

## § 158.340

(d) The alternate coverage options within the State available to individual market enrollees in the event an issuer exits the market, including:

(1) Any requirement that issuers who exit the State's individual market must have their block(s) of business assumed by another issuer;

(2) The issuers that may remain in the State subsequent to the implementation of the 80 percent MLR, as calculated in accordance with this Part, and the nature, terms, and price of the products offered by such issuers;

(3) The capacity of remaining issuers to write additional business, as measured by their risk based capital ratios;

(4) The mechanisms, such as guaranteed issue products, an issuer of last resort, or a State high risk pool, available to the State to provide coverage to consumers in the event of an issuer withdrawing from the market, and the affordability of these options compared to the coverage provided by exiting or potentially exiting issuers; and

(5) Any authority the State's insurance commissioner, superintendent, or comparable official may exercise with respect to stabilization of the individual insurance market.

(e) The impact on premiums charged, and on benefits and cost-sharing provided, to consumers by issuers remaining in the market in the event one or more issuers were to withdraw from the market.

(f) Any other relevant information submitted by the State's insurance commissioner, superintendent, or comparable official in the State's request.

### **§ 158.340 Process for submitting request for adjustment to the medical loss ratio.**

(a) *Electronic submission.* A State must submit electronically, to an address and in a format prescribed by the Secretary, all of the information required by this subpart in order for its request for an adjustment to the MLR standard for its individual market to be considered by the Secretary.

(b) *Submission by mail.* A State may also submit by overnight delivery service or by U.S. mail, return receipt requested, to an address and in a format prescribed by the Secretary, its request

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for an adjustment to the MLR standard for its individual market.

### **§ 158.341 Treatment as a public document.**

A State's request for an adjustment to the MLR standard, and all information submitted as part of its request, will be treated as a public document and will be posted promptly on the Secretary's Internet Web site devoted to health care coverage.

### **§ 158.342 Invitation for public comments.**

The Secretary will invite public comment regarding a State's request for an adjustment to the MLR standard. All public comments must be submitted in writing within 10 days of the posting of the request, and must be submitted in the manner prescribed by the Secretary. The Secretary will consider timely public comments in assessing a State's request for an adjustment to the MLR standard.

### **§ 158.343 Optional State hearing.**

Any State that submits a request for adjustment to the MLR standard may, at its option, hold a public hearing and create an evidentiary record with respect to its application. If a State does so, the Secretary will take the evidentiary record of the hearing into consideration in making her determination.

### **§ 158.344 Secretary's discretion to hold a hearing.**

The Secretary may, at her discretion, conduct a public hearing with respect to a State's request for an adjustment to the MLR standard. All testimony and materials received in connection with any public hearing will be made part of the public record, and shall be considered by the Secretary in assessing a State's request for an adjustment to the MLR standard.

### **§ 158.345 Determination on a State's request for adjustment to the medical loss ratio.**

(a) *General time frame.* The Secretary will make a determination as to whether to grant a State's request for an adjustment to the MLR standard within