

Final  
Report on the  
Medical Loss Ratio Examination  
of  
**Blue Cross Blue Shield of Wisconsin**  
(Waukesha, Wisconsin)  
for the  
2013 MLR Reporting Year

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



**OVERSIGHT GROUP**

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May 18, 2016

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

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

Christina A. Whitefield, Acting Director  
Medical Loss Ratio Division  
Office of Oversight  
Center for Consumer Information and Insurance Oversight  
Centers for Medicare and Medicaid Services  
US Department of Health and Human Services

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## **I. Executive Summary**

The Center for Consumer Information and Insurance Oversight (CCIIO) has performed an examination of the 2013 Medical Loss Ratio (MLR) Annual Reporting Form for Blue Cross Blue Shield of Wisconsin (the Company, or BCBSWI) 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. Because of a lack of accurate documentation supporting group size and market classification determinations, we cannot conclusively assess the impact of these examination findings on the Company's MLR or whether there would be any impact on the Company's rebate liability in the small group and large group markets. Nothing came to our attention that caused us to believe that the Company's individual market MLR or rebate liability required adjustment. We recommend that the Company implement corrective actions to comply with various sections of 45 CFR Part 158, including obtaining adequate information to accurately determine group size and market classification of policies, and ensuring the accuracy of the amounts reported on the MLR Annual Reporting Form.

## **II. Scope of Examination**

CCIIO examined the Company's 2013 MLR Annual Reporting Form to determine compliance with 45 CFR Part 158. 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 Affordable Care Act, generally requires health insurance companies to submit to the Secretary an annual report on their MLRs. The MLR is the proportion of premium revenue expended by a company on clinical services and activities that improve health care quality in a given state and market. 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 markets and 85% 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 and 2012 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 and Summary of Recommendations section of this Report. The Company's corrective action was not reviewed for proof of implementation or subjected to any procedures applied during the examination. CCIIO's response is based solely on a review of the Company's response. CCIIO reserves the right to review the actual implementation of the Company's corrective action for each finding and

proposed action plan in future MLR Annual Reporting Forms, examinations or as otherwise may be appropriate.

### III. Summary of Key Findings

Page	Summary of Key Findings
5	<b>Failure to employ standards consistent with the requirements of 45 CFR 158.220(a) in assigning correct market classifications to its policies</b> – The Company distributes annual surveys to its group policyholders to obtain information regarding group size and market classification but since it did not provide guidance regarding how to determine the total number of employees employed, there is a possibility that some employers provided an incorrect employee count. If the Company was provided an inaccurate employee count, it would not have been aware that it had inaccurate information and it would have used this incorrect information to determine the group’s size.
6	<b>Failure to report incurred claims as required by 45 CFR 158.140</b> – The Company failed to report the change in contract reserves, as required by 45 CFR 158.140(a), by reporting the current but not the prior year contract reserves, and the Company offset the impact on incurred claims by understating its paid claims.

**These findings did not result in a change of the Company’s reported MLR for the individual, small group or large group market, but due to the possible incorrect determination of group size and, therefore, market classification outlined in the first finding, we cannot conclusively assess whether there were any errors that impacted the Company’s MLR.** The three-year adjusted, aggregated numerator and denominator, along with the resulting credibility-adjusted MLR for 2013, are shown in the following table. No revisions were made in connection with the examination.

#### Recalculated Individual, Small Group and Large Group Market MLRs for the 2013 Reporting Year

	Individual Market			Small Group Market		
	Numerator	Denominator	MLR	Numerator	Denominator	MLR
As Filed	\$97,749,390	\$118,262,807	84.6%	\$32,033,457	\$40,125,401	82.9%
As Recalculated	\$97,749,390	\$118,262,807	84.6%	\$32,033,457	\$40,125,401	82.9%
Difference	\$0	\$0	0%	\$0	\$0	0%

	Large Group Market		
	Numerator	Denominator	MLR
As Filed	\$1,190,849,023	\$1,253,701,127	95.0%
As Recalculated	\$1,190,849,023	\$1,253,701,127	95.0%
Difference	\$0	\$0	0%

## **IV. Company Overview**

### **A. Description, Territory, and Plan of Operation**

BCBSWI is a Wisconsin-domiciled stock insurance company which sells hospitalization, surgical and medical, major medical, prescription drug, vision, and dental insurance in the individual and group markets in the State of Wisconsin. The Company also provides administrative-only services, such as claims processing, underwriting, provider network access, and medical cost management, to the plan sponsors of public and private sector self-funded, group health plans that are not subject to 45 CFR Part 158.

As of December 31, 2011, 2012 and 2013, the Company owned a 1.4%, 1.5% and 1.7% interest, respectively, in its ultimate parent company, WellPoint. The Company also owned 100% of CompCare Health Services Insurance Corporation (CompCare) and Claim Management Services, Inc. (CMSI). As of December 31, 2012, the Company owned 100% of Government Health Services, LLC (GHS) and United Government Services (UGS). On March 1, 2013, UGS merged with and into GHS. In December 2013, GHS was sold to ATH Holding Company, LLC (ATH), an affiliated company.

During the 2011, 2012 and 2013 MLR reporting years, the Company operated in the individual, small group and large group markets that were subject to the MLR reporting requirements under 45 CFR Part 158. As of December 31, 2013, the Company reported a total of 96,689 covered lives and \$534,690,916 in direct earned premium in policies subject to the MLR reporting and rebate requirements and a total of 1,028,357 covered lives and \$664,911,930 in direct earned premium from all health lines of business, including self-funded plans.

### **B. Management**

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

#### **Officers**

<b><u>Name</u></b>	<b><u>Title</u></b>
Lawrence G. Schreiber	President & Chief Executive Officer
Kathleen S. Kiefer	Vice President & Secretary
Robert D. Kretschmer	Vice President & Treasurer
Karen E. Geiger	Assistant Secretary
Eric K. Noble	Assistant Treasurer

#### **Directors**

<b><u>Name</u></b>
Lawrence G. Schreiber
Wayne S. DeVeydt
Catherine I. Kelaghan

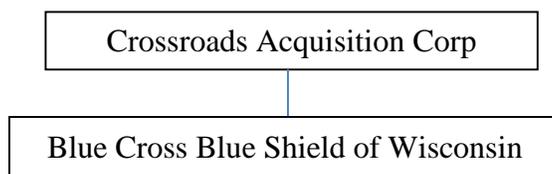
Company management and corporate-level personnel responsible for the preparation, submission and attestation of the 2013 MLR Annual Reporting Form are:

<u>Name</u>	<u>Title</u>
Lawrence Schreiber	CEO Attester
David Kretschmer	CFO Attester

### **C. Ownership**

The Company is a wholly owned subsidiary of Crossroads Acquisition Corp., which is an indirect subsidiary of WellPoint, Inc., a publicly traded company.

#### **Blue Cross Blue Shield of Wisconsin Organizational Chart December 31, 2013**



### **D. Agreements**

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

1. An Administrative Services Agreement between WellPoint, Inc. and its direct or indirect subsidiaries.
2. A Master Services Agreement between Bloom Health Corporation and WellPoint, Inc. and its subsidiaries, for private insurance exchange capabilities.
3. An agreement with CompCare Health Services Insurance Corporation for the joint underwriting of a Point-of-Service insurance product.
4. A Subrogation and Workers' Compensation Claim Recovery Services Agreement with Meridian Resource Corporation.
5. A Service Agreement between Meridian Resources Company, LLC and WellPoint, Inc. on behalf of its subsidiaries for hospital bill audit and validation services.

### **E. Reinsurance**

During 2011, 2012 and 2013, the Company had a quota-share assumption reinsurance agreement in place with Unicare Life & Health Insurance Company for medical insurance for specific individual market policies. The Company also entered into other reinsurance agreements relating to other products that are not subject to the MLR regulations at 45 CFR Part 158, such as long-term care.

## **V. Accounts and Records**

The Company's main administrative and financial reporting office is located at N17 W24340 Riverwood Drive, Waukesha, Wisconsin 53188. The Company provided adequate access to its accounts and records, including computer and other electronic systems, as required by §158.501.

Except as noted below, the procedures performed did not identify any errors or irregularities in the data reported on the MLR Annual Reporting Form with regard to rebates and the provision of notices. As noted herein, documentation regarding the employee count of group policyholders, which is necessary to determine group size and market classification, is not obtained by the Company in a manner that accurately supports its market classification determinations.

## **VI. Examination Results**

Except as noted in this report, the Company's 2011, 2012 and 2013 MLR Annual Reporting Forms were filed on the form and in the manner prescribed by the Secretary by or before the required due date.

During all three years under Examination, the Company met the MLR standard of 80% for the individual and small group markets and 85% for the large group market, and thus was not required to pay rebates to its enrollees.

### **A. MLR Data**

#### **Market Classification Policies and Procedures**

##### *Incorrect Procedures for Determining Market Classification*

The Company has adopted policies and procedures for determining group size and market classification that are inconsistent with §158.220, which stipulates that an issuer's MLR must be calculated separately for the large group market, small group market and individual market within each state.

The Company did not necessarily obtain the correct group size information to support its market classification determinations for the timeframe of this examination. Section 158.103 employs the definition 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 the 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 used a survey that asked policyholders to provide information regarding the average number of employees for the calendar year preceding the effective date of coverage but did not instruct employers as to how to determine who an employee is (e.g., no instruction was given as to how to count seasonal and part-time workers).

In 2012 and 2013, the Company issued a survey to all employer group policyholders with coverage subject to the MLR reporting and rebate requirements in order to determine each group's size and

verify that the group's market classification was accurate. The 2012 surveys differed from those issued in 2013. The Company's 2012 survey correctly asked group policyholders what the *average number of employees were in the preceding calendar year*, but provided an incorrect definition of "employee" (i.e., it used a full time equivalency of part time and seasonal employees rather than simply instructing the policyholder to count each such individual as one employee). Therefore, the 2012 survey responses possibly contained employee counts that incorrectly excluded some employees. Similarly, the Company's 2013 survey correctly requested information on the *average number of employees during the preceding calendar year*, but it did not provide any guidance or definition as to who constitutes an employee and therefore may not have accurately captured the number. Therefore, the Company did not obtain adequate information regarding the number of employees in order to accurately determine each policyholder's group size and accompanying market classification in accordance with §158.220 and the definitions at §158.103. However, and despite the fact that the Company employed standards that were inconsistent with the requirements in §158.220 and the accompanying definitions at §158.103, the policies tested during the examination were assigned to the correct market classification based on the (possibly incorrect) information the Company obtained.

### **Aggregation**

Other than the possibly incorrect group size and market classification determinations noted above, the samples of policies, claims and other items tested during the examination were correctly assigned to the appropriate states, markets, and lines of business in accordance with §158.120.

### **Incurred Claims**

#### *Incorrect Reporting of Contract Reserves*

45 CFR 158.140(a) requires issuers to report the change in contract reserves from the prior year when calculating their MLR for the reporting year. The Company's change in contract reserves was negative, according to the 12/31 column of the individual market of their 2012 and 2013 MLR Annual Reporting Forms. However, in the 3/31 column (the column used for the MLR calculation), the Company left the line for prior year contract reserves (Part 2, Line 2.7) blank. Because it incorrectly included the change in contract reserves as an adjustment to its paid claims, contrary to the 2013 MLR Annual Reporting Form Filing Instructions, the failure to report the prior year contract reserves did not have an impact on the Company's 2012 or 2013 incurred claims.

#### *Incorrect Reporting of Paid Claims*

The Company understated its 2012 and 2013 paid claims by the amount corresponding to the overstatement caused by the failure to report the prior year contract reserves.

Other than the incorrect reporting of paid claims and contract reserves which resulted in no net impact on the incurred claims, and the possibly incorrect group size and market classification determinations noted above, based on substantive testing and validation of the incurred claims (as defined by §158.140) reported by the Company, incurred claims were accurately reported.

### **Claims Recovered Through Fraud Reduction Efforts**

Other than the possibly incorrect group size and market classification determinations noted above, the Company accurately reported recoveries of paid fraudulent claims, which §158.140(b) allows as an adjustment to incurred claims, up to the amount of fraud reduction expenses.

### **Quality Improvement Activities**

The expenses and programs for quality improvement activities (QIA) identified by the Company met the definition of a QIA in §158.150. Other than the possibly incorrect group size and market classification determinations noted above, based on substantive testing, QIA expenses were accurately reported and reasonably allocated among the Company's states and markets, as required by §158.170.

### **Earned Premium**

Other than the possibly incorrect group size and market classification determinations noted above, based on substantive testing, earned premium was properly reported on a direct basis and the data elements underlying 2011, 2012 and 2013 premium as reported on the Company's 2013 MLR Annual Reporting Form were compliant with §158.130.

### **Taxes**

Other than the possibly incorrect group size and market classification determinations noted above, based on substantive testing, the taxes and regulatory fees excluded from 2011, 2012 and 2013 earned premium on the Company's 2013 MLR Annual Reporting Form complied with §158.161 and §158.162. Also based on substantive testing, taxes and regulatory fees were accurately reported and were reasonably allocated among the Company's states and markets, as required by §158.170, and in accordance with its tax-sharing agreement with Wellpoint and its other subsidiaries whereby allocation of federal income tax to each company is based on the tax amount the Company would have been required to pay had it filed its own separate tax return. In its 2013 MLR Annual Reporting Form, the Company reported that it allocated its federal and state income taxes to each state and market based on pre-tax underwriting gain or loss, which the examination confirmed.

## **B. Credibility-Adjusted MLR and Rebate Amount**

Based on substantive testing, the Company correctly applied the credibility adjustment when the Company calculated its MLRs, in accordance with §158.221. The Company's final, credibility-adjusted MLRs were calculated correctly in accordance with 45 CFR Part 158 and the applicable MLR Annual Reporting Form Filing Instructions. Because the Company's final MLRs exceeded the applicable standards in the individual, small group and large group markets, 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 owe any rebates as a result of the MLR calculations. Based on substantive testing, the Company timely issued the 2011 Notice (of no rebate) in accordance with §158.251, was not required to (and did not) issue any Notices for the 2012 or 2013 reporting years.

#### **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 federal MLR processes and reporting. The State of Wisconsin, Office of the Commissioner of Insurance, performed a financial examination of the Company in 2006 covering the period January 1, 2005 through December 31, 2009 which resulted in four findings, none of which appear to impact its federal MLR calculation or reporting.

#### **VII. Impact of Findings**

Because of the possibly incorrect group size and market classification determinations noted above, we cannot conclusively assess the impact of the related examination finding on the Company's MLR or whether there would be any additional impact on the Company's rebate liability in the small group and large group markets for the timeframe of this examination. Nothing came to our attention that caused us to believe that the Company's individual market MLR or rebate liability required adjustment.

#### **VIII. 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 have been brought to CCIIO's attention.

#### **IX. Conclusion, Summary of Recommendations, and Company Responses**

CCIIO has examined Blue Cross Blue Shield of Wisconsin's 2013 MLR Annual Reporting Form to assess the Company's compliance with the requirements of Title 45 Part 158. The examination involved determining the validity and accuracy of the data elements and calculated amounts reported on the 2013 MLR Annual Reporting Form, and the accuracy and timeliness of any rebate payments. The Company's 2013 MLR Annual Reporting Form did not comply with some of the requirements of Title 45 Part 158.

Because of a possible lack of accurate documentation supporting group size and market classification, we cannot determine the impact of the related examination finding on the Company's MLR or whether there would be any additional impact on the Company's rebate liability in the small group and large group markets.

As a result of this examination, CCIIO recommended the following:

##### **Recommendation #1**

The Company should adopt and implement procedures to ensure that at the time of initial policy application and policy renewal, it obtains and maintains accurate information necessary to ensure that the size of group policyholders is accurately determined and coverage is classified under the

appropriate market, as defined by section 2791 of the PHS Act. This should include, in the group markets, obtaining and maintaining documentation related to the average number of employees for the calendar year preceding the coverage effective (or renewal) date. Further, to the extent the Company continues to use a survey, the Company should provide an accurate definition of employee to its group policyholders (e.g., to include full-time, part-time and seasonal employees).

Company Response

“The Company’s ongoing efforts to improve the market classification process are fully addressing the recommendations noted in the audit report and are being implemented.

- In 2015, survey guidance was enhanced (see enclosures (1) and (2))<sup>1</sup> to specify the need to include each full-time, part-time, and seasonal employee.
- For 2016, the Medical Loss Ratio Segmentation Working Group is working towards a practice of capturing market classification data during policy application and renewal.

Furthermore, the Commercial Medical Loss Ratio Rebate Operations Team routinely meets to identify and resolve issues, identify areas for improvements, and implement solutions. This includes ensuring proper market classification and appropriate documentation.”

CCIIO Reply

CCIIO accepts the Company’s response and the corrective action plan.

**Recommendation #2**

The Company should report all components of incurred claims in an accurate manner in accordance with 45 CFR 158.140.

Company Response

“Regarding the findings related to incorrect reporting of contract reserves and paid claims and the recommendation (#2) to report all components of incurred claims in an accurate manner in accordance with 45 CFR 158.140, the Company acknowledges that, while the reported MLR numerator was accurate, the detailed reporting of the subcomponents can be improved. The Company has taken steps to refine the reporting of these items beginning with the 2015 MLR filings.”

CCIIO Reply

CCIIO accepts the Company’s response and the corrective action plan.

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

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<sup>1</sup> The Company’s enclosures are not included in or attached to this Report.