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The Honorable Therese Goldsmith
Insurance Commissioner
Maryland Insurance Administration
200 St. Paul Place, Suite 2700
Baltimore, MD 21202

Dear Commissioner Goldsmith:

I write in response to your request for comment on the reports by Oliver Wyman Actuarial Consulting, Inc. (Oliver Wyman) that evaluate and make recommendations for enhancing the rate review processes used by the Maryland Insurance Administration (MIA) under the "effective rate review" program prescribed by the Patient Protection and Affordable Care Act (ACA), including enhancing communications and transparency of information to consumers. We applaud the MIA's efforts to ensure that carriers fully justify their rate filings and that this process be communicated to consumers in an open, transparent and understandable manner. Recognizing that these reports were based upon interim draft ACA rate review regulations, we presume that they will be revised to reflect changes in the final regulations and that there will be an opportunity to comment on those revised recommendations at that time.

We were impressed overall with the comprehensive nature of both Oliver Wyman reports and substantially agree with and support many of the consultant's observations and recommendations. For example, we share Oliver Wyman's view of the robust nature of the MIA's existing rate review process. Indeed, Maryland's rigorous rate review process likely was what Congress had in mind when it enacted ACA's effective rate review provisions. It seems very likely, as the consultant implies, that your review processes will be designated "highly effective" by the Centers for Medicare and Medicaid Services (CMS), negating the impetus for extensive changes in the MIA's current procedures.

While it is impractical to cite the many instances in which CareFirst's perspective shares common ground with Oliver Wyman's, we offer these points of agreement from the Review and Oversight Report:

1. We agree with the consultant that the current process for reviewing rate filings for Large Groups already is working well and should be continued unchanged.
2. We agree with the recommendation that carriers should provide a minimum 45-day notice to their subscribers of any rate changes. As a practical matter, this is occurring now, but strengthening this requirement in regulation makes sense.
3. We agree with Oliver Wyman's recommendation that investment earnings not be used in the evaluation of rates. While CareFirst uses such earnings to moderate rates, especially for Individual and Small Group plans, it is inappropriate to factor in investment earnings when reviewing rates, given the volatility in the capital markets.
4. We agree with the consultant's recommendation to expand the MIA's authority to consider and, as appropriate, disapprove rates based on "any other relevant factors within and outside the State," a power that it now applies only to non-profit carriers like CareFirst. Similarly, we support Oliver Wyman's recommendation that MIA examine carriers' pricing margins in reviewing Individual and Small Group rates. This adds important consumer protection by ensuring that profit margins are justified in the filings.

5. We support Oliver Wyman's recommendation that all carriers be required to provide "credible data for detailed trend analysis based on Maryland-specific experience" that the MIA needs to effectively review rate filings. The consultant notes that only CareFirst now provides this level of detailed data. The same standards, whatever they may be, should apply equally to all carriers for all rates "subject to review."

We also substantially support Oliver Wyman's recommendations for enhanced transparency and meaningful disclosure to consumers, as outlined in the Consumer Disclosure Report. In fulfilling its mission as a not-for-profit health services plan, CareFirst believes that improving information consumers need in making their health insurance coverage purchasing decisions advances our goal of increased access and affordability. Other areas in which the consultant's recommendations align with CareFirst include:

1. We strongly agree with Oliver Wyman in noting the challenges inherent in providing consumers with the meaningful information they need in a timely manner. In both reports, the consultant warned that, in striving to achieve these objectives, caution is needed to avoid dangerous and damaging unintended consequences. Oliver Wyman identified what would happen if the rate review process were to become even more politicized than it already is. For example, the consultant warned that, if contributions to surplus or profits were eliminated from rates, "Carriers may withdraw from the market as a result, reducing competition and minimizing consumer choice." Similarly, Oliver Wyman cautioned in its Consumer Disclosure Report that:

   > "Any process that raises the costs of implementing a rate increase or introduces more risk to insurance carriers (for example, by extending the time required to get a rate increase approved) could result in upward pressure on rates over the long term. Either situation could adversely affect consumers in the long run."

2. We were pleased that the consultant recognized that the calculation of Risk-Based Capital (RBC) differed depending on whether the carrier is for-profit or not-for-profit. Although CMS's Final Rate Review Rule eliminated RBC as a required component in reviewing rates, substituting instead a broader consideration of capital and surplus, the MIA nevertheless has historically recognized RBC's importance in gauging the relative financial justification used by a carrier in seeking to adjust rates. As you know, CareFirst just last month entered into a Consent Decree with MIA on a process for tracking the appropriateness of the reserves the company holds, as well as a policy for adjusting rates to ensure that RBC levels track closely to the mid-point of the optimal range recommended by independent actuarial consultants and approved by the CareFirst and affiliate boards. While RBC need not be an express requirement of a highly effective rate review, it remains a significant consideration in determining rates.
3. We agree with Oliver Wyman's caution that consumers could be confused in disclosing Medical Loss Ratios (MLR). This confusion could be exacerbated by the fact that the calculation of a conventional MLR (Incurred Claims/Earned Premiums) differs from the ACA's definition developed by the National Association of Insurance Commissioners (NAIC). For consumer disclosure purposes, we suggest that references to MLR be changed to another term, perhaps "Benefit Expense Ratio," to avoid confusion with the NAIC-defined MLR.
4. For all proposed rate increases "subject to review," CareFirst supports requiring carriers to complete a "Preliminary Justification Rate Summary Worksheet" that is consistent with the new federal requirement to avoid duplication of effort.

While CareFirst substantially agrees with much of what Oliver Wyman proposes in both reports, we note below some observations and suggestions for your consideration:

Should MIA be qualified as employing a highly effective rate review process – as we fully expect – we question the need to further augment the state's already comprehensive and rigorous review process. Adding further "enhancements" to the review process would further burden health insurers at a time when they already are struggling with the compressed timelines for implementing ACA's many other provisions. Adding additional regulatory hurdles could lead to decisions by carriers to exit the Maryland marketplace or place the State at a competitive disadvantage with other states that have limited their rate review process only to that mandated by ACA.

Given the MIA's long and solid track record of rigorous and effective reviews of health insurance rates filed by carriers doing business in Maryland, there is little to be gained in "enhancing" what already is a robust rate review process. We ask that MIA be sensitive to the additional filing compliance burdens that carriers will face in obtaining complex financial data, populating new forms and preparing for more stringent oversight under an enhanced rate review process.

Despite its own cautions, Oliver Wyman nonetheless offers a number of recommendations that extend beyond either what is mandated under ACA or required under the Final Rule promulgated by CMS. For instance, we suggest that both consultant reports conform to the federal rules by making it clear that the enhanced Effective Rate Review rules apply solely to instances where carriers seek to increase rates on insured Individual and Small Group non-grandfathered plans by 10 percent or more. Expanding the enhanced filing and reporting requirements to rate requests of less than 10 percent or to grandfathered plans adds costly and unnecessary administrative burdens on carriers, without meaningful gain. At minimum, we suggest that the MIA continue its current, proven rate review process unchanged for rate filings under 10 percent and apply the enhanced standards only to rate requests that seek rate increases greater than 10 percent, as intended under the federal guidelines.

In the same vein, we question the proposal, in the Consumer Information Report, that the MIA determine whether the requirement that carriers submit the federal Part I preliminary justifications in filings for rate increases over 10 percent should be expanded to filings under the 10 percent threshold in ACA, for posting on the MIA website. We strongly believe that the State should follow both the letter and intent of ACA by applying the enhanced rate review standards only to filings seeking rate increases of more than 10 percent.

Oliver Wyman goes beyond ACA's mandates to propose that the MIA conduct a survey to determine how burdensome it would be to require carriers to send an e-mail notification to members whenever proposed rate increases are filed. Since some carriers routinely file for rate adjustments on a quarterly basis, communicating each filing to consumers will serve only to trigger confusion and needless consternation since the adjusted rates would apply only at the subscriber's anniversary date. It would make more sense to alert consumers of any rate adjustments at the point they have been approved by the MIA. Given the vastly disparate adoption of electronic communications by our members, such a requirement is not only hugely impractical but also would likely only confuse rather than inform our subscribers.

Some additional observations:

1. As noted earlier, CMS's Final Rule on Effective Rate Review opted not to include RBC as a specific measure required in justifying rate filings. This decision recognized the problems inherent in defining RBC in a way that can be understood by consumers. As such, in its Review and Oversight Report, Oliver Wyman should consider changes in its discussion of RBC. At any rate, the report's comments of RBC levels of CareFirst affiliates GHMSI and CFMI are outdated. As you know, CareFirst and its affiliates will file a report by July 1 to the MIA on their recommended RBC levels. This report will

include new optimal RBC ranges recommended by our independent actuarial consultants, Milliman, Inc. and The Lewin Group, that factor in the additional financial risks the companies face under federal health care reform. These new RBC ranges should be reflected in the consultant's final report.

2. We support the consultant's recommendation that MIA employ a standard "checklist" with which all carriers must comply. We strongly suggest, however, that all items on such a checklist include specific references or citations to the applicable regulation or statute.
3. Finally, the issue of confidentiality needs further exploration. Oliver Wyman doesn't address in detail what should or should not be confidential in the rate filings, but instead simply notes that it is an issue the MIA should discuss with the carriers. The goal should be to provide consumers with only the meaningful, understandable information they can use in making their purchasing decisions.

We thank you for providing this opportunity to comment on the reports by your consultant. CareFirst stands ready to continue to work with the MIA in developing an appropriate level of rate review that achieves the goals envisioned under federal health care reform.

Sincerely,

Deborah R. Rivkin

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