

rata portion of taxes and fees and accounting for payments or receipts related to reinsurance, risk adjustment and risk corridors. If the issuer's total earned premium for the MLR reporting year in the individual market in the State is \$200,000, the issuer received transitional reinsurance payments of \$2,500, and made net payments related to risk adjustment and risk corridors of \$20,000, the issuer's gross earned premium in the individual market in the State would be \$200,000 plus \$2,500 minus \$20,000, for a total of \$182,500. If the issuer's Federal and State taxes and licensing and regulatory fees, including reinsurance contributions, that may be excluded from premium revenue as described in §§ 158.161(a), 158.162(a)(1) and 158.162(b)(1), allocated to the individual market in the State are \$15,000, and the net payments related to risk adjustment and risk corridors, reduced by reinsurance receipts, that must be accounted for in premium revenue as described in §§ 158.130(b)(5), 158.221 and 158.240, are \$17,500 (\$20,000 reduced by \$2,500), then the issuer would subtract \$15,000 and add \$17,500 to gross premium revenue of \$182,500, for a base of \$185,000 in premium. The issuer would owe rebates of 5 percent of \$185,000, or \$9,250 in the individual market in the State. In this example, if an enrollee of the issuer in the individual market in the State paid \$2,000 in premiums for the MLR reporting year, or 1/100 of the issuer's total premium in that State market, then the enrollee would be entitled to 1/100 of the total rebates owed by the issuer, or \$92.50.

(d) *Timing of rebate.* For each of the 2011, 2012, and 2013 MLR reporting years, an issuer must provide any rebate owing to an enrollee no later than August 1 following the end of the MLR reporting year. Beginning with the 2014 MLR reporting year, an issuer must provide any rebate owing to an enrollee no later than September 30 following the end of the MLR reporting year.

(e) *Late payment interest.* An issuer that fails to pay any rebate owing to an enrollee or subscriber in accordance with paragraph (d) of this section or to take other required action within the time periods set forth in this Part must, in addition to providing the required rebate to the enrollee, pay the

enrollee interest at the current Federal Reserve Board lending rate or ten percent annually, whichever is higher, on the total amount of the rebate, accruing from the date payment was due under paragraph (d) of this section.

[75 FR 74921, Dec. 1, 2010, as amended at 78 FR 15540, Mar. 11, 2013]

§ 158.241 Form of rebate.

(a) *Current enrollees.* (1) An issuer may choose to provide any rebates owing to current enrollees in the form of a premium credit, lump-sum check, or, if an enrollee paid the premium using a credit card or direct debit, by lump-sum reimbursement to the account used to pay the premium.

(2) For each of the 2011, 2012, and 2013 MLR reporting years, any rebate provided in the form of a premium credit must be provided by applying the full amount due to the first month's premium that is due on or after August 1 following the MLR reporting year. If the amount of the rebate exceeds the premium due for August, then any overage shall be applied to succeeding premium payments until the full amount of the rebate has been credited. Beginning with the 2014 MLR reporting year, any rebate provided in the form of a premium credit must be provided by applying the full amount due to the first month's premium that is due on or after September 30 following the MLR reporting year. If the amount of the rebate exceeds the premium due for October, then any overage shall be applied to succeeding premium payments until the full amount of the rebate has been credited.

(b) *Former enrollees in the individual market.* Rebates owing to former enrollees in the individual market must be paid in the form of lump-sum check or lump-sum reimbursement using the same method that was used for payment, such as credit card or direct debit.

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