

Final  
Report on the  
Medical Loss Ratio Examination  
of  
**Liberty Union Life Assurance Company**  
(Troy, Michigan)  
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**

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November 21, 2018

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 Liberty Union Life Assurance Company (the Company) for the 2013 reporting year, including 2012 and 2011 data reported on that form. Following an exit conference with Liberty Union Life Assurance Company, the Company responded to each Finding and Recommendation. 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". The signature is written in a cursive, flowing style.

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 and Insurance Oversight (CCIIO) has performed an examination of the 2013 Medical Loss Ratio (MLR) Annual Reporting Form for Liberty Union Life Assurance Company (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 and which impact consumer rebates.

We recommend that the Company implement corrective actions to comply with various sections of 45 CFR Part 158. The Company informed CCIIO during the examination that it had ceased selling health insurance coverage subject to 45 CFR Part 158 as of January 1, 2014, and that all such policies had terminated as of December 31, 2014. If the Company re-enters the markets that are subject to 45 CFR Part 158, the Company should obtain adequate documentation to accurately determine group size and market classification of policies, properly report incurred claims based on the incurred year, properly report premiums on an earned basis, properly report and deduct appropriate taxes and regulatory fees from premium, and ensure quality improvement activity (QIA) expenses meet the regulatory definition and sufficient documentation exists supporting such determinations. Additionally, the Company should determine the impact of the findings on its MLRs and rebate liability, revise and resubmit its MLR Annual Reporting Forms for 2011 through 2014<sup>1</sup>, and disburse any resulting rebates within sixty (60) days from the date of the Company's receipt of the Final MLR Examination Report.

Due to the lack of accurate documentation supporting group size determinations, inaccurately reported incurred claims and earned premium, as well as inadequate documentation supporting the Company's QIA expenses, we cannot conclusively assess the impact of these examination findings on the Company's MLRs or whether there would be an additional impact on its rebate liability in any of the markets in which it operated. To the extent that the findings could be quantified, the recalculation reduced the MLR for the small group market by 9.8 percentage points, bringing it below the MLR standard and resulting in an estimated rebate liability for the 2013 reporting year of \$312,285. In the individual market and the large group market, the Company reported fewer than 1,000 life-years during the three year aggregation period and is therefore presumed to meet or exceed the applicable MLR standards, in accordance with §158.230(d).

## **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, generally requires health insurance companies 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

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<sup>1</sup> Although the Examination is of the Company's 2013 MLR Annual Reporting Form and the 2011 and 2012 data on that Form, if an error is discovered during an Examination, then, where circumstances warrant it, the Company's Forms for other years are also reviewed.

is the proportion of earned premium, less certain taxes and regulatory fees, expended by a company 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 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.

Liberty Union Life Assurance Company’s response to each finding appears after the finding in the Conclusion and Recommendations section of this Report. The Company’s corrective action was not reviewed for proof of implementation or subjected to the 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 Findings**

<b>Page</b>	<b>Key Findings</b>
7	<b>Failure to employ standards consistent with the definitions in §158.103 to correctly determine the size of group policyholders</b> – The Company did not correctly obtain the average number of employees from each group policyholder at the time of initial application or policy renewal and therefore could not correctly determine each group’s size and market classification.
8	<b>Failure to assign the correct market classification in accordance with the definition in §158.103</b> – In the sample tested, the Company incorrectly classified five policies issued to small employers as large group policies, which resulted in misallocation of the Company’s earned premium, incurred claims, and life-year experience between the small group and large group markets.
8	<b>Failure to maintain adequate documentation as required by §158.502</b> – The Company did not maintain the documents and other evidence necessary to enable CCIIO to verify how it determined each group policyholder’s size. In addition, the Company could not provide adequate reconciliation of its

	incurred claims and earned premium to the supporting, detailed data files, or provide adequate documentation to enable CCIIO to verify that the expenses reported as QIA met the requirements of §158.150.
8	<b>Failure to aggregate data separately for the small group and large group markets, as required by §158.120(a)</b> – The Company incorrectly aggregated the 2011 large group market experience with the 2011 small group market experience, rather than reporting each market on a separate basis. As a result, on its 2013 MLR Annual Reporting Form, the Company overstated its small group market incurred claims by \$464,124 and its small group market premium by \$501,345, with corresponding understatements in the large group market.
9	<b>Failure to accurately report incurred claims in accordance with §158.140</b> – The Company incorrectly reported 2011, 2012, and 2013 incurred claims on its 2013 MLR Annual Reporting Form. The Company improperly reported claims based on the year they were paid rather than the year they were incurred, and improperly included administrative fees charged by a third party vendor in incurred claims. The net effect of the errors resulted in an estimated understatement of the aggregate incurred claims reported on the 2013 MLR Annual Reporting Form of \$32,161 in the individual market and \$855 in the large group market, and an estimated overstatement of incurred claims of \$3,914,847 in the small group market.
10	<b>Reporting of quality improvement activities (QIA) that did not meet the definition of a QIA expense as set forth in §158.150</b> – The Company did not provide sufficient evidence that certain activities or transactions selected for review meet the definition of QIA. Based on a review of the supporting documentation that was available, it was determined that the Company overstated QIA expenses by \$11,419 in the individual market, \$1,177,905 in the small group market, and \$46,691 in the large group market.
11	<b>Failure to properly report earned premium in accordance with the requirements of §158.130</b> – The Company incorrectly reported its premium revenue on its 2013 MLR Annual Reporting Form on a cash basis rather than an earned basis, as required; the precise impact of this error could not be determined. The Company also improperly excluded from premium revenue a monthly administrative fee charged to its group policyholders, which was required as a condition of receiving group health insurance coverage, and totaled \$548,780 in the small group market and \$6,700 in the large group market. In addition, \$140,509 of non-premium income was inappropriately included in earned premium in the large group market on the 2013 MLR Annual Reporting Form.
11	<b>Failure to properly report taxes and regulatory fees in accordance with §158.161 and §158.162</b> – The Company failed to report some of its taxes and regulatory fees. It was estimated that the Company’s 2011 and 2013 taxes and regulatory fees were understated by \$2,322 in the individual market, \$149,321 in the small group market, and \$22,022 in the large group market on its 2013 MLR Annual Reporting Form.

12	<b>Failure to comply with the MLR notification requirements set forth in §158.251</b> – The Company failed to provide policyholders and subscribers with notification letters informing them that it met or exceeded the applicable MLR standard for 2011.
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**Due to the lack of accurate documentation supporting group size and market classification and QIA, as well as inaccurately reported incurred claims and earned premium, we cannot, at this time, conclusively assess whether there were additional errors that would impact the Company’s MLRs. Based on the adjustments that could be quantified, the recalculated MLR in the small group market decreased by a net 9.8 percentage points, bringing it below the MLR standard and resulting in an estimated rebate liability of \$312,285. In the individual market and the large group market, the Company reported fewer than 1,000 life-years during the three year aggregation period and is therefore presumed to meet or exceed the applicable MLR standards in accordance with §158.230(d).**

The three-year adjusted, aggregated numerator and denominator, along with the resulting credibility-adjusted MLR and rebate obligation for 2013, are shown in the following tables. The differences between the amounts in the “As Recalculated” and the “As Filed” rows reflect the net impact of the adjustments made as a result of certain policies with incorrect market classifications being reassigned to another market, inaccurate incurred claims amounts being reassigned, disallowing unsupported QIA expenses, non-premium income that was reported in error being removed, excluded administration fees charged as a condition of receiving coverage being added, and unreported tax and regulatory fee expenses being deducted from premium. As noted above, the recalculated values only include adjustments for findings where sufficient information was available to quantify the amount of the misstatement.

**Recalculated MLRs and Rebates for the Individual, Small Group, and Large Group Markets for the 2013 Reporting Year<sup>2</sup>**

	Individual Market*			
	Numerator	Denominator	MLR	Rebate
As Filed	\$483,695	\$871,748	80.0%	\$0
As Recalculated	\$504,437	\$869,426	80.0%	\$0
Difference	\$20,742	(\$2,322)	0.0%	\$0

	Small Group Market			
	Numerator	Denominator	MLR	Rebate
As Filed	\$43,770,140	\$50,947,094	87.9%	\$0
As Recalculated	\$38,788,697	\$50,964,215	78.1%	\$312,285
Difference	(\$4,981,443)	\$17,121	(9.8%)	\$312,285

	Large Group Market*			
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<sup>2</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 Filed	\$1,951,121	\$2,423,996	85.0%	\$0
As Recalculated	\$1,793,976	\$2,650,503	85.0%	\$0
Difference	(\$157,145)	\$226,507	0.0%	\$0

\* Market considered to be non-credible, and therefore the MLR is presumed to meet or exceed the applicable MLR standard, as the Company reported fewer than 1,000 life-years, in the aggregate, in that market.

## **IV. Company Overview**

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

The Company is a for-profit life, accident and health insurer domiciled in the state of Michigan and also licensed in the state of West Virginia, where it does not currently have any business in effect. The Company sells both individual and group accident and health insurance in Michigan as well as group term life, stand-alone dental, stand-alone vision, short-term disability and cancer insurance.

During the 2011, 2012, and 2013 MLR reporting years, the Company operated in the individual and small group markets, and during 2011 and 2013 it operated in the large group market, that were subject to the MLR reporting requirements under 45 CFR Part 158. As of December 31, 2013, the Company reported a total of 7,021 covered lives and \$19,014,500 in direct earned premium for policies subject to the MLR reporting and rebate requirements under 45 CFR Part 158 and a total of 18,829 covered lives and \$21,126,205 in direct earned premium from all health lines of business. Lines of business not subject to the MLR regulations at 45 CFR Part 158 are life, dental, vision, short-term disability and cancer insurance.

The Company informed CCHIO representatives during the examination that as of January 1, 2014, it had ceased selling health insurance coverage that is subject to the MLR regulations at 45 CFR Part 158. According to the Company, as of December 31, 2014, all such policies had terminated.

### **B. Management**

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

#### **Officers**

<b><u>Name</u></b>	<b><u>Title</u></b>
Christopher Terrance Mazur	President and Treasurer
Barbara Ann Spurlin	Secretary
Susan Clare LaFreniere	Executive Vice President
Susan Ann Weinrauch	Vice President

#### **Board of Directors**

**Name**

Richard Felix Mazur  
 Christopher Terrance Mazur  
 Richard Phillip Mazur

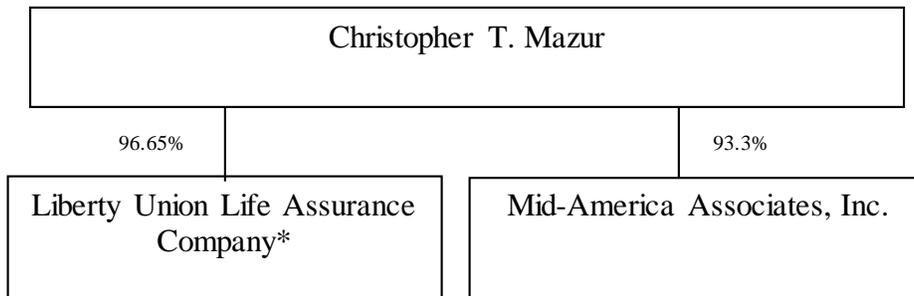
Company management and corporate-level personnel responsible for the preparation, submission, and attestation of the 2013 MLR Annual Reporting Form were:

<u>Name</u>	<u>Title</u>
Christopher Terrance Mazur	CEO Attester
Susan Weinrauch	CFO Attester

**C. Ownership**

As of December 31, 2013, Christopher Mazur was the majority-owner of the Company and had an ownership interest in other businesses that include affiliates of the Company.

**Liberty Union Life Assurance Company  
 Organizational Chart as of December 31, 2013**



\*Remaining shares owned by Minority Shareholder Reserve.

**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. An Administrator Agreement with Mid-America Associates, Inc.
2. A Lease Agreement, whereby the Company leases office space from Thirteen Mile Barrington Associates, an affiliated entity with common control.
3. A Consulting Service Agreement with Christopher Mazur, its majority-owner.

**E. Reinsurance**

During 2011, 2012, and 2013, the Company had excess of loss and quota share ceded reinsurance agreements in place with multiple non-affiliated entities for risks related to health, life and accidental death and dismemberment policies. The Company also had assumed reinsurance agreements with several non-affiliated entities, including a 100% assumption reinsurance

agreement for claims/expenses related only to cancer insurance which is not subject to 45 CFR Part 158.

## **V. Accounts and Records**

The Company's main administrative and financial reporting office is located at 560 Kirks Boulevard, Suite 125, Troy, MI 48084. While the Company used software for its claim adjudication processing, Microsoft Excel was used for the accounting of premium income and other aspects of the Company's MLR reporting.

As noted herein, the Company was not in compliance with §158.502 with regard to maintaining adequate documentation and other evidence necessary to enable CCIIO to verify that the MLRs and rebates owed were calculated in accordance with the regulation. Specifically, the Company did not obtain accurate information or maintain the documentation regarding the employee count of group policyholders, which is necessary to determine group size and market classification. The Company also was not able to provide adequate documentation supporting a reconciliation of incurred claims or earned premium between its data files, the amounts reported on its MLR Annual Reporting Form, and the amounts on its annual financial statement that it filed with the state of Michigan. In addition, the Company did not maintain documentation supporting the QIA expenses reported on its MLR Annual Reporting Form for 2011, 2012 and 2013.

## **VI. Examination Results**

The Company's 2011, 2012, and 2013 MLR Annual Reporting Forms were filed by or before the required due date, but were not filed in the manner prescribed by the Secretary, as further described below.

During 2011, 2012, and 2013, the Company reported that it met the MLR standard of 80% for the individual and small group markets and 85% for the large group market, and thus did not pay rebates to its enrollees for any of these years. In the individual market and the large group market, the Company reported fewer than 1,000 life-years during the three year aggregation period and is therefore presumed to meet or exceed the MLR standards in accordance with §158.230(d).

Based on the errors found during the examination, the small group market MLR for the 2013 MLR reporting year was recalculated and resulted in an estimated rebate liability of \$312,285 in that market. Due to the lack of accurate documentation supporting group size and market classification determinations, inaccurately reported incurred claims and earned premium, as well as inadequate documentation supporting the Company's QIA expenses, we cannot, at this time, conclusively assess whether there were additional errors that could impact the Company's MLRs and corresponding rebates.

### **A. MLR Data**

#### **Market Classification**

### *Incorrect 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 and 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 Public Health Service Act (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 necessary information from group policyholders to determine employer size in accordance with this definition and therefore the Company may have incorrectly determined the market classification for group policies in the period covered by this examination.

The documentation available to the examiners consisted of a copy of a recent billing invoice, the original application for coverage containing the total number of employees at the time of application (rather than the average number of employees on the business days of the calendar year preceding the coverage effective date), copies of checks, general journal entries, and the master policy. The Company provided the original applications, which in some cases dated back to two years before the period covered by the examination. Therefore, based on the available documentation, the examiners could not confirm whether the Company correctly determined group size, and consequently the market classification, of its policies since it based its determinations on the number of employees at the time of either the initial policy application or policy renewal.

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.

### *Incorrect Reporting of Market Classification*

In addition to not employing procedures to correctly determine the average number of employees of its group policyholders, 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, five group policies in the sample of 35 selected from the large group market were incorrectly classified by the Company as a large group market policy, when, based on the information available and the Company's (possibly incorrect) group size determinations, the policies should have been reported in the small group market for 2013, as each group had fewer than 50 employees. All five policies were properly classified as small group policies during 2011 and 2012. Consequently, \$111,309 in 2013 incurred claims and \$119,007 in 2013 earned premiums were reallocated from the large group to the small group market.

## **Aggregation**

### *Failure to Aggregate Data Separately for the Small Group and Large Group Markets*

The Company incorrectly reported its large group market experience by aggregating it with its small group market experience in its 2011 MLR Annual Reporting Form as well as the PY2 columns (columns containing 2011 data) on its 2013 MLR Annual Reporting Form, rather than

reporting each market separately, as required by §158.120. The Company correctly reported business separately for the small group and large group markets in its 2011 Supplemental Health Care Exhibit that it filed with the state of Michigan. Based on information provided by the Company, it was estimated that \$464,124 in 2011 incurred claims and \$501,345 in 2011 earned premium from large group market policies were improperly aggregated with the small group market claims and premiums, respectively. Consequently, these amounts were reclassified from the small group market to the large group market in the PY2 columns of the Company's 2013 MLR Annual Reporting Form. However, the amount of large group business could not be conclusively determined due to the Company's lack of adequate documentation necessary to support the reconciliation of its incurred claims or earned premium in any market in which it operated.

Based on the lack of adequate documentation supporting the Company's group size and market classification determinations, as well as inaccurately reported incurred claims and earned premium, the examiners were unable to conclusively determine if the samples of policies, claims and other items tested during the examination were correctly assigned to the appropriate markets in accordance with §158.120.

## **Incurred Claims**

### *Inaccurate Reporting of Incurred Claims*

The Company was unable to provide adequate documentation supporting the amounts reported for 2011, 2012, and 2013 incurred claims for the individual, small group, and large group markets on its 2013 MLR Annual Reporting Form. The Company was also unable to adequately reconcile the detailed data files it provided as part of the examination and which reflected claims paid in 2011, 2012, and 2013 to the amounts reported on its 2013 MLR Annual Reporting Form or on its 2013 Annual Statement that it filed with the state of Michigan. Based on a review of the detailed data files provided, it was noted that for each year under examination, the Company reported incurred claims based on the year actually paid, rather than the year incurred as required by §158.140. For example, the Company included claims that were incurred in 2010 and prior years but which were paid in 2011, with its 2011 incurred claims on its 2011 MLR Annual Reporting Form. Section 158.140 states that incurred claims are to be calculated and reported based on claims incurred only during the MLR reporting year and paid through March 31<sup>st</sup> of the following year.

While a detailed paid claims analysis to determine the incurred date versus paid date could not be performed during the examination due to the Company's lack of accurate claims information, it was noted that in Part 4 of the 2013 MLR Annual Reporting Form, for the individual, small group, and large group markets, the Company reported significant increases in adjusted incurred claims on Line 1.2 in the PY2 and PY1 columns from the amount of adjusted incurred claims reported on Line 1.1. The amount reported on Line 1.1 reflects the adjusted incurred claims as originally reported on the prior years' MLR Annual Reporting Forms and was used to calculate the respective MLRs and rebate liabilities in each of those prior filing years. It was also noted that the Company did not report any amount for direct claims liability on the 2013 MLR Annual Reporting Form, but instead reported incurred claims based on payments it made during the year, without consideration of the year in which the claim was actually incurred. Therefore, analysis showed that

the adjusted incurred claims reported by the Company for each year included in the 2013 MLR Annual Reporting Form were misstated.

Due to the inability of the Company to effectively reconcile its supporting data for paid and incurred claims to the MLR Annual Reporting Form, the examiners performed alternative testing procedures, including segregating all claims transactions by paid date and comparing each to the date of service to determine when it was incurred. As a result, the examiners estimated that the Company had understated the incurred claims reported on its 2013 MLR Annual Reporting Form by \$32,161 in the individual market and by \$855 in the large group market and overstated incurred claims by \$3,914,847 in the small group market. However, without the ability to accurately reconcile the Company's supporting documentation to the amounts reported, the examiners were unable to determine the exact amount of the misstatement.

#### *Improper Inclusion of Administrative Fees in Incurred Claims*

The Company inappropriately included in incurred claims the administrative fees it paid to its third party vendor for the administration of pharmacy benefits, which is not in compliance with §158.140. Section 158.140(b)(3)(ii) specifies that amounts paid to third party vendors for their administrative costs are to be excluded from incurred claims. Because of the lack of accurate data and supporting documentation, and the Company's improper aggregation of incurred claims by market, the examiners were unable to determine the precise amount of administrative fees improperly reported. However, based on an analysis of the information provided by the Company, including the annual reports from its vendor and related payment records, it was estimated that incurred claims were overstated by administrative fees totaling approximately \$5,538 in the individual market, \$382,533 in the small group market, and \$14,001 in the large group market on its 2013 MLR Annual Reporting Form.

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

The Company did not report any 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**

##### *Insufficient Documentation of Quality Improvement Activities*

The Company did not maintain adequate documentation detailing its QIA and QIA expenses. Section 158.502 requires an issuer to maintain all documents and other evidence necessary to enable CCIIO to verify compliance with the definitions and criteria set forth in the regulation and that the MLR and any rebates owing are calculated and provided in accordance with the regulation.

The largest category of QIA expenses reported by the Company was the salaries and related benefits of the employees whose roles and responsibilities included activities such as Health Information Technology (HIT), underwriting, marketing, administration of incentive payments, and a portion of the cost for consulting services paid to the President of the Company. In addition, the Company indicated that a portion of its reported QIA expenses represented vendor costs for activities such as website maintenance, software updates, maintenance of the claims system, and wellness coaching. The Company could not provide sufficient documentation to reconcile its QIA expenses to the amount reported in the MLR Form, could not support that the salary and vendor

expenses included in QIA were related to activities that meet the definition of QIA in §158.150, and could not provide sufficient time studies of employee activities or otherwise substantiate the salary ratios used to allocate salary costs to QIA.

As a result, the total 3-year aggregate amounts reported as QIA on the Company's 2013 MLR Annual Reporting Form of \$11,419 for the individual market, \$1,177,905 for the small group market, and \$46,691 for the large group market were deemed to be unsupported and therefore disallowed for purposes of the MLR recalculations.

## **Earned Premium**

### *Incorrect Reporting of Earned Premium*

Based on substantive testing of the documentation provided by the Company, it was determined that premium revenue was incorrectly recorded on a cash basis (that is, based on the time and amount received from policyholders), rather than on an earned basis (that is, premium attributable to coverage during the relevant year) as required by §158.130. Testing of a sample of 134 policies revealed that approximately 85% of the invoices provided by the Company did not match the corresponding premium amount reported. The Company's explanation for the discrepancies was that the policyholder often paid an amount different than that on the invoice or that the policyholder often paid two months' premium at the same time. However, in this case, the Company should still have only reported the amount due and not the amount actually paid by the policyholder. The Company provided Microsoft Excel spreadsheets as supporting documentation for 2011, 2012, and 2013, listing each group and premium received by month for medical and drug coverage. However, no documentation was available to reconcile the paid amounts to the amounts invoiced to policyholders or to the amounts reported on the 2013 MLR Annual Reporting Form. Consequently, the impact of the Company's inaccurate method of recording premium on a cash rather than earned basis on the Company's MLRs could not be determined.

### *Failure to Properly Report Certain Administration Fees as Part of Earned Premium*

The Company incorrectly excluded from earned premium the policy administration fees that it required its group market policyholders to pay as a condition of receiving health insurance coverage. The Company charges each group policyholder a \$20 monthly administrative fee, the non-payment of which, according to the policy itself, is considered a cause for policy cancellation. No such administrative fee is charged to the Company's individual policyholders. The fees were incorrectly reported as premium revenue in the Other Health column of the Company's 2013 MLR Annual Reporting Form. The total amount of policy administration fees for 2011, 2012, and 2013 incorrectly excluded from premium was \$548,780 for the small group market and \$6,700 for the large group market.

During substantive testing, it was further noted that the Company included non-premium income of \$140,509 as part of its 2013 earned premium for the large group market. This amount should not have been included as premium revenue, as, according to the Company, those fees, charged to large group policyholders, were not a condition of receiving health insurance coverage, consistent with the definition of earned premium in §158.130.

## **Taxes**

Based on substantive testing, it was determined that certain taxes and regulatory fees were incorrectly omitted from the 2011 and 2013 MLR Annual Reporting Forms and, therefore, were not reported in compliance with §§158.161 and 158.162. Utilizing information provided by the Company, omitted taxes and regulatory fees for 2013 were estimated to be \$2,322 for the individual market, \$149,321 for the small group market, and \$22,022 for the large group market.

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

Due to the incorrect group size and market classification determinations, inadequate documentation, and inaccurately reported incurred claims and earned premium, the examiners were unable to determine whether the Company applied the correct credibility adjustment when it calculated and reported its small group<sup>3</sup> MLR, in accordance with §§158.230-232. The examiners were also unable to determine whether the Company's final, credibility-adjusted MLR in the small group market was calculated correctly because the underlying data was not reported in accordance with 45 CFR Part 158 and the applicable MLR Annual Reporting Form Filing Instructions.

### **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 testing, the examiners found that the Company did not issue the 2011 Notice (of no rebate) as required by §158.251. Additionally, the examination results indicate that the Company owes a rebate in the small group market for at least the 2013 reporting year and therefore is required to issue a Notice of rebate in accordance with §158.250.

### **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 Michigan Department of Licensing and Regulatory Affairs Office of Financial and Insurance Regulation performed a financial examination of the Company in 2011 covering the period January 1, 2007 through December 31, 2010. The financial examination resulted in two findings, neither of which impact the Company's federal MLR calculation or reporting.

## **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. As stated previously, the Company advised that it ceased selling health insurance coverage subject to 45 CFR Part 158 as of January 1, 2014 and all such policies terminated as of December 31, 2014.

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<sup>3</sup> In the individual market and the large group market, the Company reported fewer than 1,000 life-years during the three year aggregation period and its MLRs in those markets are therefore presumed to meet or exceed the applicable MLR standards in accordance with §158.230(d).

## **VIII. Conclusion, Recommendations, and Company Responses**

CCIIO has examined Liberty Union Life Assurance Company'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 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 was not in compliance with all of the requirements of 45 CFR Part 158.

Due to the lack of accurate documentation supporting the Company's group size and market classification determinations, inaccurately reported incurred claims and earned premium, as well as inadequate documentation supporting the Company's QIA expenses, we cannot conclusively assess the impact of these examination findings on the Company's MLRs or whether there would be any additional impact on the Company's rebate liability in the small group market and any impact in the other two markets in which it operated. Based on the cumulative effect of the findings that could be quantified, it was estimated that the Company's recalculated MLR in the small group market fell below the MLR threshold, resulting in an estimated rebate liability of \$312,285. In the individual market and the large group market, the Company reported fewer than 1,000 life-years during the three year aggregation period and is therefore presumed to meet or exceed the applicable MLR standards in accordance with § 158.230(d).

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

### **Recommendation #1**

If and when the Company re-enters the markets that are subject to 45 CFR Part 158, the Company should adopt and implement procedures to ensure that it obtains and maintains accurate information from 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, as defined by section 2791 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 should 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 should utilize this information to accurately determine the market classification of its policies and aggregate data in accordance with the requirements of § 158.120(a).

### **Company Response**

"The Company accepts the findings stated in the report. If the Company begins selling health insurance coverage subject to various section of 45 Part 158, it will use recommendations #1-3 to comply with the applicable requirements of 45 CFR Part 158."

CCIIO Reply

CCIIO accepts the Company's response.

**Recommendation #2**

If and when the Company re-enters the markets that are subject to 45 CFR Part 158, the Company should implement internal controls to ensure that any expenses classified as QIA meet the requirements of §158.150 and that sufficient documentation exists to support such determination, including for amounts paid to a third party administrator. For salary-related expenses classified as QIA, that would include performing time studies of employee activities and/or other quantitative analyses of salary ratios to support allocating any such amounts to QIA, as only salary amounts supported by quantitative analyses regarding allocation of time spent on qualifying QIA activities should be considered as allowable QIA expenses. Alternatively, for the 2017 and later reporting years, the Company may elect to report a standardized percentage of earned premium as QIA, in lieu of reporting the actual QIA expenses, in accordance with §158.221(b)(8).

Company Response

"The Company accepts the findings stated in the report. If the Company begins selling health insurance coverage subject to various section of 45 Part 158, it will use recommendations #1-3 to comply with the applicable requirements of 45 CFR Part 158."

CCIIO Reply

CCIIO accepts the Company's response.

**Recommendation #3**

The Company should adopt and implement a comprehensive MLR records maintenance program under which it maintains all documentation and evidence necessary to verify compliance with each element included in the MLR Annual Reporting Form, as required by §158.502. The records maintenance program should include storing original data sets used to compile the data included on the MLR Annual Reporting Form and accurate documentation related to the number of employees of group policyholders. In addition, the Company's records maintenance program should include maintaining adequate documentation to enable CCIIO to verify that activities included in QIA are qualifying expenses, as defined by §158.150, for any years for which the Company does not elect the standardized QIA reporting option in §158.221(b)(8). We note that although the Company no longer offers health insurance in the markets that are subject to 45 CFR Part 158, consistent with the requirement of §158.502(b), it is required to maintain documents for the current year and six prior years, unless a longer time is required under §158.501.

Company Response

"The Company accepts the findings stated in the report. If the Company begins selling health insurance coverage subject to various section of 45 Part 158, it will use recommendations #1-3 to comply with the applicable requirements of 45 CFR Part 158."

CCIIO Reply

CCIIO accepts the Company's response.

**Recommendation #4**

The Company should re-file its 2013 MLR Annual Reporting Form to rectify the errors and reflect the findings stated herein, adjusting both the current year (CY) and prior year (PY) columns as applicable, including calculating any rebates due to its enrollees. Any underpaid rebates calculated by the Company as a result of the findings herein should be paid as soon as possible but in no event later than sixty (60) days from the date of the Company's receipt of the Final MLR Examination Report.

**Company Response**

"The Company will pay the rebates calculated in the report no later than sixty days from the date of receipt of the Final MLR Examination Report."

**CCIIO Reply**

CCIIO accepts the Company's response.