0.42	465
No Cap	7.8%	4.1%	92.1%	\$195.9	\$0.42	465

Modification 7

This modification is a variation of modification 3. It subtracts agents and brokers fees and commissions (SHCE Part 1, Line 10.2), capped at a maximum percentage of earned premium, from the adjusted earned premium used in the rebate formula. In addition, the minimum MLR is adjusted such that the rebate payable under this modification will equal the rebate payable using a calculation with no modification and the statutory minimum MLRs (please see Appendix D for the exact calculation). The results of the rebate estimate modeling are as follows:

Table 7a

Individual Market, Nationwide

Rebate \$Millions	\$978.3					
Rebate PMPM	\$8.09					
Member Months (Millions)	121					
Percentage of Earned Premium Cap on Excluded Commissions	No Cap	2%	4%	6%	8%	10%
Equivalent Minimum MLR to Match Rebate Under Unchanged Rebate Formula	86.20%	81.64%	83.24%	84.46%	85.37%	85.98%

Table 7b

Small Group Market, Nationwide

Rebate \$Millions	\$447.4					
Rebate PMPM	\$2.13					
Member Months (Millions)	210					
Percentage of Earned Premium Cap on Excluded Commissions	No Cap	2%	4%	6%	8%	10%
Equivalent Minimum MLR to Match Rebate Under Unchanged Rebate Formula	84.10%	81.66%	83.20%	83.99%	84.08%	84.11%

Table 7c

Large Group Market, Nationwide

Rebate \$Millions	\$526.7					
Rebate PMPM	\$1.13					
Member Months (Millions)	465					
Percentage of Earned Premium Cap on Excluded Commissions	No Cap	2%	4%	6%	8%	10%
Equivalent Minimum MLR to Match Rebate Under Unchanged Rebate Formula	87.30%	86.52%	87.24%	87.28%	87.29%	87.29%

Modification 8

This modification is a variation of modification 4. It subtracts agents and brokers fees and commissions (SHCE Part 1, Line 10.2), and direct sales salaries and benefits (SHCE Part 1, Line 10.1), the sum of both capped at a maximum percentage of earned premium from the adjusted earned premium used in the rebate formula. In addition, the minimum MLR is adjusted such that the rebate payable under this modification will equal the rebate payable using a calculation with no modification and the statutory minimum MLRs (please see Appendix D for the exact calculation). The results of the rebate estimate modeling are as follows:

Table 8a

Individual Market, Nationwide

Rebate \$Millions	\$978.3					
Rebate PMPM	\$8.09					
Member Months (Millions)	121					
Percentage of Earned Premium Cap on Excluded Commissions	No Cap	2%	4%	6%	8%	10%
Equivalent Minimum MLR to Match Rebate Under Unchanged Rebate Formula	87.00%	81.65%	83.31%	84.79%	85.81%	86.52%

Table 8b

Small Group Market, Nationwide

Rebate \$Millions	\$447.4					
Rebate PMPM	\$2.13					
Member Months (Millions)	210					
Percentage of Earned Premium Cap on Excluded Commissions	No Cap	2%	4%	6%	8%	10%
Equivalent Minimum MLR to Match Rebate Under Unchanged Rebate Formula	84.60%	81.69%	83.30%	84.28%	84.49%	84.55%

Table 8c

Large Group Market, Nationwide

Rebate \$Millions	\$526.7					
Rebate PMPM	\$1.13					
Member Months (Millions)	465					
Percentage of Earned Premium Cap on Excluded Commissions	No Cap	2%	4%	6%	8%	10%
Equivalent Minimum MLR to Match Rebate Under Unchanged Rebate Formula	87.60%	86.59%	87.47%	87.56%	87.59%	87.59%

Modification 9

This modification is a variation of modification 5. It subtracts agents and brokers fees and commissions (SHCE Part 1, Line 10.2), capped at a maximum PMPM amount multiplied by member months, from the adjusted earned premium used in the rebate formula. In addition, the minimum MLR is adjusted such that the rebate payable under this modification will equal the rebate payable using a calculation with no modification and the original statutory MLRs (please see Appendix D for the exact calculation). The results of the rebate estimate modeling are as follows:

Table 9a

Individual Market, Nationwide

Rebate \$Millions	\$978.3					
Rebate PMPM	\$8.09					
Member Months (Millions)	121					
PMPM Cap on Excluded Commissions	No Cap	\$6	\$12	\$18	\$24	\$30
Equivalent Minimum MLR to Match Rebate Under Unchanged Rebate Formula	86.20%	82.44%	84.49%	85.78%	86.11%	86.17%

Table 9b

Small Group Market, Nationwide

Rebate \$Millions	\$447.4					
Rebate PMPM	\$2.13					
Member Months (Millions)	210					
PMPM Cap on Excluded Commissions	No Cap	\$6	\$12	\$18	\$24	\$30
Equivalent Minimum MLR to Match Rebate Under Unchanged Rebate Formula	84.10%	81.54%	82.90%	83.82%	84.05%	84.09%

Table 9c

Large Group Market, Nationwide

Rebate \$Millions	\$526.7					
Rebate PMPM	\$1.13					
Member Months (Millions)	465					
PMPM Cap on Excluded Commissions	No Cap	\$6	\$12	\$18	\$24	\$30
Equivalent Minimum MLR to Match Rebate Under Unchanged Rebate Formula	87.30%	86.44%	87.22%	87.29%	87.30%	87.30%

Modification 10

This modification is a variation of modification 6. It subtracts agents and brokers fees and commissions (SHCE Part 1, Line 10.2), and direct sales salaries and benefits (SHCE Part 1, Line 10.1), the sum of both capped at a maximum PMPM amount multiplied by member months, from the adjusted earned premium used in the rebate. In addition, the minimum MLR is adjusted such that the rebate payable under this modification will equal the rebate payable using a calculation with no modification and the statutory minimum MLRs (please see Appendix D for the exact calculation). The results of the rebate estimate modeling are as follows:

Table 10a

Individual Market, Nationwide

Rebate \$Millions	\$978.3					
Rebate PMPM	\$8.09					
Member Months (Millions)	121					
PMPM Cap on Excluded Commissions	No Cap	\$6	\$12	\$18	\$24	\$30
Equivalent Minimum MLR to Match Rebate Under Unchanged Rebate Formula	87.00%	82.49%	84.78%	86.30%	86.77%	86.90%

Table 10b

Small Group Market, Nationwide

Rebate \$Millions	\$447.4					
Rebate PMPM	\$2.13					
Member Months (Millions)	210					
PMPM Cap on Excluded Commissions	No Cap	\$6	\$12	\$18	\$24	\$30
Equivalent Minimum MLR to Match Rebate Under Unchanged Rebate Formula	84.60%	81.57%	83.03%	84.08%	84.46%	84.53%

Table 10c

Large Group Market, Nationwide

Rebate \$Millions	\$526.7					
Rebate PMPM	\$1.13					
Member Months (Millions)	465					
PMPM Cap on Excluded Commissions	No Cap	\$6	\$12	\$18	\$24	\$30
Equivalent Minimum MLR to Match Rebate Under Unchanged Rebate Formula	87.60%	86.51%	87.44%	87.56%	87.59%	87.59%

Modification 11

This modification is a variation of modification 1. It subtracts agents and brokers fees and commissions (SHCE Part 1, Line 10.2) from the adjusted earned premium used in the rebate formula and adds federal taxes back in (please see Appendix D for the detailed calculation). The results of the rebate estimate modeling are as follows:

Table 11

	% of Companies Paying Rebates	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM	Member Months (Millions)
Individual Market, Nationwide	11.4%	35.2%	78.0%	\$699.1	\$5.78	121
Small Group Market, Nationwide	12.6%	19.2%	85.6%	\$415.3	\$1.98	210
Large Group Market, Nationwide	12.7%	11.7%	91.1%	\$497.9	\$1.07	465

As discussed above, it is unclear whether FIT would have been lower, and rebates therefore higher, if rebates were actually required for 2010. If the answer is no, then the impact of Modification 11 can be seen by comparing Tables 0 and 11 in the report. This comparison shows a reduction in rebates of 29% in the individual market, 7% in the small group market, and 5% in the large group market. If, on the other hand, FIT would have been lower if rebates were required, we believe rebates in Table 0 would be in the range of 30% higher. This would increase then the reduction in rebates that would result from replacing the federal tax deduction with a deduction for producer compensation to roughly half for the individual market and roughly a quarter in the group markets, thus having a significant impact on the rebate levels if the numerical standards remain the same.

Modification 12

This modification is a variation of modification 2. It subtracts agents and brokers fees and commissions (SHCE Part 1, Line 10.2), and direct sales salaries and benefits (SHCE Part 1, Line 10.1) from the adjusted earned premium used in the rebate formula and adds federal taxes back in (please see Appendix D for the exact calculation). The results of the rebate estimate modeling are as follows:

Table 12

	% of Companies Paying Rebates	% of Members Receiving Rebates	Median MLR	Rebate \$Millions	Rebate PMPM	Member Months (Millions)
Individual Market, Nationwide	11.1%	33.8%	78.8%	\$648.6	\$5.36	121
Small Group Market, Nationwide	12.4%	18.2%	86.6%	\$368.9	\$1.76	210
Large Group Market, Nationwide	11.3%	9.6%	91.7%	\$453.2	\$0.97	465

As with Modification 11, in comparing to earlier tables, it should be kept in mind that those tables do not reflect the possible effect of rebates on taxes reported in 2010.

Modification 13

This modification applies either a percentage of premium or PMPM cap on excludable producer compensation that would vary by market segment. For example, the excludable percentage of earned premium for individual business could be higher than the percentage for small and large group business. The effects of different percentage and PMPM caps are shown in the examples above.

Appendix A

Supplemental Health Care Exhibit Data Elements

Earned Premium

[1]	Total direct premiums earned	SHCE Part 2, Line 1.8
[2]	Change in reserve for rate credits	SHCE Part 2, Line 1.7
[3]	Federal high risk pools	SHCE Part 1, Line 1.2
[4]	State high risk pools	SHCE Part 1, Line 1.3

Federal and State Taxes and Licensing or Regulatory Fees

[5]	Federal taxes and federal assessments	SHCE Part 1, Line 1.5
[6]	State insurance, premium and other taxes	SHCE Part 1, Line 1.6
[7]	Regulatory authority licenses and fees	SHCE Part 1, Line 1.7

Expenses to Improve Health Care Quality

[8]	Total of Defined Expenses Incurred for Improving Health Care Quality	SHCE Part 1, Line 6.3
[9]	Deductible Fraud and Abuse Detection/Recovery Expenses	SHCE Part 1, Line 4
[10]	Total Incurred Claims	SHCE Part 1, Line 5
[11]	Agents and Brokers Fees and Commissions	SHCE Part 1, Line 10.2
[12]	Direct Sales Salaries and Benefits	SHCE Part 1, Line 10.1
[13]	Member Months	SHCE Part 1, Other Indicators, Line 4

Appendix B State Experience with Higher Minimum Loss Ratios

State	Summary of Response
Colorado	70% MLR for group since 2005 – not really a limit, but a safe harbor for benefits being reasonable in relation to premium. Erosion in small group carriers since 2000, sharply since 2007 when claims experience and health status were removed as allowable rating factors. Target loss ratios have increased to above 70%. A letter from Commissioner Postolowski, provided to the Working Group by an NAIC Consumer Representative, indicated that: (1) consumer access has not changed significantly; (2) MLR requirements may have moderated rate increases; and (3) competition may have provided an incentive to keep benefit ratios high.
Maine	On July 1, 2004 small group carriers had a choice of 75% with prior approval or guaranteed 78% with no prior approval. One company switched from selling small group to individual (65% loss ratio). No other observable impact on commissions or number of producers.
Maryland	Small group 75% MLR since 1993. Observed reducing commissions to small group, starting before healthcare reform. No problem with lack of producers for small group.
Minnesota	Provided state data. No issues about commissions.
New Jersey	From 75% to 80% in 2009. Most individual is sold direct. Small group – no problem with access. High average small group premiums, so may be a special case.
New Mexico	On May 19, 2010, 75% for individual (in process of changing to 80%). 85% for all group. Three years before any refunds are paid.
New York	Until 2010, rebate payable when individual loss ratio < 80% and small group loss ratio less than 75%. In 2011, all community-rated plans 82% (adjustments bring closer to federal level). No access or producer comp issues in small group or individual.
South Dakota	Just changed MLR 1/11/11. Too early to tell what impact the higher MLRs will have. Previous minimums: 65% individual, 75% group
Washington	For individual, 74% (minus 2% premium tax) loss ratio. Since 2000, excess is remitted by company to high risk pool. Companies appear to be reducing agent commissions and terminating contracts to cut costs and move to an on-line system. For small group, there is a trend toward not paying commissions on groups of 1-3 lives.
West Virginia	No problems with consumer access. Some agents are no longer writing for carriers that have limited or ended commissions.

Appendix C

Discussion of Federal Income Tax Impact on MLR Rebates

Under current law, all federal taxes are deducted from premium before calculation of the medical loss ratio (MLR) and rebates. The NAIC recommended that this be limited to federal taxes other than income tax on investment income, since the MLR calculation does not consider investment income. This recommendation was accepted by HHS in their Interim Final Regulation. There have been assertions made by some Members of Congress that they intended the federal tax deduction to apply only to those taxes used to fund the law. However, statutory language prevailed in developing the regulation.

Within this report, the issue of federal income taxes (FIT) is relevant in two regards. First, the Supplemental Health Care Exhibit (SHCE) does not reflect the possible impact of rebates on FIT, since rebates were not required in 2010. Second, one of the options discussed in this report is to substitute broker commissions for federal taxes in the MLR calculation – that is, to deduct commissions from premium but not deduct federal taxes other than the ACA-related taxes that begin in 2014.

Interaction of FIT and Rebates

The Working Group had extensive discussions as to whether FIT would have been lower, and rebates therefore higher, if rebates were actually required for 2010. The thinking was that a liability would be held for anticipated rebates, which would reduce profits and therefore reduce FIT. However, an alternate view was that the rebate rules require FIT to be stated ignoring the impact of rebates. Language in the NAIC Regulation for Uniform Definitions and Standardized Methodologies for Calculation of the Medical Loss Ratio for Plan Years 2011, 2012 and 2013 contains language that can be interpreted to support that position. The federal regulation, which is the one that applies, seems unclear on this point. We believe this is an important issue that must be resolved before rebates are calculated next year and we stand ready to investigate it further through discussions with federal regulators and interested parties if requested. However, it is only a secondary issue for purposes of this report and we concluded that we did not need to resolve it in order to finalize our report on producer compensation.

If the view that the payment of rebates will reduce FIT is correct, then if rebates had been required in 2010, companies would have had lower taxes due to payment of the rebates. These lower taxes would have been deducted from earned premium in the formula, leading to yet lower taxes, leading to yet greater rebates. Companies would have been able to evaluate this recursive formula to develop the actual taxes and rebates due. This concept may be easier to visualize with an example:

Example:

Assume no quality improvement expenses or state taxes and no federal taxes other than FIT, so we have only claims, premium and federal income tax entering the calculation. The MLR is calculated as claims divided by the quantity premium minus FIT. Taxes impact the calculation two ways, in determining the initial MLR and in determining the amount to which the rebate percentage is applied to calculate the rebate. If we have claims of 7,000, premium of 10,000 and FIT of 400, then the MLR is 72.9%, and the rebate initially is 680, $(7,000 / (10,000 - 400) = 72.9\%$. $80\% - 72.9\% = 7.1\%$. $7.1\% * (10,000 - 400) = 680$). However the tax is reduced by the deductible rebate paid, so if the tax rate is 30%, then taxes would be reduced by 204, $(680 * 30\% = 204)$ ¹. But the new taxes of 196 would be deducted from earned premium in calculating the MLR, so that the new MLR would be 71.4% and the new rebate would be \$843. Again the higher rebate would result in lower taxes resulting in higher rebates. Evaluation of the recursive formula results in an ultimate tax of 132 and ultimate rebate of 895, $895 * 30\% = 268$, $400 - 268 = 132$, $7,000 / (10,000 - 132) = 70.9\%$. $80\% - 70.9\% = 9.1\%$. $9.1\% * (10,000 - 132) = 895$.) In this case, rebates with a tax rate of 30% are 31% higher after evaluating the recursive formula, $(895 / 680 = 132\%)$. Generally the increase in rebates will be about equal to the tax rate.

¹ FIT laws and regulations are very complicated. This illustration uses a simplified calculation of the additional FIT incurred by only applying a marginal tax rate to the change in underwriting gain.

Possible Elimination of Non-ACA Federal Tax Exclusion

Eliminating the federal tax deduction from premium would generally increase the MLR rebates, while incorporating a producer reimbursement deduction from premium would decrease the MLR rebates. It has been suggested that by substituting a producer reimbursement deduction for the federal income tax deduction, perhaps the level of rebates to be paid to consumers would remain at a comparable level to the current statutory level. We evaluated this substitution and found near equality for small group and large group, but a decrease in rebates to be paid for the non-group pool. However as noted above, federal taxes in the SHCE did not incorporate the impact of rebates on the level of taxes, suggesting that the illustrated rebates were lower than they would have been if the recursive relationship had been evaluated. Perhaps a better comparison would be the rebates illustrated in the paper after deducting producer reimbursement versus rebates illustrated as derived from the SHCE inflated by an after tax factor of 25% to 35%. It appears rebates would be reduced with this substitution.

Appendix D

MLR Calculation Details

Bracketed numbers are elements from Appendix A

Table 0

$$MLR = \left(\frac{[8]+[9]+[10]}{[1]+[2]+[3]+[4]-[5]-[6]-[7]} \right)$$

If $MLR < \text{minimum MLR}$,

$$\text{Rebate} = [\text{Minimum MLR} - MLR] * ([1] + [2] + [3] + [4] - [5] - [6] - [7]),$$

Else, Rebate = 0

Table 1

$$MLR = \left(\frac{[8]+[9]+[10]}{[1]+[2]+[3]+[4]-[5]-[6]-[7]-[11]} \right)$$

If $MLR < \text{minimum MLR}$,

$$\text{Rebate} = [\text{Minimum MLR} - MLR] * ([1] + [2] + [3] + [4] - [5] - [6] - [7] - [11])$$

Else, Rebate = 0

Table 2

$$MLR = \left(\frac{[8]+[9]+[10]}{[1]+[2]+[3]+[4]-[5]-[6]-[7]-[11]-[12]} \right)$$

If $MLR < \text{minimum MLR}$,

$$\text{Rebate} = [\text{Minimum MLR} - MLR] * ([1] + [2] + [3] + [4] - [5] - [6] - [7] - [11] - [12])$$

Else, Rebate = 0

Table 3

$$MLR = \left(\frac{[8]+[9]+[10]}{[1]+[2]+[3]+[4]-[5]-[6]-[7]-[11]} \right), \text{ where } [11] \text{ is capped at a maximum percentage of earned premium.}$$

If $MLR < \text{minimum MLR}$,

$$\text{Rebate} = [\text{Minimum MLR} - MLR] * ([1] + [2] + [3] + [4] - [5] - [6] - [7] - [11])$$

Else, Rebate = 0

Table 4

$$MLR = \left(\frac{[8]+[9]+[10]}{[1]+[2]+[3]+[4]-[5]-[6]-[7]-[11]-[12]} \right), \text{ where } [11] + [12] \text{ is capped at a maximum percentage of earned premium.}$$

If $MLR < \text{minimum MLR}$,

$$\text{Rebate} = [\text{Minimum MLR} - MLR] * ([1] + [2] + [3] + [4] - [5] - [6] - [7] - [11] - [12])$$

Else, Rebate = 0

Table 5

$$MLR = \left(\frac{[8]+[9]+[10]}{[1]+[2]+[3]+[4]-[5]-[6]-[7]-[11]} \right), \text{ where } [11] \text{ is capped at a maximum PMPM amount multiplied by member months.}$$

If $MLR < \text{minimum } MLR$,

$$\text{Rebate} = [\text{Minimum } MLR - MLR] * ([1] + [2] + [3] + [4] - [5] - [6] - [7] - [11])$$

Else, $\text{Rebate} = 0$

Table 6

$MLR = \left(\frac{[8]+[9]+[10]}{[1]+[2]+[3]+[4]-[5]-[6]-[7]-[11]-[12]} \right)$, where $[11] + [12]$ is capped at a maximum PMPM amount multiplied by member months.

If $MLR < \text{minimum } MLR$,

$$\text{Rebate} = [\text{Minimum } MLR - MLR] * ([1] + [2] + [3] + [4] - [5] - [6] - [7] - [11] - [12])$$

Else, $\text{Rebate} = 0$

Table 7

The MLR is calculated as in Table 3, but uses a modified minimum MLR .

Table 8

The MLR is calculated as in Table 4, but uses a modified minimum MLR .

Table 9

The MLR is calculated as in Table 5, but uses a modified minimum MLR .

Table 10

The MLR is calculated as in Table 6, but uses a modified minimum MLR .

Table 11

$$MLR = \left(\frac{[8]+[9]+[10]}{[1]+[2]+[3]+[4]-[6]-[7]-[11]} \right)$$

If $MLR < \text{minimum } MLR$,

$$\text{Rebate} = [\text{Minimum } MLR - MLR] * ([1] + [2] + [3] + [4] - [6] - [7] - [11])$$

Else, $\text{Rebate} = 0$

Table 12

$$MLR = \left(\frac{[8]+[9]+[10]}{[1]+[2]+[3]+[4]-[6]-[7]-[11]-[12]} \right)$$

If $MLR < \text{minimum } MLR$,

$$\text{Rebate} = [\text{Minimum } MLR - MLR] * ([1] + [2] + [3] + [4] - [6] - [7] - [11] - [12])$$

Else, $\text{Rebate} = 0$

Appendix E

Effects of Removing Commissions/Commissions + Direct Sales from MLR on Rebates

Comparison of Various Alternate MLR Calculations by State

Individual Market

Plan Year 2010 SHCE Data

State	Direct Earned Premium \$M	Member Months (K)	Est. MLR Rebate \$M	Est. MLR Rebate PMPM	Fees & Commissions Excluded - Est. MLR Rebate \$M	Fees & Commissions Excluded - Est. MLR Rebate PMPM	Fees & Commissions + Direct Sales Excluded - Est. MLR Rebate \$M	Fees & Commissions + Direct Sales Excluded - Est. MLR Rebate PMPM	Fees & Commissions Excluded, Federal Taxes Included - Est. MLR Rebate \$M	Fees & Commissions Excluded, Federal Taxes Included - Est. MLR Rebate PMPM
AK	\$57.36	194	\$0.48	\$2.48	\$0.38	\$1.98	\$0.38	\$1.98	\$0.64	\$3.28
AL	\$328.38	2,122	\$4.48	\$2.11	\$2.96	\$1.39	\$2.50	\$1.18	\$5.05	\$2.38
AR	\$242.54	1,428	\$8.50	\$5.95	\$2.39	\$1.68	\$2.26	\$1.58	\$5.57	\$3.90
AZ	\$656.02	3,093	\$37.63	\$12.17	\$9.31	\$3.01	\$8.40	\$2.72	\$28.16	\$9.10
CA	\$2,045.98	11,648	\$36.63	\$3.15	\$11.30	\$0.97	\$11.18	\$0.96	\$16.75	\$1.44
CN	\$12.58	61	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
CO	\$660.29	3,615	\$24.35	\$6.74	\$12.39	\$3.43	\$10.96	\$3.03	\$24.75	\$6.85
CT	\$361.54	1,295	\$13.51	\$10.43	\$6.68	\$5.16	\$6.29	\$4.86	\$13.70	\$10.58
DC	\$20.45	62	\$0.20	\$3.26	\$0.14	\$2.31	\$0.14	\$2.19	\$0.62	\$9.95
DE	\$54.22	223	\$1.39	\$6.24	\$0.58	\$2.62	\$0.54	\$2.40	\$1.62	\$7.25
FL	\$2,265.77	10,198	\$109.94	\$10.78	\$45.64	\$4.48	\$40.58	\$3.98	\$65.26	\$6.40
GA	\$896.24	4,261	\$41.33	\$9.70	\$24.86	\$5.83	\$22.97	\$5.39	\$38.01	\$8.92
GU	\$0.07	0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
HI	\$82.87	372	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
IA	\$457.53	2,156	\$5.37	\$2.49	\$2.07	\$0.96	\$1.79	\$0.83	\$2.70	\$1.25
ID	\$218.68	1,525	\$3.93	\$2.58	\$2.85	\$1.87	\$2.85	\$1.87	\$3.46	\$2.27
IL	\$1,236.38	5,535	\$67.62	\$12.22	\$21.08	\$3.81	\$19.07	\$3.45	\$32.55	\$5.88
IN	\$449.40	2,189	\$24.45	\$11.17	\$7.99	\$3.65	\$7.43	\$3.39	\$19.51	\$8.91
KS	\$295.90	1,547	\$10.59	\$6.84	\$5.49	\$3.55	\$5.15	\$3.33	\$6.91	\$4.46
KY	\$369.97	1,785	\$8.67	\$4.86	\$1.39	\$0.78	\$0.83	\$0.47	\$4.13	\$2.32
LA	\$472.83	2,037	\$9.01	\$4.42	\$6.75	\$3.32	\$6.30	\$3.09	\$10.69	\$5.25
MA	\$441.51	1,271	\$3.14	\$2.47	\$1.78	\$1.40	\$1.76	\$1.39	\$2.92	\$2.30
MD	\$126.82	644	\$14.99	\$23.27	\$10.13	\$15.72	\$9.88	\$15.34	\$17.26	\$26.80
ME	\$134.27	447	\$6.40	\$14.32	\$4.79	\$10.70	\$4.79	\$10.70	\$6.40	\$14.32
MI	\$765.96	3,997	\$24.41	\$6.11	\$12.48	\$3.12	\$11.48	\$2.87	\$19.73	\$4.94
MN	\$615.59	3,002	\$7.89	\$2.63	\$3.32	\$1.11	\$3.07	\$1.02	\$2.14	\$0.71
MO	\$556.44	2,920	\$44.19	\$15.13	\$19.29	\$6.61	\$16.25	\$5.57	\$35.58	\$12.19
MS	\$197.26	960	\$8.42	\$8.77	\$5.68	\$5.92	\$5.51	\$5.75	\$8.92	\$9.29
MT	\$124.52	644	\$6.40	\$9.93	\$3.26	\$5.06	\$3.08	\$4.77	\$3.73	\$5.78
NC	\$1,022.68	5,018	\$19.15	\$3.82	\$9.92	\$1.98	\$9.50	\$1.89	\$15.04	\$3.00
ND	\$120.56	536	\$2.46	\$4.60	\$1.49	\$2.78	\$1.44	\$2.68	\$2.40	\$4.48
NE	\$290.44	1,334	\$5.46	\$4.09	\$1.12	\$0.84	\$0.98	\$0.73	\$2.07	\$1.55
NH	\$111.09	414	\$7.65	\$18.49	\$4.18	\$10.10	\$3.77	\$9.12	\$9.54	\$23.05
NJ	\$537.86	1,475	\$0.75	\$0.51	\$0.00	\$0.00	\$0.00	\$0.00	\$0.43	\$0.29
NM	\$140.77	743	\$1.04	\$1.40	\$0.74	\$1.00	\$0.73	\$0.98	\$1.43	\$1.92
NV	\$216.46	1,049	\$11.96	\$11.41	\$4.53	\$4.32	\$4.42	\$4.21	\$8.60	\$8.20
NY	\$657.19	1,440	\$2.42	\$1.68	\$2.33	\$1.62	\$2.33	\$1.62	\$2.36	\$1.64
OH	\$481.13	2,882	\$39.19	\$13.60	\$8.67	\$3.01	\$6.69	\$2.32	\$12.08	\$4.19
OK	\$283.65	1,456	\$16.06	\$11.03	\$7.08	\$4.86	\$6.85	\$4.70	\$10.54	\$7.24
OR	\$477.62	2,241	\$7.81	\$3.48	\$4.49	\$2.01	\$4.36	\$1.94	\$5.28	\$2.36
OT	\$110.10	936	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
PA	\$1,237.08	5,679	\$31.13	\$5.48	\$18.18	\$3.20	\$17.62	\$3.10	\$31.83	\$5.60
PR	\$0.09	0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
RI	\$67.87	371	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
SC	\$345.58	1,613	\$34.12	\$21.16	\$11.95	\$7.41	\$5.36	\$3.32	\$21.04	\$13.04
SD	\$153.11	730	\$0.16	\$0.21	\$0.12	\$0.17	\$0.11	\$0.15	\$0.14	\$0.20
TN	\$571.77	2,833	\$25.35	\$8.95	\$9.39	\$3.31	\$8.34	\$2.94	\$14.56	\$5.14
TX	\$1,747.41	8,849	\$172.01	\$19.44	\$65.47	\$7.40	\$58.86	\$6.65	\$117.43	\$13.27
UT	\$261.47	1,695	\$4.15	\$2.45	\$2.05	\$1.21	\$1.85	\$1.09	\$2.48	\$1.46
VA	\$809.02	3,558	\$50.80	\$14.28	\$18.03	\$5.07	\$14.49	\$4.07	\$53.33	\$14.99
VI	\$0.04	0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
VT	\$79.33	210	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
WA	\$845.27	3,788	\$6.56	\$1.73	\$3.45	\$0.91	\$3.42	\$0.90	\$4.50	\$1.19
WI	\$449.91	2,192	\$10.30	\$4.70	\$1.11	\$0.51	\$0.41	\$0.19	\$2.51	\$1.14
WV	\$69.62	264	\$4.39	\$16.61	\$1.57	\$5.93	\$1.20	\$4.55	\$4.02	\$15.22
WY	\$76.42	296	\$1.43	\$4.84	\$0.45	\$1.53	\$0.44	\$1.48	\$0.80	\$2.70
Total	\$25,310.91	120,837	\$978.28	\$8.10	\$401.28	\$3.32	\$358.60	\$2.97	\$699.16	\$5.79

Effects of Removing Commissions/Commissions + Direct Sales from MLR on Rebates

Comparison of Various Alternate MLR Calculations by State

Small Group Market

Plan Year 2010 SHCE Data

State	Direct Earned Premium \$M	Member Months (K)	Est. MLR Rebate \$M	Est. MLR Rebate PMPM	Fees & Commissions Excluded - Est. MLR Rebate \$M	Fees & Commissions Excluded - Est. MLR Rebate PMPM	Fees & Commissions + Direct Sales Excluded - Est. MLR Rebate \$M	Fees & Commissions + Direct Sales Excluded - Est. MLR Rebate PMPM	Fees & Commissions Excluded, Federal Taxes Included - Est. MLR Rebate \$M	Fees & Commissions Excluded, Federal Taxes Included - Est. MLR Rebate PMPM
AK	\$125.92	326	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
AL	\$1,214.65	4,003	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
AR	\$443.09	1,543	\$2.89	\$1.87	\$0.45	\$0.29	\$0.44	\$0.29	\$4.27	\$2.77
AZ	\$993.15	3,721	\$21.28	\$5.72	\$4.65	\$1.25	\$4.04	\$1.09	\$19.00	\$5.11
CA	\$2,707.54	8,763	\$2.64	\$0.30	\$1.47	\$0.17	\$1.39	\$0.16	\$0.43	\$0.05
CN	\$0.16	0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
CO	\$1,217.01	3,539	\$12.72	\$3.59	\$11.03	\$3.12	\$10.56	\$2.98	\$12.14	\$3.43
CT	\$1,479.14	3,641	\$4.73	\$1.30	\$0.06	\$0.02	\$0.03	\$0.01	\$7.52	\$2.07
DC	\$201.66	533	\$6.36	\$11.94	\$4.32	\$8.10	\$4.24	\$7.95	\$6.14	\$11.53
DE	\$241.03	660	\$2.19	\$3.31	\$0.04	\$0.05	\$0.04	\$0.05	\$0.46	\$0.70
FL	\$3,934.15	10,640	\$51.01	\$4.79	\$2.65	\$0.25	\$1.23	\$0.12	\$54.07	\$5.08
GA	\$1,735.22	6,380	\$27.68	\$4.34	\$15.84	\$2.48	\$14.80	\$2.32	\$21.20	\$3.32
GU	\$33.00	0	\$0.00	N/A	\$0.00	N/A	\$0.00	N/A	\$0.00	N/A
HI	\$757.33	2,303	\$5.30	\$2.30	\$2.56	\$1.11	\$2.21	\$0.96	\$3.93	\$1.71
IA	\$702.43	2,504	\$0.58	\$0.23	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
ID	\$310.29	1,191	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
IL	\$3,179.54	8,876	\$41.92	\$4.72	\$15.80	\$1.78	\$13.01	\$1.47	\$25.46	\$2.87
IN	\$1,169.95	3,643	\$13.07	\$3.59	\$0.11	\$0.03	\$0.10	\$0.03	\$16.64	\$4.57
KS	\$752.02	3,004	\$6.16	\$2.05	\$3.54	\$1.18	\$2.90	\$0.96	\$5.67	\$1.89
KY	\$678.79	2,210	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
LA	\$1,252.85	3,817	\$0.30	\$0.08	\$0.14	\$0.04	\$0.07	\$0.02	\$0.14	\$0.04
MA	\$3,111.19	8,149	\$4.17	\$0.51	\$2.20	\$0.27	\$2.20	\$0.27	\$3.56	\$0.44
MD	\$479.07	1,412	\$4.03	\$2.86	\$1.18	\$0.84	\$1.08	\$0.77	\$9.77	\$6.92
ME	\$375.65	1,124	\$0.04	\$0.04	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
MI	\$2,098.67	6,071	\$5.47	\$0.90	\$2.22	\$0.37	\$1.83	\$0.30	\$3.48	\$0.57
MN	\$1,220.34	3,447	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
MO	\$1,522.74	4,982	\$33.14	\$6.65	\$4.18	\$0.84	\$2.91	\$0.58	\$39.67	\$7.96
MS	\$448.10	1,547	\$0.92	\$0.59	\$0.29	\$0.18	\$0.01	\$0.00	\$0.29	\$0.18
MT	\$213.08	688	\$2.09	\$3.04	\$1.23	\$1.79	\$1.15	\$1.67	\$1.23	\$1.79
NC	\$1,760.14	5,322	\$3.85	\$0.72	\$0.59	\$0.11	\$0.47	\$0.09	\$2.92	\$0.55
ND	\$289.89	995	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
NE	\$392.53	1,213	\$9.13	\$7.53	\$2.67	\$2.20	\$2.24	\$1.85	\$5.30	\$4.37
NH	\$519.47	1,288	\$0.29	\$0.22	\$0.16	\$0.13	\$0.16	\$0.13	\$0.37	\$0.29
NJ	\$3,601.23	9,769	\$1.40	\$0.14	\$1.14	\$0.12	\$1.11	\$0.11	\$3.10	\$0.32
NM	\$346.95	979	\$2.06	\$2.11	\$0.63	\$0.64	\$0.04	\$0.04	\$2.18	\$2.23
NV	\$479.21	1,545	\$9.28	\$6.01	\$2.35	\$1.52	\$2.30	\$1.49	\$5.63	\$3.64
NY	\$8,144.55	21,360	\$3.71	\$0.17	\$0.16	\$0.01	\$0.00	\$0.00	\$2.80	\$0.13
OH	\$2,708.61	9,728	\$20.58	\$2.12	\$15.08	\$1.55	\$14.53	\$1.49	\$19.41	\$2.00
OK	\$792.34	2,385	\$20.89	\$8.76	\$0.60	\$0.25	\$0.57	\$0.24	\$17.66	\$7.40
OR	\$924.45	2,815	\$0.05	\$0.02	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
OT	\$14.71	62	\$0.23	\$3.62	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
PA	\$4,711.54	13,333	\$5.56	\$0.42	\$0.49	\$0.04	\$0.48	\$0.04	\$5.93	\$0.44
PR	\$1.91	0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
RI	\$462.14	1,219	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
SC	\$744.68	2,362	\$3.86	\$1.63	\$0.27	\$0.11	\$0.22	\$0.09	\$0.34	\$0.14
SD	\$225.20	709	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
TN	\$1,524.87	5,135	\$8.28	\$1.61	\$3.29	\$0.64	\$2.65	\$0.52	\$6.90	\$1.34
TX	\$4,447.33	14,203	\$43.42	\$3.06	\$25.17	\$1.77	\$20.12	\$1.42	\$32.46	\$2.29
UT	\$619.58	2,561	\$3.54	\$1.38	\$0.00	\$0.00	\$0.00	\$0.00	\$1.61	\$0.63
VA	\$1,802.48	5,328	\$48.33	\$9.07	\$13.92	\$2.61	\$12.33	\$2.31	\$62.68	\$11.76
VI	\$14.96	37	\$1.66	\$45.51	\$0.53	\$14.64	\$0.53	\$14.64	\$1.65	\$45.08
VT	\$243.39	795	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
WA	\$969.38	2,833	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
WI	\$1,493.66	4,295	\$11.26	\$2.62	\$5.22	\$1.22	\$4.40	\$1.02	\$8.75	\$2.04
WV	\$298.97	812	\$1.28	\$1.58	\$0.00	\$0.00	\$0.00	\$0.00	\$0.49	\$0.61
WY	\$120.30	311	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total	\$70,255.17	210,113	\$447.37	\$2.13	\$146.24	\$0.70	\$126.39	\$0.60	\$415.25	\$1.98

Effects of Removing Commissions/Commissions + Direct Sales from MLR on Rebates

Comparison of Various Alternate MLR Calculations by State

Large Group Market

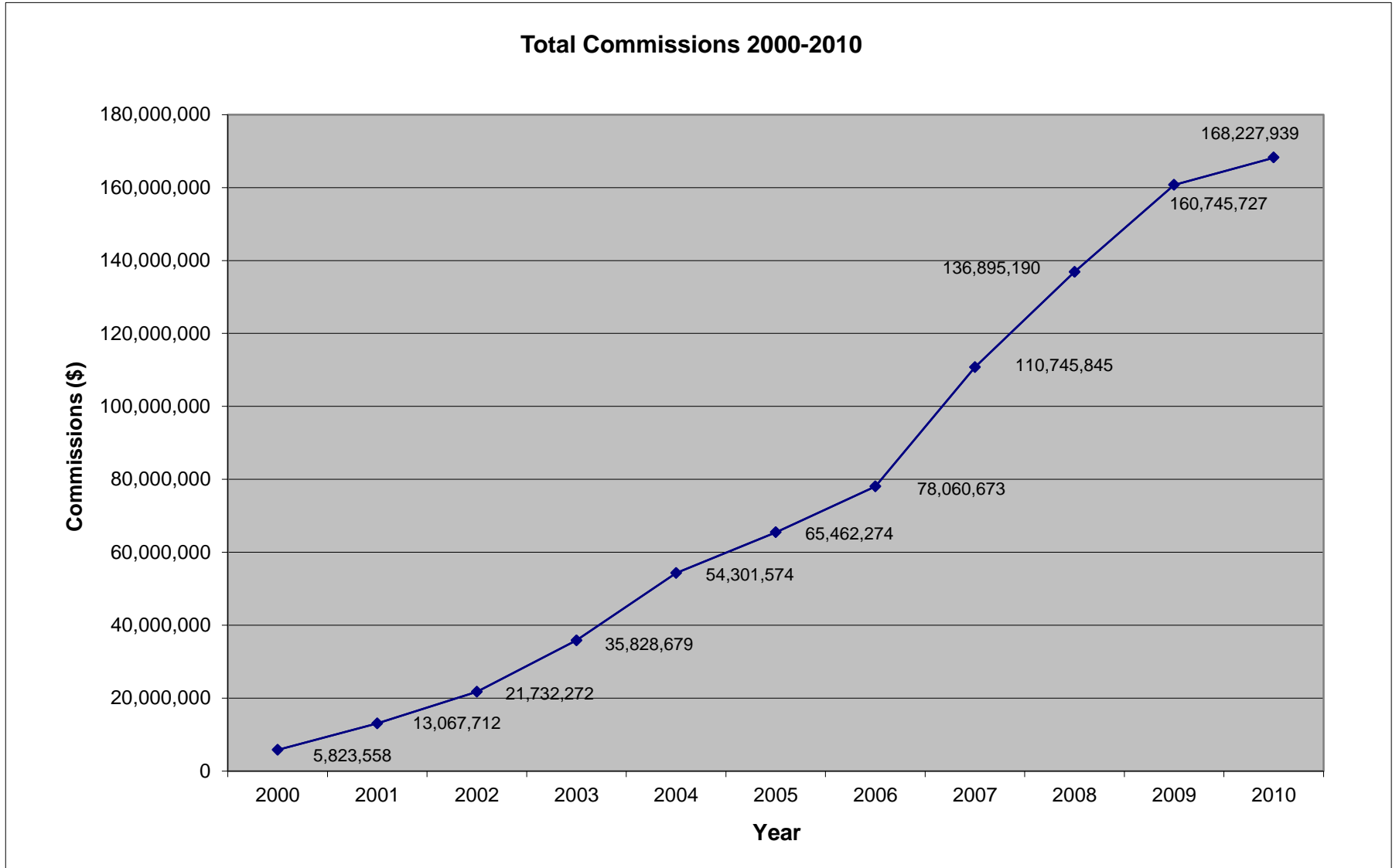
Plan Year 2010 SHCE Data

State	Direct Eamed Premium \$M	Member Months (K)	Est.MLR Rebate \$M	Est. MLR Rebate PMPM	Fees & Commissions Excluded - Est. MLR Rebate \$M	Fees & Commissions Excluded - Est. MLR Rebate PMPM	Fees & Commissions + Direct Sales Excluded - Est. MLR Rebate \$M	Fees & Commissions + Direct Sales Excluded - Est. MLR Rebate PMPM	Fees & Commissions Excluded, Federal Taxes Included- Est. MLR Rebate \$M	Fees & Commissions Excluded, Federal Taxes Included - Est. MLR Rebate PMPM
AK	\$382.56	673	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
AL	\$1,994.19	6,157	\$5.49	\$0.89	\$5.00	\$0.81	\$1.53	\$0.25	\$7.36	\$1.20
AR	\$736.26	2,681	\$2.99	\$1.12	\$1.00	\$0.37	\$1.00	\$0.37	\$5.40	\$2.02
AZ	\$1,921.94	5,743	\$10.83	\$1.89	\$7.81	\$1.36	\$7.75	\$1.35	\$12.00	\$2.09
CA	\$3,800.35	11,515	\$39.22	\$3.41	\$6.97	\$0.61	\$6.41	\$0.56	\$32.38	\$2.81
CN	\$0.03	0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
CO	\$2,990.59	8,729	\$16.36	\$1.87	\$16.27	\$1.86	\$16.23	\$1.86	\$23.25	\$2.66
CT	\$2,810.24	6,780	\$6.06	\$0.89	\$0.00	\$0.00	\$0.00	\$0.00	\$5.60	\$0.83
DC	\$1,641.19	4,644	\$30.45	\$6.56	\$20.84	\$4.49	\$20.00	\$4.31	\$37.95	\$8.17
DE	\$424.16	1,274	\$0.52	\$0.41	\$0.30	\$0.23	\$0.12	\$0.09	\$0.68	\$0.53
FL	\$8,938.83	24,109	\$42.77	\$1.77	\$13.01	\$0.54	\$12.61	\$0.52	\$58.81	\$2.44
GA	\$3,978.39	12,474	\$26.81	\$2.15	\$11.44	\$0.92	\$11.42	\$0.92	\$17.34	\$1.39
GU	\$0.00	0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
HI	\$1,376.89	5,482	\$4.99	\$0.91	\$4.99	\$0.91	\$4.99	\$0.91	\$5.00	\$0.91
IA	\$1,383.57	4,308	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
ID	\$808.64	2,762	\$0.16	\$0.06	\$0.03	\$0.01	\$0.00	\$0.00	\$0.58	\$0.21
IL	\$8,799.44	25,226	\$3.59	\$0.14	\$0.67	\$0.03	\$0.65	\$0.03	\$6.03	\$0.24
IN	\$2,164.13	5,903	\$1.82	\$0.31	\$0.70	\$0.12	\$0.43	\$0.07	\$1.81	\$0.31
KS	\$1,623.59	5,810	\$0.09	\$0.01	\$0.00	\$0.00	\$0.00	\$0.00	\$0.25	\$0.04
KY	\$1,591.87	4,917	\$11.89	\$2.42	\$3.39	\$0.69	\$2.55	\$0.52	\$8.13	\$1.65
LA	\$1,220.73	3,428	\$0.08	\$0.02	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
MA	\$6,504.85	15,873	\$2.99	\$0.19	\$1.76	\$0.11	\$1.73	\$0.11	\$2.29	\$0.14
MD	\$1,901.61	6,931	\$29.49	\$4.25	\$17.61	\$2.54	\$17.25	\$2.49	\$47.93	\$6.92
ME	\$956.29	2,310	\$0.44	\$0.19	\$0.00	\$0.00	\$0.00	\$0.00	\$2.06	\$0.89
MI	\$7,123.98	22,704	\$5.12	\$0.23	\$4.95	\$0.22	\$4.95	\$0.22	\$4.99	\$0.22
MN	\$2,165.18	8,279	\$0.32	\$0.04	\$0.32	\$0.04	\$0.30	\$0.04	\$0.32	\$0.04
MO	\$3,069.88	7,753	\$7.74	\$1.00	\$1.61	\$0.21	\$0.33	\$0.04	\$3.64	\$0.47
MS	\$650.71	2,073	\$2.13	\$1.03	\$0.17	\$0.08	\$0.07	\$0.03	\$2.37	\$1.14
MT	\$370.18	1,155	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
NC	\$2,235.87	6,458	\$11.20	\$1.73	\$3.92	\$0.61	\$3.87	\$0.60	\$11.72	\$1.81
ND	\$453.34	1,437	\$0.39	\$0.27	\$0.27	\$0.19	\$0.09	\$0.07	\$0.32	\$0.22
NE	\$887.76	2,619	\$1.87	\$0.71	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
NH	\$817.65	1,891	\$0.63	\$0.33	\$0.48	\$0.25	\$0.48	\$0.25	\$0.81	\$0.43
NJ	\$5,689.60	15,242	\$26.72	\$1.75	\$6.50	\$0.43	\$5.87	\$0.39	\$5.54	\$0.36
NM	\$690.94	2,094	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
NV	\$1,291.21	4,729	\$21.79	\$4.61	\$13.20	\$2.79	\$9.97	\$2.11	\$0.38	\$0.08
NY	\$21,083.63	68,086	\$36.81	\$0.54	\$17.54	\$0.26	\$11.96	\$0.18	\$15.34	\$0.23
OH	\$5,392.52	16,912	\$54.10	\$3.20	\$29.13	\$1.72	\$29.13	\$1.72	\$59.45	\$3.52
OK	\$1,742.31	5,059	\$0.24	\$0.05	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
OR	\$3,099.59	8,685	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
OT	\$148.49	506	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
PA	\$10,164.10	31,439	\$36.51	\$1.16	\$2.06	\$0.07	\$2.06	\$0.07	\$2.70	\$0.09
PR	\$19.87	0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
RI	\$835.82	2,241	\$0.16	\$0.07	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
SC	\$1,230.75	4,225	\$0.18	\$0.04	\$0.03	\$0.01	\$0.03	\$0.01	\$0.03	\$0.01
SD	\$444.91	1,339	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
TN	\$1,717.14	6,084	\$9.41	\$1.55	\$1.42	\$0.23	\$1.39	\$0.23	\$8.55	\$1.41
TX	\$7,897.85	25,687	\$40.59	\$1.58	\$3.84	\$0.15	\$3.84	\$0.15	\$40.23	\$1.57
UT	\$1,689.83	6,175	\$0.36	\$0.06	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
VA	\$4,263.73	12,263	\$25.94	\$2.11	\$16.25	\$1.33	\$14.75	\$1.20	\$41.55	\$3.39
VI	\$0.00	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
VT	\$331.21	901	\$0.40	\$0.44	\$0.00	\$0.00	\$0.00	\$0.00	\$0.89	\$0.99
WA	\$5,563.02	16,154	\$0.26	\$0.02	\$0.00	\$0.00	\$0.00	\$0.00	\$0.26	\$0.02
WI	\$5,166.02	12,772	\$6.10	\$0.48	\$1.72	\$0.13	\$1.52	\$0.12	\$23.22	\$1.82
WV	\$612.34	1,580	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
WY	\$158.85	411	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total	\$154,958.60	464,682	\$525.99	\$1.13	\$215.21	\$0.46	\$195.29	\$0.42	\$497.15	\$1.07

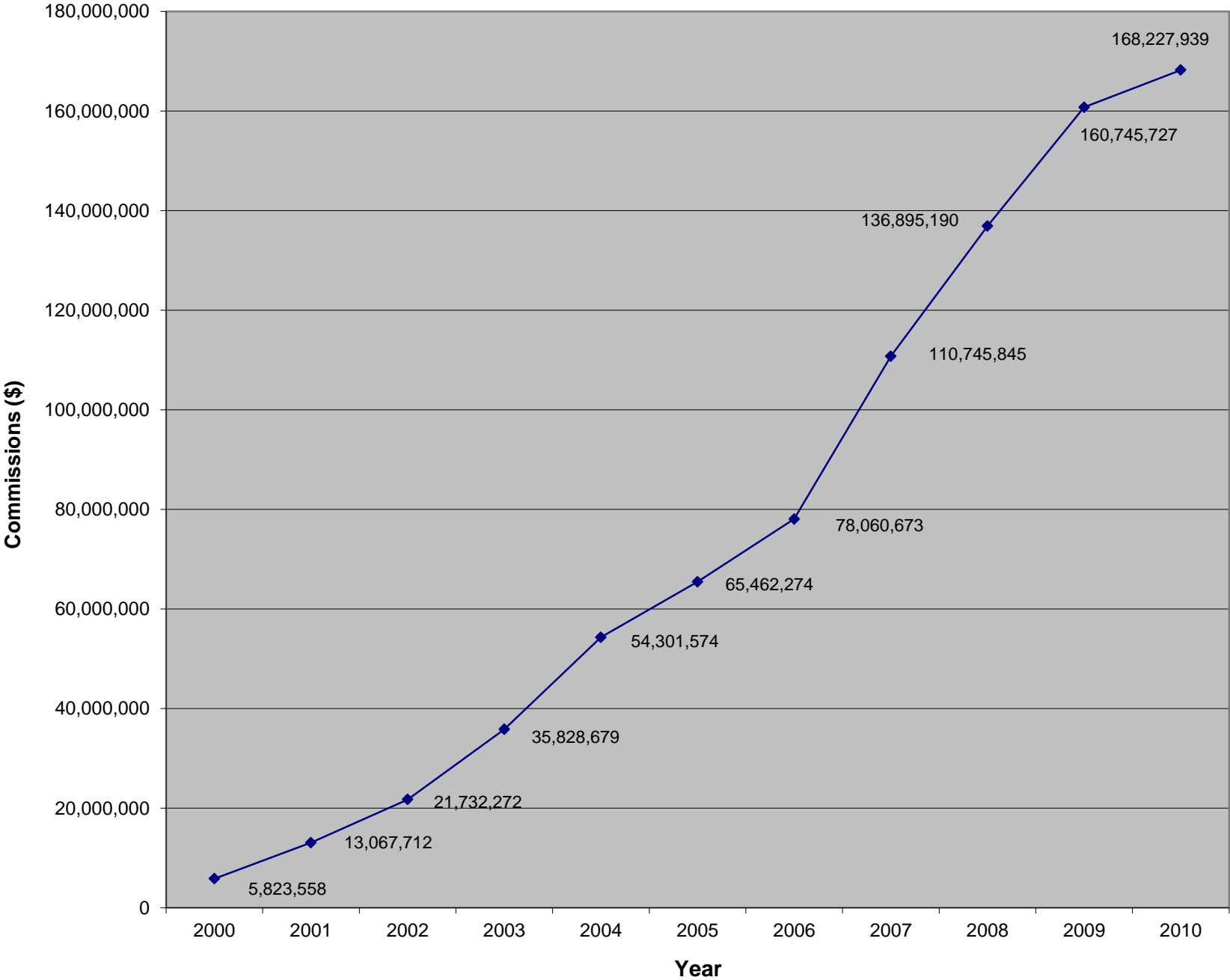
CALIFORNIA INSURANCE DEPARTMENT DATA

Total Commissions 2000-2010

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
TOTAL COMMISSIONS	5,823,558	13,067,712	21,732,272	35,828,679	54,301,574	65,462,274	78,060,673	110,745,845	136,895,190	160,745,727	168,227,939



Total Commissions 2000-2010



COMMISSIONS BY INDIVIDUAL, SMALL AND LARGE GROUP HEALTH POLICIES 2000 - 2010

Commissions - Individual Health Policies											
Insurance Company	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Company A	0	0	0	0	3,354,864	8,611,995	11,761,681	19,487,323	26,622,410	37,299,894	44,882,777
Company B	543,571	4,266,925	7,361,323	7,797,905	8,823,415	9,025,700	10,359,959	18,469,444	22,664,982	18,772,307	16,582,981
Company C	0	0	0	0	0	1,069,361	1,812,962	2,839,083	3,838,041	3,028,258	2,684,293
Company D	0	0	0	0	0	0	0	0	0	0	0
SUB TOTAL:	\$543,571	\$4,266,925	\$7,361,323	\$7,797,905	\$12,178,279	\$18,707,056	\$23,934,602	\$40,795,850	\$53,125,433	\$59,100,459	\$64,150,051
Premiums - Individual Health Policies											
Insurance Company	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Company A	0	0	0	0	24,655,292	83,385,305	134,269,951	229,038,689	306,010,256	427,057,659	536,145,158
Company B	10,013,480	40,612,344	75,385,729	88,824,145	106,331,491	109,399,634	118,814,921	199,300,124	233,363,301	192,767,815	167,716,758
Company C	0	0	0	0	0	5,205,183	8,119,342	21,522,496	28,837,244	27,238,387	25,240,062
Company D	0	0	0	0	0	0	0	0	0	0	0
SUB TOTAL:	\$10,013,480	\$40,612,344	\$75,385,729	\$88,824,145	\$130,986,783	\$197,990,122	\$261,204,214	\$449,861,309	\$568,210,801	\$647,063,861	\$729,101,978
Commissions as % of Premiums	5.43%	10.51%	9.76%	8.78%	9.30%	9.45%	9.16%	9.07%	9.35%	9.13%	8.80%
Commissions - Small Group Policies (2 to 50 employees)											
Insurance Company	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Company A	0	0	0	143,865	1,889,000	4,316,902	7,172,646	11,663,400	24,962,563	48,056,348	48,159,672
Company B	2,968,759	4,920,138	11,212,151	18,225,098	22,741,831	20,414,518	20,334,427	25,520,349	25,796,144	23,688,026	29,275,408
Company C	366,768	563,872	287,515	3,785,142	10,154,368	13,961,720	16,429,795	17,199,755	10,793,353	6,593,983	1,956,866
Company D	154,960	271,137	205,514	147,596	38,884	20,427	114,197	2,542,075	8,510,869	10,311,560	12,348,237
SUB TOTAL:	\$3,490,487	\$5,755,147	\$11,705,180	\$22,301,701	\$34,824,083	\$38,713,567	\$44,051,065	\$56,925,579	\$70,062,929	\$88,649,917	\$91,740,183
Premiums - Small Group Policies (2 to 50 employees)											
Insurance Company	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Company A	0	0	0	1,579,749	26,074,037	62,276,005	114,497,994	177,838,676	354,310,228	680,466,885	685,588,091
Company B	38,934,118	57,424,204	132,186,238	229,448,129	278,756,260	247,938,814	249,188,330	263,559,009	289,770,596	278,358,760	333,438,829
Company C	4,642,761	7,081,387	3,674,664	53,306,070	135,397,714	182,666,637	229,942,020	218,215,059	137,939,829	86,534,547	25,206,371
Company D	2,469,758	5,145,638	4,014,214	3,002,444	909,020	693,910	1,934,319	36,361,854	126,238,451	155,384,765	185,589,176
SUB TOTAL:	\$46,046,637	\$69,651,229	\$139,875,116	\$287,336,392	\$441,137,031	\$493,575,366	\$595,562,663	\$695,974,598	\$908,259,104	\$1,200,744,957	\$1,229,822,467
Commissions as % of Premiums	7.58%	8.26%	8.37%	7.76%	7.89%	7.84%	7.40%	8.18%	7.71%	7.38%	7.46%
Commissions - Large Group (more than 50 employees)											
Insurance Company	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Company A	0	0	0	4,449	208,399	358,729	647,102	1,590,464	3,403,986	3,617,144	4,187,798
Company B	828,949	1,373,821	1,781,137	2,581,167	3,203,123	3,253,526	4,288,917	6,561,877	6,303,960	6,978,625	6,586,834
Company C	672,434	956,098	366,306	2,788,870	3,745,139	4,384,563	5,070,161	3,539,997	1,934,131	762,371	103,298
Company D	288,117	715,721	518,326	354,587	142,551	44,833	68,826	1,332,078	2,064,751	1,637,211	1,459,775
SUB TOTAL:	\$1,789,500	\$3,045,640	\$2,665,769	\$5,729,073	\$7,299,212	\$8,041,651	\$10,075,006	\$13,024,416	\$13,706,828	\$12,995,351	\$12,337,705
Premiums - Large Group (more than 50 employees)											
Insurance Company	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Company A	0	0	0	137,370	6,116,132	9,425,142	15,936,955	32,291,210	63,395,958	78,745,911	94,905,087
Company B	47,121,445	69,499,750	91,595,998	122,083,652	178,681,100	203,559,216	231,065,188	245,975,578	220,896,002	229,124,763	266,441,214
Company C	15,905,887	21,863,893	8,135,265	65,936,651	93,911,844	114,820,206	128,766,706	90,483,048	49,970,506	22,911,635	2,978,352
Company D	7,741,860	21,047,296	17,544,666	10,740,566	3,292,986	973,274	1,912,736	27,913,765	42,760,613	33,024,393	30,151,684
SUB TOTAL:	\$70,769,192	\$112,410,939	\$117,275,929	\$198,898,239	\$282,002,062	\$328,777,838	\$377,681,585	\$396,663,601	\$377,023,079	\$363,806,702	\$394,476,337
Commissions as % of Premiums	2.53%	2.71%	2.27%	2.88%	2.59%	2.45%	2.67%	3.28%	3.64%	3.57%	3.13%

Total Commissions											
Insurance Company	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Company A	0	0	0	148,314	5,452,263	13,287,626	19,581,429	32,741,187	54,988,959	88,973,386	97,230,247
Company B	4,341,279	10,560,884	20,354,611	28,604,170	34,768,369	32,693,744	34,983,303	50,551,670	54,765,086	49,438,958	52,445,223
Company C	1,039,202	1,519,970	653,821	6,574,012	13,899,507	19,415,644	23,312,918	23,578,835	16,565,525	10,384,612	4,744,457
Company D	443,077	986,858	723,840	502,183	181,435	65,260	183,023	3,874,153	10,575,620	11,948,771	13,808,012
GRAND TOTAL:	\$5,823,558	\$13,067,712	\$21,732,272	\$35,828,679	\$54,301,574	\$65,462,274	\$78,060,673	\$110,745,845	\$136,895,190	\$160,745,727	\$168,227,939

Total Premiums											
Insurance Company	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Company A	0	0	0	1,717,119	56,845,461	155,086,452	264,704,900	439,168,575	723,716,442	1,186,270,455	1,316,638,336
Company B	96,069,043	167,536,298	299,167,965	440,355,926	563,768,851	560,897,664	599,068,439	708,834,711	744,029,899	700,251,338	767,596,801
Company C	20,548,648	28,945,280	11,809,929	119,242,721	229,309,558	302,692,026	366,828,068	330,220,603	216,747,579	136,684,569	53,424,785
Company D	10,211,618	26,192,934	21,558,880	13,743,010	4,202,006	1,667,184	3,847,055	64,275,619	168,999,064	188,409,158	215,740,860
	\$126,829,309	\$222,674,512	\$332,536,774	\$575,058,776	\$854,125,876	\$1,020,343,326	\$1,234,448,462	\$1,542,499,508	\$1,853,492,984	\$2,211,615,520	\$2,353,400,782

Commissions as % of Premiums	4.59%	5.87%	6.54%	6.23%	6.36%	6.42%	6.32%	7.18%	7.39%	7.27%	7.15%
Dollars resulting from different hypothetical commission percentages of 4 companies' premiums											
4%	\$5,073,172	\$8,906,980	\$13,301,471	\$23,002,351	\$34,165,035	\$40,813,733	\$49,377,938	\$61,699,980	\$74,139,719	\$88,464,621	\$94,136,031
5%	\$6,341,465	\$11,133,726	\$16,626,839	\$28,752,939	\$42,706,294	\$51,017,166	\$61,722,423	\$77,124,975	\$92,674,649	\$110,580,776	\$117,670,039
6%	\$7,609,759	\$13,360,471	\$19,952,206	\$34,503,527	\$51,247,553	\$61,220,600	\$74,066,908	\$92,549,970	\$111,209,579	\$132,696,931	\$141,204,047
7%	\$8,878,052	\$15,587,216	\$23,277,574	\$40,254,114	\$59,788,811	\$71,424,033	\$86,411,392	\$107,974,966	\$129,744,509	\$154,813,086	\$164,738,055