

Final
Report on the
Medical Loss Ratio Examination
of
Blue Cross and Blue Shield of Massachusetts, Inc.
(Boston, Massachusetts)
for the
2013 MLR Reporting Year

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Consumer Information & Insurance Oversight
200 Independence Avenue SW
Washington, DC 20201



OVERSIGHT GROUP

October 27, 2020

In accordance with Title 45 of the Code of Federal Regulations (CFR), section 158.402, the Center for Consumer Information & Insurance Oversight (CCIIO) has completed an examination of the Medical Loss Ratio (MLR) Annual Reporting Form submitted by Blue Cross and Blue Shield of Massachusetts, Inc. (the Company) for the 2013 reporting year, including 2013, 2012, and 2011 data reported on that form. Following an exit conference with the Company, the Company responded to each Finding and Corrective Action. This final report, which will be made publicly available, incorporates the Company's response and CCIIO's evaluation of the response.

A handwritten signature in blue ink that reads "Christina A. Whitefield".

Christina A. Whitefield, Director
Medical Loss Ratio Division
Oversight Group
Center for Consumer Information & Insurance Oversight
Centers for Medicare & Medicaid Services
U.S. Department of Health & Human Services

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I. Executive Summary

The Center for Consumer Information & Insurance Oversight (CCIIO) has performed an examination of the 2013 Medical Loss Ratio (MLR) Annual Reporting Form for Blue Cross and Blue Shield of Massachusetts, Inc. (the Company) to assess the Company's compliance with the requirements of 45 CFR Part 158. We determined that the Company's 2013 MLR Annual Reporting Form contains some elements that are not fully compliant with the requirements of 45 CFR Part 158. We direct the Company to implement the necessary corrective actions to address the findings detailed in this report to comply with the requirements of 45 CFR Part 158, including obtaining adequate information to accurately determine group size and market classification of policies and ensuring accurate reporting of market classifications of policies.

Due to the lack of adequate documentation supporting group size and market classification determinations, we cannot, at this time, conclusively assess the impact of the examination findings on the Company's MLRs or rebate liability in any of the markets in in the one state in which it operates. To the extent that the findings could be quantified, the recalculation of the Company's MLRs resulted in a net increase of 0.4 percentage points in the individual and small group merged market, and no changes in the large group or the student markets. As the recalculated MLRs continue to exceed the applicable MLR standards,¹ the quantifiable findings did not result in rebates being owed in any of the markets in which the Company had health insurance coverage subject to 45 CFR Part 158 in effect.

II. Scope of Examination

CCIIO examined the Company's 2013 MLR Annual Reporting Form to determine compliance with 45 CFR Part 158. Title 45 CFR Part 158 implements section 2718 of the Public Health Service Act (PHS Act). Section 2718 of the PHS Act, as added by the Patient Protection and Affordable Care Act (PPACA), generally requires health insurance issuers to submit to the Secretary of the U.S. Department of Health & Human Services (HHS) an annual report concerning premium revenue and expenses related to group and individual health insurance coverage issued. The federal MLR is the proportion of earned premium, less certain taxes and regulatory fees, expended by an issuer on clinical services and activities that improve health care quality in a given state and market, after adjustments for the credibility of the experience or other factors, where applicable, and calculated using the average of three consecutive years of data. Section 2718 also requires a company to provide rebates to consumers if it does not meet the MLR standard (generally, 80% in the individual and small group health markets and in the student market and 85% in the large group market). However, Massachusetts generally imposes a higher MLR standard than that required by federal law, and the Massachusetts standard may vary from year to year as well as across issuers. Therefore, in accordance with §158.211, the Massachusetts MLR standard is applied for purposes of the federal MLR and rebate calculations in the individual and small group merged market to the extent the Massachusetts standard exceeds 80%. The standards applicable to the Company in Massachusetts were 90% for 2013

¹ In Massachusetts, the applicable MLR standards were 90% for 2013 and 2012 in the individual and small group merged market, 88% for 2011 in the individual and small group merged market, 80% for 2011-2013 in the student market, and 85% in the large group market for 2011-2013.

and 2012 and 88% for 2011 in the individual and small group merged market, 80% for 2011-2013 in the student market, and 85% for 2011-2013 in the large group market.

This is the first examination of the Company’s MLR Annual Reporting Form performed by CCIIO. The examination covered the reporting period of January 1, 2011 through December 31, 2013, including 2011, 2012, and 2013 experience and claims run-out through March 31, 2014. We conducted the examination in accordance with the CCIIO Medical Loss Ratio Examination Handbook (the Handbook). The Handbook sets forth the guidelines and procedures for planning and performing an examination to evaluate the validity and accuracy of the data elements and calculated amounts reported on the MLR Annual Reporting Form, and the accuracy and timeliness of any rebate payments. The examination included assessing the principles used and significant estimates made by the Company, evaluating the reasonableness of expense allocations, and determining compliance with relevant statutory accounting standards, MLR regulations and guidance, and the MLR Annual Reporting Form Filing Instructions.

The Company’s response to each finding appears after the finding in the Conclusion, Corrective Actions and Company Responses section of this Report. The Company’s implementation of the corrective actions was not reviewed for proof of implementation or subjected to the procedures applied during the examination. CCIIO’s replies are based solely on a review of the Company’s responses. CCIIO reserves the right to review the actual implementation of the Company’s corrective action and proposed action plan for each finding in future MLR Annual Reporting Forms, examinations or as otherwise may be appropriate.

III. Summary of Findings

Page	Key Findings
6	Failure to employ standards consistent with the definitions in §158.103 to correctly determine the size of the group policyholders – The Company did not obtain the average number of employees from some group policyholders, and did not properly utilize the average number of employees in determining the group size of some policies, and therefore may not have correctly determined each group policyholder’s size and market classification.
7	Failure to assign the correct market classification in accordance with the definitions in §158.103 – In the sample tested, the Company incorrectly classified two policies issued to large employers as small group policies, resulting in misallocation of the Company’s earned premium and incurred claims between the affected markets. Consequently, \$1,442,204 in 2013 incurred claims and \$2,544,279 in 2013 earned premium were reallocated from the small group to the large group market.

Due to the lack of adequate documentation supporting group size and market classification and incurred claims amounts, we cannot, at this time, conclusively assess whether there were additional errors that would impact the Company’s MLRs or rebate liability. Based on the adjustments that could be quantified, the examination findings resulted in a net increase to the

Company's MLR in the individual and small group merged market, and no change to the MLR in the large group or student markets.

The three-year adjusted, aggregated numerator and denominator, credibility-adjusted MLR, and rebate for 2013 are shown in the following tables. The differences between the amounts in the "As Recalculated" and "As Filed" rows reflect the impact of the adjustments made to reclassify the experience of two policies from the small group to the large group market.

Recalculated MLRs² and Rebates for the Individual, Small Group, and Large Group Markets for the 2013 Reporting Year

Massachusetts

	Individual and Small Group Merged Market ³			
	Numerator	Denominator	MLR	Rebate
As Filed	\$211,123,680	\$222,863,809	96.0%	\$0
As Recalculated	\$209,681,476	\$220,319,530	96.4%	\$0
Difference	(\$1,442,204)	(\$2,544,279)	0.4%	\$0

	Large Group Market			
	Numerator	Denominator	MLR	Rebate
As Filed	\$4,219,971,874	\$4,597,214,078	91.8%	\$0
As Recalculated	\$4,221,397,925	\$4,599,758,357	91.8%	\$0
Difference	\$1,426,051	\$2,544,279	0%	\$0

	Student Plans Individual Market			
	Numerator	Denominator	MLR	Rebate
As Filed	\$51,904,527	\$44,800,913	117.5%	\$0
As Recalculated	\$51,904,527	\$44,800,913	117.5%	\$0
Difference	\$0	\$0	0%	\$0

IV. Company Overview

A. Description, Territory, and Plan of Operation

The Company is a nonprofit hospital and medical service corporation in the Commonwealth of Massachusetts. The Company sells health insurance policies in the individual, group, and student markets.

During the 2011, 2012, and 2013 MLR reporting years, the Company operated in the merged individual and small group, large group, and student markets that were subject to the MLR

² The MLRs shown may not equal the quotient of the numerator divided by the denominator due to the inclusion of a credibility adjustment, in accordance with §158.230.

³ Data for the individual and small group markets are merged in the state of Massachusetts, pursuant to §158.220, for the purpose of calculating an issuer's MLR.

reporting requirements of 45 CFR Part 158. As of December 31, 2013, the Company reported a total of 305,397 covered lives and \$1,540,795,122 in direct earned premium for policies subject to the MLR reporting and rebate requirements under 45 CFR Part 158 and a total of 1,191,941 covered lives and \$2,417,767,582 in direct earned premium from all health lines of business. Lines of business not subject to the MLR regulations at 45 CFR Part 158 include stand-alone dental and vision insurance, Medicare Part D and Medicare Supplement policies, and disability insurance.

B. Management

The corporate officers and board of directors of the Company as of December 31, 2013 were:

Officers

<u>Name</u>	<u>Title</u>
Andrew C. Dreyfus	President and CEO
Bruce M. Bullen	Executive Vice President and COO
Allen P. Maltz	Executive Vice President and CFO
Stephanie S. Lovell	Senior Vice President, General Counsel and Secretary
William T. Cushing, Jr.	Senior Vice President and Chief Audit Executive
Keith F. Renaldi	Senior Vice President and Treasurer
Andreanna Santangelo	Senior Vice President and Chief Actuary
Alona G. Abalos	Vice President and Assistant Secretary
Enrico A. Giammarco	Assistant Treasurer

Directors

<u>Name</u>
George R. Alcott, III
Brian M. Barefoot
Andrew C. Dreyfus
Helen G. Drinan
William C. Van Faasen
Richard C. Garrison
Paul Guzzi
Bruce H. Hamory, MD
Philip W. Johnston
Gloria C. Larson
Ralph C. Martin II
Robert F. Meenan, MD
Timothy M. Sweeney
Paul F. Toner
Dorothy E. Puhly
Benaree P. Wiley

Name

Phyllis R. Yale

Company management and corporate-level personnel responsible for the preparation, submission, and attestation of the 2013 MLR Annual Reporting Form were:

Name

William T. Cushing, Jr.

Allen P. Maltz

Title

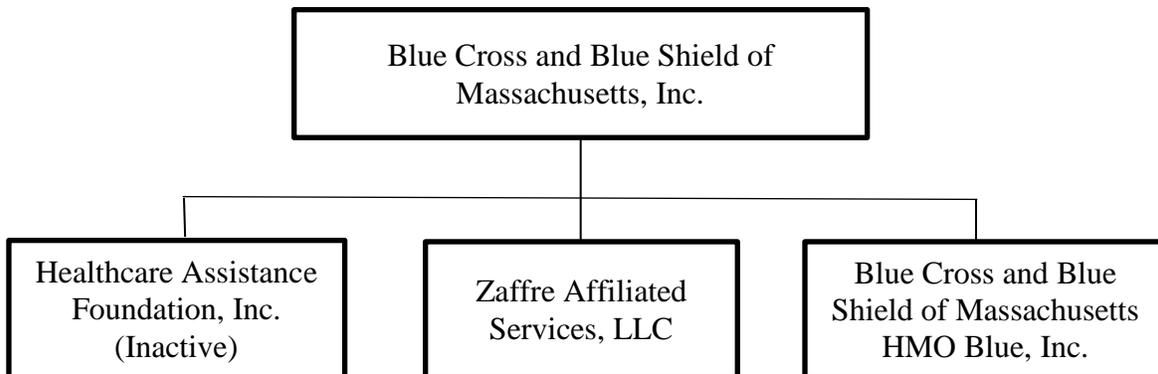
CEO Attester

CFO Attester

C. Ownership

The Company is the parent in an insurance holding group system. In addition to the entities shown below, the Company owns other insurance-related and non-insurance subsidiaries.

**Blue Cross and Blue Shield of Massachusetts, Inc.
Organizational Chart⁴ as of December 31, 2013**



D. Agreements

As of December 31, 2013, the Company had entered into the following inter-company agreements that are pertinent to a review of its MLR Annual Reporting Form:

1. A Master Reorganization Agreement with its subsidiary, Blue Cross and Blue Shield of Massachusetts HMO Blue, Inc.
2. A Senior Management Services Agreement with its subsidiary, Blue Cross and Blue Shield of Massachusetts HMO Blue, Inc.
3. A Leased Employees Agreement with Blue Cross and Blue Shield of Massachusetts HMO Blue, Inc.
4. A Management and Administrative Services Agreement with its subsidiaries.
5. A Tax Sharing Agreement with its subsidiary, Zaffre Affiliated Services, LLC.

⁴ This is an excerpt from the organization chart provided by the Company and includes only those entities whose relationship to the Company impacted the MLR examination.

E. Reinsurance

During 2011, 2012, and 2013, the Company did not have any reinsurance agreements in effect that impacted the MLR reporting of its health insurance policies subject to the regulations at 45 CFR Part 158.

V. Accounts and Records

The Company's main administrative and financial reporting office is located at 101 Huntington Avenue, Suite 1300, Boston, MA 02199. The Company provided adequate access to its accounts and records, including computer and other electronic systems, as required by §158.501.

As noted below, the Company did not obtain accurate information or maintain documentation regarding the employee count of certain group policyholders, which is necessary to determine group size and market classification.

VI. Examination Results

Except as noted in this report, based on the procedures performed, nothing came to our attention that would indicate that the Company's 2011, 2012, and 2013 MLR Annual Reporting Forms were not filed on the form and in the manner prescribed by the Secretary. The Company's 2011, 2012, and 2013 MLR Annual Reporting Forms were filed by or before the required due date.

During 2011, 2012, and 2013, the Company reported that it met the MLR standard in all markets in the one state in which it had business subject to the reporting and rebate requirements of 45 CFR Part 158, and therefore did not pay rebates to its enrollees.

Based on the errors found during the examination that could be quantified, the MLRs for the 2013 MLR reporting year were recalculated but remained above the applicable MLR standards and therefore did not result in additional rebates being owed. However, due to the Company's lack of adequate documentation to support its group size and market classification determinations, we cannot at this time conclusively assess whether there were additional errors that could impact the Company's MLRs or rebate liability.

A. MLR Data

Market Classification

Inconsistent Procedures for Determining Group Size and Market Classification

The Company adopted policies and procedures for determining group size and market classification that are inconsistent with the definitions in §158.103 applicable to the 2011-2013 reporting years. Section 158.103 employs the applicable definitions of Large Employer, Large Group Market, Small Employer, and Small Group Market in section 2791(e) of the PHS Act. Section 2791(e) of the PHS Act requires that small and large group market classifications be based on the *average number of employees on the business days of the calendar year preceding*

the coverage effective date. The Company did not obtain the information necessary to determine employer size in accordance with this definition from group policyholders with more than 120 subscribers, and in some cases based the market classification on the number of subscribers. Therefore, the Company may have incorrectly determined the group size and market classification for these policies in the period covered by this examination.

The Company sends surveys each year to group policyholders with fewer than 120 subscribers, requesting the average number of employees in the preceding calendar year. The Company assumed that if a group had more than 120 subscribers, it had more than 50 employees on average during the preceding year and could be classified as a large group. However, a group with 120 subscribers may have had 50 or fewer employees in the preceding calendar year, or may have an average of 50 or fewer employees because it covers part-time or seasonal employees, retirees, and/or COBRA enrollees. Further, if the Company considers the survey results inconsistent with the number of subscribers at the time of policy issue or renewal, the Company assigns market classification based on the number of subscribers, rather than based on the survey results. This could result in an incorrect market classification if an employer group had more than 50 average employees in the preceding calendar year but was reclassified by the Company as a small group because it had fewer than 40 current subscribers. Of the approximately 23,000 survey responses received for 2013, the Company reclassified the group size for 382 group policies based on the current subscriber counts.

The precise impact of the failure to accurately determine group size and market classification cannot be conclusively determined due to the Company's lack of adequate documentation necessary to support its determinations for such groups.

Incorrect Reporting of Market Classification

The Company did not consistently assign policies to the correct market classification based on the (possibly incorrect) group size information that was available to the Company. Based on testing of the market classification of the Company's policies, two policies in the sample of 130 were incorrectly classified by the Company as small group policies, when, based on the information available and the Company's (possibly incorrect) group size determinations, the policies should have been reported in the large group market for 2013, as each of these groups had more than 50 employees. Consequently, \$1,442,204 in 2013 incurred claims and \$2,544,279 in 2013 earned premium were reallocated from the small group to the large group market.

Aggregation

Other than the possibly incorrect group size and market classification determinations noted above, based on procedures performed, nothing additional came to our attention that would indicate that the samples of policies, claims, and other items tested during the examination were not correctly assigned to the appropriate markets and lines of business, in accordance with §158.120.

Incurred Claims

Other than the possibly incorrect group size and market classification determinations noted above, based upon the procedures performed, including the validation of a sample of incurred

claims (as defined by §158.140) reported by the Company, nothing additional came to our attention that would indicate that the incurred claims were not accurately reported.

Claims Recovered Through Fraud Reduction Efforts

Based on the procedures performed, no errors were noted in how the Company reported recoveries of paid fraudulent claims, which §158.140(b)(2)(iv) allows as an adjustment to incurred claims up to the amount of fraud reduction expenses.

Quality Improvement Activities (QIA)

Based upon the procedures performed, nothing came to our attention that would indicate that QIA expenses were not accurately reported in compliance with §158.150 and §158.151 and reasonably allocated among the Company's markets, as required by §158.170.

Earned Premium

Other than the possibly incorrect group size and market classification determinations noted above, based on procedures performed, nothing additional came to our attention that would indicate that the earned premium was not properly reported on a direct basis or that the data elements underlying 2011, 2012, and 2013 premium as reported on the Company's 2013 MLR Annual Reporting Form were not compliant with §158.130.

Taxes

Based upon the procedures performed, nothing came to our attention that would indicate that the taxes and regulatory fees excluded from 2011, 2012, and 2013 earned premium on the Company's 2013 MLR Annual Reporting Form did not comply with §158.161 and §158.162 or were not accurately reported and reasonably allocated among the Company's markets, as required by §158.170 and in accordance with its federal tax allocation agreement. On its 2013 MLR Annual Reporting Form, the Company reported that it allocated its income taxes to each market based on the pre-tax underwriting gain/loss in each market, which the examination confirmed.

B. Credibility-Adjusted MLR and Rebate Amount

Based upon procedures performed, the Company used the correct formula to calculate the credibility adjustment, in accordance with §§158.230-158.232. The Company's final, credibility-adjusted MLRs were calculated using the correct formula in accordance with 45 CFR Part 158 and the applicable MLR Annual Reporting Form Filing Instructions. Based on the Company's reported final MLRs, which exceeded the applicable standards in the individual and small group merged market, as well as the large group and student markets, the company used correct procedures to determine that no rebates were due for 2011, 2012, or 2013.

C. Rebate Disbursement and Notice

According to its 2011, 2012, and 2013 MLR Annual Reporting Forms, the Company did not report any rebates owed as a result of the MLR calculations. Based on the procedures performed, the Company timely issued the 2011 Notice (of no rebate) in accordance with §158.251 and was not required to (and did not) issue any Notices for 2012 or 2013.

D. Compliance with Previous Recommendations

The Company indicated that neither CCIIO nor any state regulatory entity has previously performed an examination of the Company's MLR processes and reporting. The Commonwealth of Massachusetts Division of Insurance performed a financial examination of the Company in 2013 covering the period January 1, 2010 through December 31, 2012. There were no findings as a result of the financial examination.

VII. Subsequent Events

The Company is required to inform CCIIO of any subsequent events that may affect the currently attested 2013 MLR Annual Reporting Form. No post-December 31, 2013 significant events were brought to CCIIO's attention.

VIII. Conclusion, Corrective Actions, Company Responses, and CCIIO Replies

CCIIO examined Blue Cross and Blue Shield of Massachusetts, Inc.'s 2013 MLR Annual Reporting Form to assess compliance with the requirements of 45 CFR Part 158. The examination involved determining the validity and accuracy of the data elements and calculated amounts reported on the MLR Annual Reporting Form, and the accuracy and timeliness of any rebate payments. As detailed above, the Company's 2013 MLR Annual Reporting Form contained some elements that were not fully compliant with the requirements of 45 CFR Part 158.

Due to the lack of accurate documentation supporting the Company's group size and market classification determinations for certain groups, we cannot conclusively assess the impact of these examination findings on the Company's MLRs or whether there would be an impact on the Company's rebate liability in any of the markets in which it operates. Based on the cumulative effect of the findings that could be quantified, it is estimated that the Company's recalculated MLRs increased and remained above the applicable MLR standard in the individual and small group merged market, and did not change in the large group and the student markets, resulting in no additional rebates being owed.

As a result of this examination, CCIIO directs the Company to implement the following corrective action:

Corrective Action #1

The Company must adopt and implement procedures to ensure that it obtains and maintains the necessary information from all of its employer groups at the time of policy application and at renewal in order to determine the correct group size and market classification of its group policies, consistent with the applicable definitions under section 2791(e) of the PHS Act and the applicable requirements of 45 CFR Part 158 and related technical guidance. This should include,

but not be limited to, obtaining and maintaining accurate documentation related to the average number of employees for the calendar year preceding the coverage effective (or renewal) date. Alternatively, for the 2017 and later reporting years, the Company may elect to use the applicable state employee counting method, unless the state method does not take into account non-full-time employees, in which case the full-time equivalent method described in section 4980H(c)(2) of the Internal Revenue Code should be used. The Company must adopt and implement procedures to ensure that it obtains and maintains accurate information from its employer groups in order to determine the correct group size and market classification of its group policies under the applicable employee counting method. The Company must utilize this information to accurately determine the market classification of its policies in accordance with the requirements of §158.103. The Company must also ensure that it accurately reports the market classification of its policies.

Company Response

The Company accepts the corrective action(s) as provided and will adopt policies and implement procedures to increase efforts to collect and store group size and market classification beyond the existing survey for all employer groups. The Company will further strengthen its evidence supporting any business decision to override a returned survey.

CCIIO Reply

CCIIO accepts the Company's response and the corrective action plan. Any and all such corrective action must be implemented within 60 days of the Company's receipt of this Final Report.

The corrective action provided in this report should be shared with and adopted by, as applicable, any affiliated entities of the Company, such as parent or subsidiaries, if any, that are similarly subject to the MLR reporting and rebate requirements of 45 CFR Part 158.

CCIIO thanks the Company and its staff for its cooperation with this examination.