

Final  
Report on the  
Medical Loss Ratio Examination  
of  
**CareFirst BlueChoice, Inc.**  
(Washington, DC)  
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, D.C. 20201



**OVERSIGHT GROUP**

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November 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 CareFirst BlueChoice, 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 CareFirst BlueChoice, 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 compliant with the requirements of 45 CFR Part 158 but that do not impact consumer rebates. We direct the Company to implement the necessary corrective actions to address the findings detailed in this report, including ensuring that activities and expenses reported as quality improvement activities (QIA) meet the regulatory definition of QIA.

The examination findings and subsequent recalculation of the Company's 2013 MLRs resulted in decreases of the Company's reported 2013 MLRs in the individual, small group, and large group markets in all states in which the Company had health insurance coverage subject to 45 CFR Part 158 in effect. As the recalculated 2013 MLRs continue to exceed the applicable MLR standards, the findings did not result in additional rebates owed in any of the states or 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 an issuer 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, 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 Action, Company Response, and CCIIO Reply 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 response. CCIIO reserves the right to review the actual implementation of the Company’s corrective action and proposed action plan for each corrective action in future MLR Annual Reporting Forms, examinations, or as otherwise may be appropriate.

### III. Summary of Findings

Page	Key Findings
7	<b>Reporting of expenses as QIA that did not meet the definition of a QIA expense set forth in §158.150</b> – The Company improperly included expenses related to several types of non-qualifying activities in its QIA expenses and was unable to provide adequate supporting documentation of these expenses as QIA. Consequently, it was determined that the Company overstated QIA expenses by a total of \$512,965 in the individual market, \$3,561,187 in the small group market, and \$4,160,205 in the large group market across all states in which the Company operated.

These findings resulted in decreases of the Company’s reported MLRs in the individual, small group, and large group markets in all states in which the Company had health insurance coverage subject to 45 CFR Part 158 in effect. The three-year adjusted, aggregated numerator and denominator, for the 2013 reporting year, credibility-adjusted MLR for 2013, and rebate for 2013 for the District of Columbia, Maryland, and Virginia in each market are shown in the following tables. The differences between the amounts in the “As Filed” and “As Recalculated” rows reflect the impact of the adjustments made to remove disallowed QIA expenses.

#### **Recalculated MLRs<sup>1</sup> and Rebates for the Individual, Small Group, and Large Group Markets for the 2013 Reporting Year**

##### **District of Columbia**

	Individual Market			
	Numerator	Denominator	MLR	Rebate
As Filed	\$37,569,358	\$34,693,690	110.8%	\$0
As Recalculated	\$37,494,046	\$34,693,690	110.6%	\$0
Difference	(\$75,312)	\$0	(0.2%)	\$0

	Small Group Market			
	Numerator	Denominator	MLR	Rebate
As Filed	\$245,937,112	\$302,640,886	81.3%	\$0

<sup>1</sup> 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.

	Numerator	Denominator	MLR	Rebate
As Recalculated	\$245,545,524	\$302,640,886	81.1%	\$0
Difference	(\$391,588)	\$0	(0.2%)	\$0

Large Group Market				
	Numerator	Denominator	MLR	Rebate
As Filed	\$351,918,100	\$410,006,581	85.8%	\$0
As Recalculated	\$351,416,319	\$410,006,581	85.7%	\$0
Difference	(\$501,781)	\$0	(0.1%)	\$0

### Maryland

Individual Market				
	Numerator	Denominator	MLR	Rebate
As Filed	\$181,314,305	\$199,753,105	90.8%	\$0
As Recalculated	\$180,914,050	\$199,753,105	90.6%	\$0
Difference	(\$400,255)	\$0	(0.2%)	\$0

Small Group Market				
	Numerator	Denominator	MLR	Rebate
As Filed	\$1,798,404,937	\$2,223,740,438	80.9%	\$0
As Recalculated	\$1,795,626,156	\$2,223,740,438	80.7%	\$0
Difference	(\$2,778,781)	\$0	(0.2%)	\$0

Large Group Market				
	Numerator	Denominator	MLR	Rebate
As Filed	\$2,147,384,393	\$2,456,634,468	87.4%	\$0
As Recalculated	\$2,144,239,156	\$2,456,634,468	87.3%	\$0
Difference	\$(3,145,237)	\$0	(0.1%)	\$0

### Virginia

Individual Market				
	Numerator	Denominator	MLR	Rebate
As Filed	\$18,324,386	\$20,137,941	94.1%	\$0
As Recalculated	\$18,286,988	\$20,137,941	93.9%	\$0
Difference	(\$37,398)	\$0	(0.2%)	\$0

Small Group Market				
	Numerator	Denominator	MLR	Rebate
As Filed	\$277,753,928	\$346,666,077	80.1%	\$0
As Recalculated	\$277,363,110	\$346,666,077	80.0%	\$0
Difference	(\$390,818)	\$0	(0.1%)	\$0

Large Group Market				
	Numerator	Denominator	MLR	Rebate
As Filed	\$360,483,612	\$416,932,616	86.5%	\$0

	Numerator	Denominator	MLR	Rebate
As Recalculated	\$359,970,425	\$416,932,616	86.3%	\$0
Difference	(\$513,187)	\$0	(0.2%)	\$0

**IV. Company Overview**

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

The Company is a for-profit health maintenance organization domiciled in the District of Columbia. The Company sells both individual and group managed health care insurance and related products and services in Maryland, Washington, D.C., and northern Virginia.

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 of 45 CFR Part 158. As of December 31, 2013, the Company reported a total of 569,624 covered lives and \$2,387,464,118 in direct earned premium for policies subject to the MLR reporting and rebate requirements under 45 CFR Part 158, and a total of 569,861 covered lives and \$2,389,538,232 in direct earned premium from all health lines of business. The Company’s lines of business not subject to the MLR regulations at 45 CFR Part 158 include stand-alone dental and vision 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>
Chester Burrell	President and CEO
Jeanne Kennedy	Treasurer
Meryl Burgin	Secretary

**Directors**

<u>Name</u>
Larry Bailey
James Wallace
John Reim

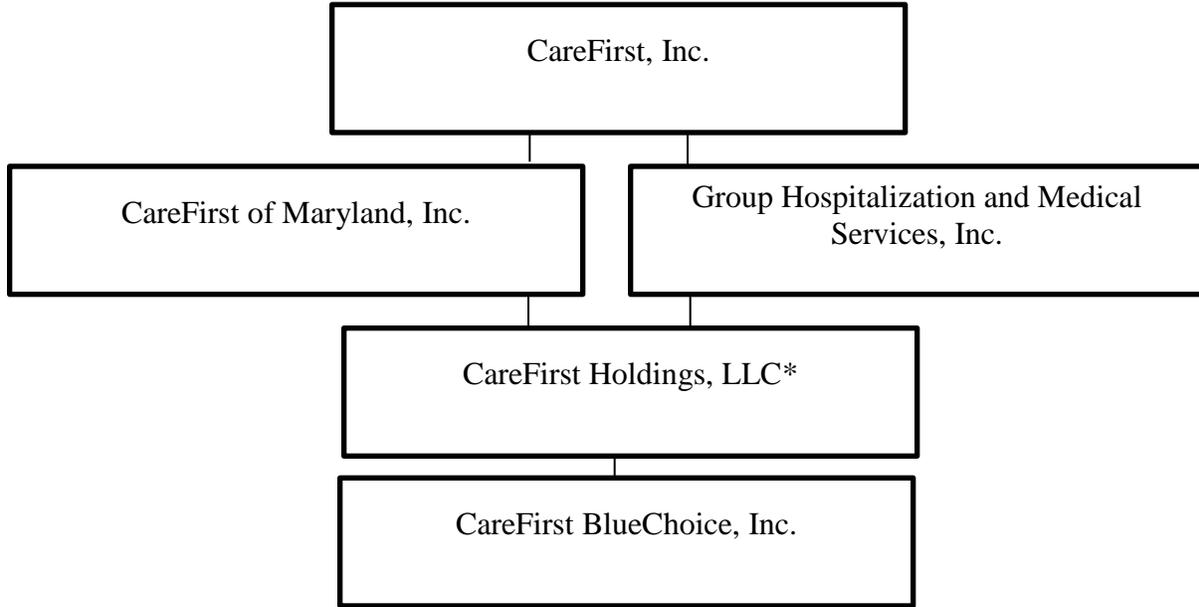
Company management and corporate-level personnel responsible for the preparation, submission, and attestation of the 2013 MLR Annual Reporting Form were:

<u>Name</u>	<u>Title</u>
Chester Burrell	CEO Attester
Mark Chaney	CFO Attester

### C. Ownership

The Company is a member of an insurance holding group system.

#### CareFirst BlueChoice, Inc. Organizational Chart<sup>2</sup> as of December 31, 2013



\*CareFirst Holdings, LLC is owned 50.001% by CareFirst of Maryland, Inc. and 49.999% by Group Hospitalization and Medical Services, Inc.

### 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 2013 MLR Annual Reporting Form:

1. An Administrative Services Agreement with Capital Area Services Company, LLC.
2. An Administrative Services Agreement with CareFirst, Inc.
3. A Tax Allocation Agreement with its subsidiaries CapitalCare, Inc. and The Dental Network, Inc.
4. An Intercompany Support Agreement with CareFirst of Maryland, Inc. and Group Hospitalization and Medical Services, Inc.
5. A Network Access Agreement with Group Hospitalization and Medical Services, Inc. and The Dental Network, Inc.

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<sup>2</sup> This is an excerpt from an organization chart provided by the Company and only includes companies pertinent to 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 10455 Mill Run Circle, Owings Mills, MD. The Company provided adequate access to its accounts and records, including computer and other electronic systems, as required by §158.501.

## **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 the due date.

The Company reported that it met the applicable MLR standards in all states and markets for the 2012 and 2013 MLR reporting years and thus was not required to pay rebates to its enrollees for these years. For the 2011 reporting year, the Company reported that it did not meet the applicable MLR standard in the District of Columbia and Virginia small group markets and in the Virginia large group market, and as a result paid rebates of \$6,798,935 in those states and markets. The Company reported that it met the applicable MLR standards in the District of Columbia and Virginia individual markets, the District of Columbia large group market, and all markets in Maryland for the 2011 MLR reporting year and therefore was not required to pay rebates in those states and markets.

Based on the errors found during the examination, 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.

### **A. MLR Data**

#### **Market Classification**

The Company adopted policies and procedures for determining group size and market classification that are consistent with the definitions in §158.103 applicable to the 2011-2013 reporting years. The samples of policies tested during the examination were found to be assigned to the correct market classification.

#### **Aggregation**

Based upon the procedures performed, nothing 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 states, markets, and lines of business in accordance with §158.120.

### **Incurred Claims**

Based upon the procedures performed, including validation of a sample of incurred claims (as defined by §158.140) reported by the Company, nothing came to our attention that would indicate that incurred claims were not accurately reported.

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

Based upon 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**

#### *Improper Inclusion of Expenses for Activities That Do Not Qualify as QIA*

Based on a review of a sample of transactions and activities in numerous cost centers, certain activities reported as QIA did not qualify under the definition at §158.150 and/or the Company was unable to provide adequate documentation supporting that the reported activities met the definition of QIA.

Several of the Company's cost centers were found to consist entirely of expenses for activities that are specifically excluded from QIA pursuant to §158.150(c), including cost containment, marketing, and business and product development. As all of the Company's expenses in these cost centers were allocated to QIA in the states and markets subject to MLR requirements under 45 CFR Part 158, a total of \$101,861 in the individual market, \$707,154 in the small group market, and \$826,103 in the large group market was deemed to have been inappropriately included in QIA on the 2013 MLR Annual Reporting Form.

Some of the Company's other cost centers consisted of activities that qualify as QIA, but also contained expenses for some activities that did not appear to qualify as QIA. The Company was unable to adequately support the allocation percentages for these cost centers to demonstrate that expenses for the non-qualifying activities were excluded from QIA on the 2013 MLR Annual Reporting Form. The non-qualifying activities included dispute resolution, maintaining departmental policies and procedures, professional development, and consulting with providers on issues unrelated to patient-centered intervention. However, expenses for the portion of activities that did not qualify as QIA were deemed to be immaterial and therefore no adjustments were made to the Company's MLR calculations as a result of this finding.

In addition, the Company allocated to QIA between 1% and 15% of expenses in approximately 120 cost centers that contained various indirect technology and other administrative expenses. However, the Company was unable to demonstrate how the actual activities in these cost centers met the definitions of QIA and was unable to adequately support the QIA allocation percentages for these cost centers. Consequently, a total of \$257,959 in the individual market, \$1,790,844 in the small group market, and \$2,092,076 in the large group market allocated to QIA from these

cost centers across all states in which the Company operated was deemed to be unsupported and was removed for purposes of recalculating the 2013 MLRs.

Testing of expenses for various activities outsourced to third party vendors and reported as QIA also revealed activities which did not qualify as QIA, such as account management, pre-sales support, and sales activities. The Company was unable to demonstrate how the actual activities performed by these vendors met the definitions of QIA and was unable to adequately support the QIA allocation percentages. Consequently, a total of \$153,145 in the individual market, \$1,063,189 in the small group market, and \$1,242,026 in the large group market of these vendor expenses allocated to QIA across all states in which the Company operated was deemed to be unsupported and was removed for purposes of recalculating the 2013 MLRs.

As a result of the Company's improper inclusion of expenses related to several types of non-qualifying activities in its QIA expenses, it was determined that the Company overstated QIA expenses by a total of \$512,965 in the individual market, \$3,561,187 in the small group market, and \$4,160,205 in the large group market.

Based upon the procedures performed, other than the items noted above, nothing additional came to our attention that would indicate that QIA expenses were not accurately reported and reasonably allocated among the Company's states and markets, as required by §158.170.

#### **Earned Premium**

Based upon the procedures performed, nothing came to our attention that would indicate that 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 reported 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 states and 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 federal income taxes to each state and market based on the underwriting gain or loss by jurisdiction and market, which the examination confirmed.

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

Based upon the procedures performed, the Company correctly applied the credibility adjustment when the Company calculated and reported its MLRs, in accordance with §§158.230-158.232. The Company's 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 District of Columbia and Virginia individual markets, the District of Columbia large group market, and all markets in Maryland for 2011, as well as all states and markets for 2012 and 2013, the Company used correct procedures to determine that no rebates were due for those years in those states and markets. The Company reported that it did not meet the applicable MLR standard in the District of Columbia and Virginia small group markets and in the Virginia large group market for 2011, and used correct procedures to calculate total rebates of \$6,798,935 for 2011 in those states and markets. In accordance with §158.240, the Company additionally paid late interest of \$125,149 resulting from the Company's resubmission of corrected 2011 MLR Annual Reporting Forms after it identified errors in the initial filing, and the consequent payment of additional, corrected 2011 rebates after the August 1, 2012 rebate deadline.

### **C. Rebate Disbursement and Notice**

According to its 2012 and 2013 MLR Annual Reporting Forms, the Company reported that it did not owe rebates in any state or market for 2012 and 2013, and therefore was not required to and did not issue any Notices of rebates for those years. Based upon the procedures performed, the Company timely issued the 2011 Notice (of no rebate) in the District of Columbia and Virginia individual markets, the District of Columbia large group market, and all markets in Maryland in accordance with §158.251. Based upon the procedures performed, the Company timely issued rebates for 2011 in accordance with §§158.240-244 and Notices of rebates in accordance with §158.250 in the District of Columbia and Virginia small group markets and the Virginia large group market following the initial submission of its 2011 MLR Annual Reporting Forms. Subsequently, the Company identified errors in its initial filing and promptly issued additional, corrected rebates.

### **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 District of Columbia Department of Insurance, Securities, and Banking performed a financial examination of the Company in 2013 covering the period January 1, 2009 through December 31, 2013. There were no findings noted in the examination report.

## **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. Subsequent to the completion of the examination fieldwork, the Company discovered and informed CCIIO of an additional error related to market classification of certain claims payments under a Blue Cross Blue Shield Association program, which led to overstatement of the Company's incurred claims in several states and markets for multiple reporting years. As a result of this error, the Company paid additional rebates totaling \$122,004 in the District of Columbia and Virginia small group markets for 2011 and \$407,686 in the Virginia large group market for 2012, with late interest in accordance with §158.240.

## **VIII. Conclusion, Corrective Action, Company Response, and CCIIO Reply**

CCIIO examined CareFirst BlueChoice, Inc.'s 2013 MLR Annual Reporting Form to assess the Company's 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 2013 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. The effect of the examination findings and subsequent recalculation of the Company's MLRs did not result in any additional rebates owed in any of the states or markets in which it operated.

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

### **Corrective Action**

The Company must adopt and implement procedures to ensure that activities and expenses reported as QIA meet the requirements of §158.150 and that sufficient documentation exists to support such determinations. The Company should perform additional analyses to adequately differentiate between activities that do and do not qualify as QIA, and perform additional quantitative analyses to ensure that only the appropriate percentage of each activity or transaction that qualifies as a QIA pursuant to §158.150 is reported in its MLR Annual Reporting Form.

### **Company Response**

"The Company has adopted and implemented procedures to ensure that activities and expenses reported as QIA meet the requirements set forth in 45 CFR 158.150 and that sufficient documentation exists and is maintained to support such determinations. The Company periodically engages an external consultant to review its activities and expense reported as QIA and to perform additional analysis to ensure (1) compliance with the requirements of 45 CFR 158.150, and (2) that the percentages of any allocations within a specific cost center accurately reflect the performed QIA activities. As a result of this examination, the Company reviewed its cost centers and adjusted activities and expenses reported as QIA in the Company's MLR Annual Reporting Form submissions."

### **CCIIO Reply**

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

**The corrective actions provided in this report should be shared with and adopted by, as applicable, any affiliated entities of the Company, such as its 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.