

KY Voices for Health values our working relationship with the DOI and would like to continue open lines of communication with the Department on health reform implementation issues. We have learned that KY is considering a waiver for the medical loss ratio requirements for insurers. We understand that if/when KY chooses to submit the waiver, the federal rules require a public comment period and public hearings and that HHS will be transparent with the data collected from the states. KY Voices for Health submitted the following questions to the DOI in regards to the MLR waiver issue.

1. Which insurers expect to have difficulty meeting the individual market MLR requirement in the Affordable Care Act (ACA) and/or to pull out of the market?
 - a. Are there many insurers that cover many residents, or do they represent just a small share of the state's insurance market?
 - b. Do the MLR requirements put KY at risk of losing insurers that have served residents well, or would an adjustment to the MLR requirements just protect low-value, low-quality plans?
2. How much money will Kentuckians lose in rebates if individual market insurers do not have to meet an 80 percent MLR requirement in the coming year?
3. What are the insurance companies' current MLRs? How far are they from the 80 percent standard?
4. Have the insurers that claim they can't meet the MLR requirements in the ACA actually filed (or confirmed that they plan to file) to leave the state's insurance market, or are they just hoping to get a free pass from having to lower their administration and overhead costs?
5. Some insurers are already granted an adjusted MLR requirement under the ACA. Are newer insurers, smaller plans, so-called "mini-med" plans (which offer a limited benefit package) and high-deductible health plans claiming they need adjustments to the MLR requirements in addition to those they already receive?
6. Has KY thoroughly examined *why* insurers are having trouble meeting the MLR requirements? For example, are insurers' surpluses, reserves, profits, and broker/agent commissions reasonable, or could insurers use their dollars more wisely and meet the MLR requirements?
7. Has KY used all the authority it has to stabilize the insurance market through other, more consumer-friendly means besides an adjustment to the MLR standards?

- a. Does KY have the authority to levy penalties on insurers that leave the market? Do companies that leave face any limitations if they want to come back into the market (such as a number of years they must wait to reenter)?
 - b. Do regulators have the authority to approve “withdrawal plans” when insurers leave the market to make sure that consumers will fare okay after an insurer leaves?
 - c. If KY does not have these authorities, does it plan to put such policies into place so that consumers are protected if insurers file to leave the market for any reason in the future?
8. If some insurers are resigned to pulling out of the market instead of complying with the MLR requirements, are there other insurers that meet all of the ACA’s consumer protection standards that might be able to take on their enrollees?
 - a. Has KY talked with other insurers to see if they could take on enrollees from plans that don’t meet the MLR standards?
 - b. Has KY examined whether any public or semi-public coverage programs could take such enrollees?
9. If KY is resigned to seeking an adjustment from the MLR requirements, what is it going to do to make sure that all individual market insurers meet the 80 percent MLR requirement as soon as possible so that Kentuckians benefit from the same consumer protections and premium rebates that consumers in other states receive?