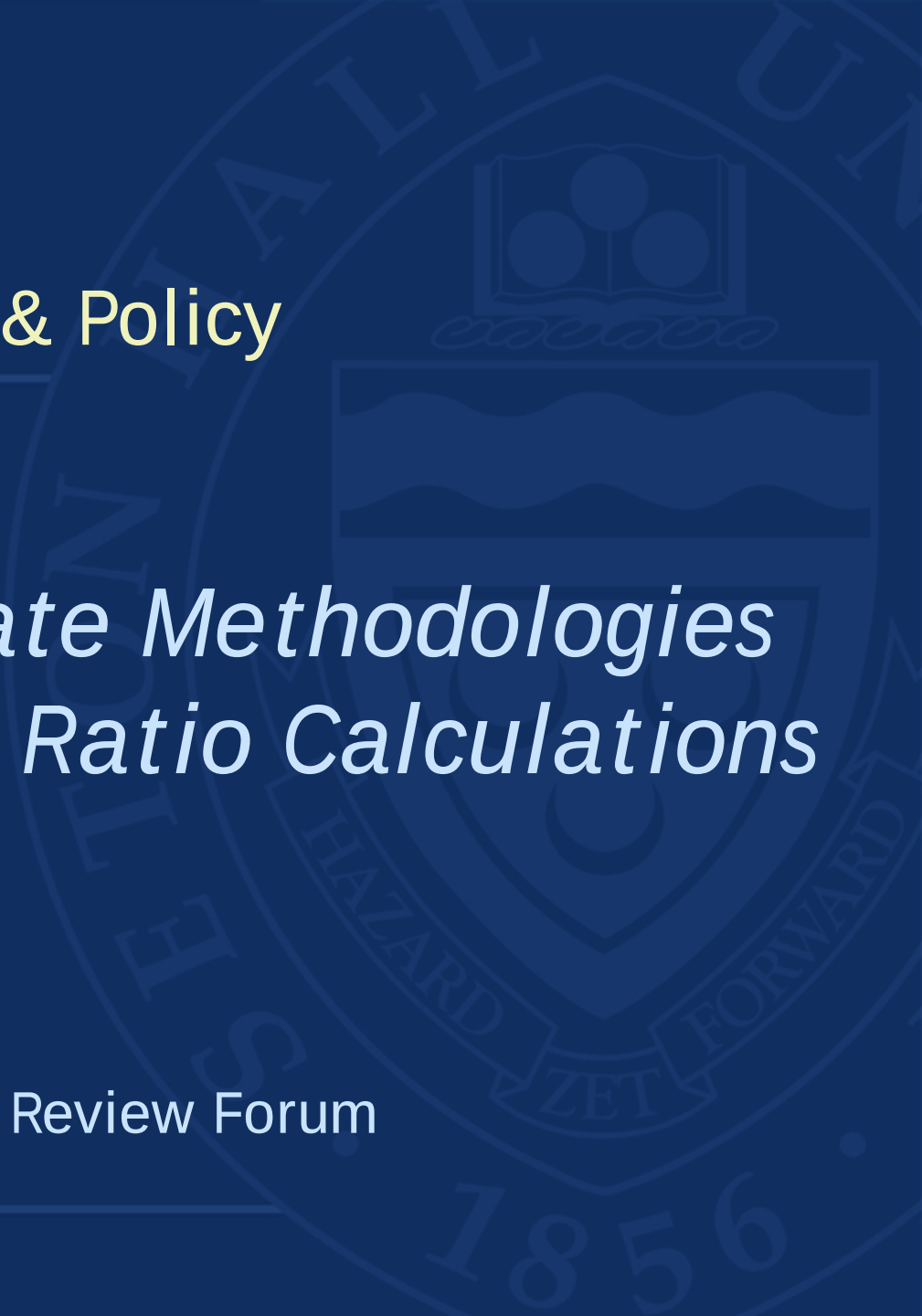


The background of the slide features a large, faint, circular seal of Seton Hall University. The seal contains a shield with a book and three circles, and the text "SETON HALL UNIVERSITY" around the top and "1856" at the bottom. A banner at the bottom of the shield reads "HAZARD ZET FORWARD".

Seton Hall Law Center for Health & Pharmaceutical Law & Policy

Federal and State Methodologies for Medical Loss Ratio Calculations

Tara Adams Ragone, J.D.
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Roadmap

- ❖ Defining Medical Loss Ratios
- ❖ Overview of New Jersey MLR
- ❖ Overview of Federal MLR
- ❖ Comparing Federal and New Jersey MLR Methodologies
- ❖ Early Impacts
- ❖ Q&A

Medical Loss Ratios

- ❖ What are they (*sort of*)?

- ❖ Measure of % of premium dollars spent on health care

\$ spent by insurer on health care
Insurance Premiums



- ❖ Generally excludes administrative expenses and profit, such as advertising, marketing, overhead, salaries, and bonuses, from the numerator

Medical Loss Ratios

- ❖ Higher MLR: greater proportion of premiums used to provide healthcare
 - ❖ more value to consumers for premium dollars
- ❖ ACA Goals:
 - ❖ ↑ Transparency
 - ❖ ↑ Value consumers receive for premiums

Medical Loss Ratios



Example 1:

$$\text{MLR} = \frac{\$ \text{ on medical claims}}{\text{Premiums}}$$

$$\frac{\$77,000}{\$100,000} = 77\% \text{ MLR}$$



Photo credit: pureplantspa.com

Example 2:

$$\text{MLR} = \frac{\text{Claims} + \text{cost containment} + \text{quality improving}}{\text{Premiums} - \text{Taxes}}$$

$$\frac{\$77,000 + \$500 + \$1,000}{\$100,000 - \$2,000} = 80.1\% \text{ MLR}$$

MLR: Overview of New Jersey's MLR Methodology

❖ Overview of New Jersey's Formula

$$\frac{\text{Total Losses Incurred or Claims}}{\text{Net or Total Earned Premiums}}$$

- ❖ Incurred Claims: medical claims paid out by insurers, adjusted for 6 months of claims run-out and formula for residual reserves
 - ❖ (Generally) not utilization management, provider education, etc.
- ❖ Premiums: Net or total earned premium

MLR: Overview of New Jersey's MLR Methodology

- ❖ Since 2009, 80% in individual and small group markets
 - ❖ NJ does not regulate MLR in the large group market
- ❖ Used prospectively and retrospectively
 - ❖ Prospective: Rate review – to set rates/avoid need for rebate
 - ❖ Retrospective: Rebate if miss MLR target

MLR: Overview of Federal MLR Methodology

- ❖ 80% Individual and Small Group Markets
- ❖ 85% Large Group Market
- ❖ Applies to grandfathered but not self-insured plans
- ❖ Went into effect January 1, 2011

MLR: Overview of Federal MLR Methodology



❖ Denominator – “the pot”:

- ❖ Premium revenue or earned premiums – money paid to receive coverage
 - ❖ Various adjustments, e.g., do not deduct premium discounts for health and wellness promotion
- ❖ minus Federal & state taxes & licensing or regulatory fees
 - ❖ Federal income tax-exempt non-profit insurers: may exclude community benefit expenditures and state premium taxes (capped at higher of 3% of premiums or State’s highest premium tax rate)
 - ❖ Includes exchange and risk adjustment user fees, ACA fees
 - ❖ Does not include fines and penalties

MLR: Overview of Federal MLR Methodology

- ❖ Numerator – share of pot for consumers:
 - ❖ amount spent on reimbursement for clinical services – incurred claims
 - ❖ Direct payments for services/supplies
 - ❖ Various adjustments (e.g., exclude third party vendor administrative, include recovery of claims through fraud reduction efforts)
 - ❖ Certain reserves

MLR: Overview of Federal MLR Methodology

- ❖ Numerator – share of pot for consumers:
 - ❖ expenditures to improve health care quality:
 - ❖ Primarily designed to improve health outcomes, prevent hospital readmissions, improve patient safety and reduce medical errors, increase wellness and health promotion, or enhance use of health care data to improve quality, transparency, and outcomes and support meaningful use of HIT
 - ❖ E.g., face-to-face, telephonic, or web-based effective case management, care coordination, chronic disease management, and medication and care compliance initiatives
 - ❖ But not fraud prevention activities

MLR: Overview of Federal MLR Methodology

- ❖ Must account for payments or receipts for risk adjustment, risk corridors, & reinsurance - 3Rs
 - ❖ Reinsurance
 - ❖ Payments to issuers deducted from numerator
 - ❖ Contributions paid by issuers subtracted from denominator as regulatory fees
 - ❖ Risk Corridors and Risk Adjustment: payments to or by insurers reflected in numerator

MLR: Overview of Federal MLR Methodology

- ❖ Special circumstances of smaller plans, different types of plans, and newer plans:
 - ❖ E.g., Credibility Adjustments for smaller plans:
 - ❖ to “address the impact of claims variability on the experience of smaller plans” by adding additional percentage points to their loss ratios
 - ❖ $\geq 1,000$ but $< 75,000$ life years = partially credible:
 - ❖ Base credibility factor (up to 8.3%) X deductible factor (up to 1.736)
 - ❖ $< 1,000$ life-years: non-credible; no rebate

MLR: Overview of Federal MLR Methodology

- ❖ Special circumstances of smaller plans, different types of plans, and newer plans:
 - ❖ **Newer Plans:** if $\geq 50\%$ of total earned premium is from new business, may defer reporting new experience until next year
 - ❖ **Expatriate plans:** employees working abroad
 - ❖ Numerator x 2; special national aggregating and reporting
 - ❖ **Mini-med plans:** $\leq \$250,000$ annual benefit limits
 - ❖ Graduated adjustment to numerator: x 2.0 in 2011, 1.75 in 2012, 1.50 in 2013, and 1.25 in 2014
 - ❖ **Student Health Insurance plans**
 - ❖ Individual market standards apply beginning in 2013; national aggregation; 1.15 numerator multiplier for 2013 MLR reporting year

MLR: Overview of Federal MLR Methodology

- ❖ On its face is a retrospective requirement:
 - ❖ Rebate required if fail to satisfy minimum MLR – adjustment or correction of original premium rate
 - ❖ $(\text{minimum MLR} - \text{issuer's MLR}) \times \text{MLR denominator}$
- ❖ Prospective use in rate review (45 CFR 154.205):
 - ❖ HHS considers projected MLR when reviewing whether proposed individual and small group rate increases $\geq 10\%$ are reasonable or excessive

MLR: Overview of Federal MLR Methodology

- ❖ States may adopt higher minimum MLR standard, subject to statutory requirements
- ❖ Secretary may adjust minimum MLR if destabilizing state's individual market
- ❖ Commissioner may ask Secretary to defer all or a portion of the rebate to avoid issuer insolvency

MLR: Comparing Federal and NJ MLR Methodologies

	Federal	New Jersey
Minimum MLR	• 80% Individual and Small Group • 85% Large Group	• 80% Individual and Small Group • None in Large Group
Reports	• Due 6/1 through 2013 reporting year; then 7/31 • Include non-claims costs • Posted on web site	• Due 8/1 (Small Group) • Due 8/15 (Individual Market) • Does not require non-claims costs
Fedl and State Taxes/Reg and Licensing Fees	• Excluded from MLR denominator	• Not excluded from MLR denominator
Payments or Receipts for 3Rs	• MLR calculation adjusted to account for them	• Do not affect the MLR calculation

MLR: Comparing Federal and NJ

MLR Methodologies

	Federal	New Jersey
Rebates	• Due 8/1 through 2013 reporting year/then 9/30 • offset for state rebate – added to claims in numerator • Indl: to policyholder who paid premium • Group: rules vary by type of entity; generally may provide to policyholder, with requirements; regs identify instances when must provide to subscriber • de minimis: <\$5 per subscriber (in indl and group market, when sent directly to subscriber); <\$20 owed to subscriber and policyholder combined (in group markets when rebate is sent to policyholder) • must aggregate and equally distribute de minimis rebates to enrollees receiving rebates in each market for the given reporting year • Possible tax consequences –see IRS FAQ • Possibility of “premium holiday” (depends on State law) • Notice to subscribers	• Due 12/31 • small group: to employer • individual: to policy and contract holders when > \$5 • silent regarding what carriers may do with de minimis rebates in individual market that they are not required to distribute to enrollees

MLR: Comparing Federal and NJ MLR Methodologies

❖ Aggregation:

NJ Individual

- Combine standard health benefits plans and basic and essential health care services plans
- By common ownership - affiliated carriers must aggregate

NJ Small Group

- By standard, open nonstandard, closed nonstandard, and alliance policy forms
- By legal entities and not by common ownership or by affiliated entities

Federal

Generally by legal entity, state, and market (individual, small group, and large group)

Affiliated entities exception in group markets: affiliated entities offering in and out of network coverage to a single employer may aggregate their MLR data

MLR: Comparing Federal and NJ MLR Methodologies

	Federal	New Jersey
Aggregation (see previous slide)	- For past 3 years of MLR data (beginning January 1, 2014) - mini-med, expatriate, and student health insurance plans separately aggregated and reported	- For preceding calendar year - mini-med plans are not permitted in NJ - no special rules for expatriate and student health insurance plans
Broker Fees	Not considered in formula (but S.650 pending)	Not considered in formula
New Plan Flexibility	Issuer may defer reporting experience if > 50% of total earned premium is attributable to policies newly issued and with < 12 months of experience	no special treatment

MLR: Comparing Federal and NJ MLR Methodologies

	Federal	New Jersey
Credibility Adjustments	• Yes (if > 1,000 but < 75,000 life-years)	• No
Adjustments for Mini-Med, Expatriates, or Student Health Insurance Plans	• Yes	• No
Flexibility in MLR Adjustments	• States may set higher MLR percentage • States may seek adjustment from Secretary for up to 3 years at a time of MLR percentage in individual market if 80% MLR may destabilize individual market	• MLR rate set by statute; methodology determined by DOBI

MLR: Comparing Federal and NJ MLR Methodologies

	Federal	New Jersey
Use of MLR Calculations	- retrospective - de facto prospective use in review of premium increases $\geq 10\%$ in states without effective rate review programs	prospective and retrospective
Definition of Small Employer	- Employed average of 1-100 employees on business days during preceding calendar year and at least one employee on first day of plan year - state may substitute 50 for 100 until January 1, 2016 “employee” includes full-time, part-time, and seasonal - possible group of one	- Employed average of 2-50 eligible employees on business days during preceding calendar year and employs at least two employees on first day of plan year - Eligible means full-time employee who works at least 25 hours/week - Majority employed in NJ

MLR: Comparing Federal and NJ MLR Methodologies

	Federal	New Jersey
Reserves	Claims reserves: 3 month run-out (~5 months beg. with 2014 reporting year)	Claims reserves: 6 month run-out
Enforcement	- HHS has sole responsibility for enforcing reporting & rebate requirements - HHS may accept state audit in certain circumstances	Commissioner of DOBI adopts regulations to implement NJ's MLR standards
Civil Penalties	- May be imposed if issuer fails to comply with MLR requirements < \$100 per day for each entity for each individual affected	- Shall be imposed if issuer fails to comply with MLR requirements > \$2,000 and < \$5,000 per violation

MLR: Comparing Federal and NJ MLR Methodologies

❖ Look Through - 3rd Party Administrative Costs:



NJ MLR numerator includes administrative costs incurred by providers or vendor intermediaries, such as ODS's



Federal issuers must “count as administrative rather than claims costs payments made to third party vendors (such as behavioral health or pharmacy benefit managers) that are attributable to administrative services.”

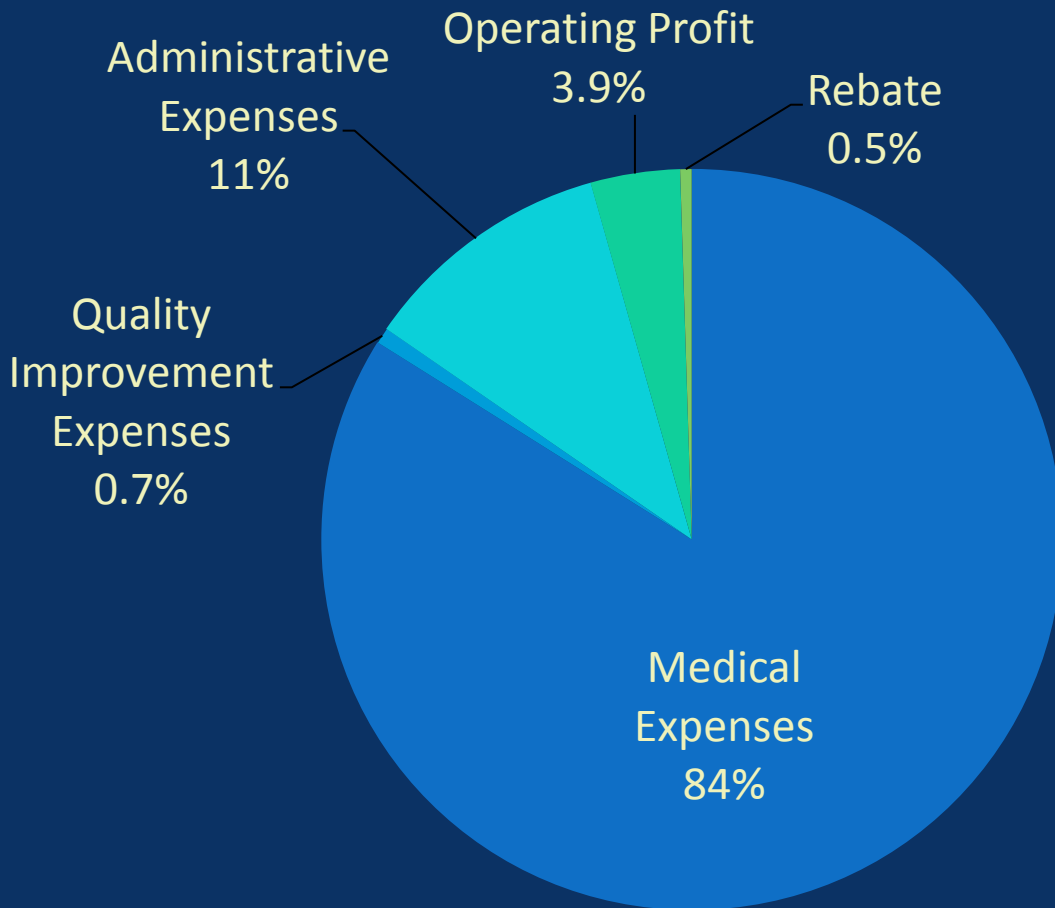
MLR: Comparing Federal and NJ – Why does all of this matter?

- ❖ Federal MLR formula often -> higher MLR % than NJ's under same facts – nominally same/effectively lower requirement
 - ❖ Several Federal components tend to increase %:
 - ❖ Including QI expenses in numerator
 - ❖ Excluding taxes and regulatory expenses from denominator
 - ❖ Credibility adjustments for smaller plans
 - ❖ But some aspects of NJ may -> higher MLR:
 - ❖ Including 3rd party administrative in claims
 - ❖ Aggregating carriers with common ownership in individual market

Estimating Impacts of Federal MLR Requirements

- ❖ HHS MLR IFR Preamble estimates:
 - ❖ ~4% increase to MLR (1-7% range)
 - ❖ QI: 3%, with range of 1-5%
- ❖ 2011 GAO interview of insurers & state regulators:
 - ❖ Most agreed taxes & fees would constitute largest change
 - ❖ Differed re QI expenses: very little/ 0.5%/<2%
- ❖ October 2011 GAO (2010 data):
 - ❖ Taxes & fees: 2.6% individual, 2.3% small, & 1.3% large
 - ❖ QI expenses: 0.5% individual, 0.7% small, & 0.8% large
 - ❖ Credibility adjustment: 4.2% individual, 3.3% small, & 2.7% large
 - ❖ Aggregating by state

Early Impacts: 2011 Premium Allocation of Credible Insurers



Quality Improvement

- \$2.3 billion
 - 51% to improving outcomes
 - 17% on HIT
 - 14% wellness
 - 10% patient safety
 - 9% hospital admissions

Source: Hall & McCue, Commonwealth Fund (Mar. 2013)

Early Impacts: Experience by Insurer Type

Corporate Structure

- Median nonprofit and provider-sponsored plans spent more on QI than median for-profit and non-provider-sponsored plans
- Publicly traded had significantly lower MLRs in each market than non-publicly traded
- <10% of non-profits and provider-sponsored insurers paid MLR rebates
- > 20% of for-profit and non-provider-sponsored insurers paid MLR rebates

Source: Hall& McCue, Commonwealth Fund (Mar. 2013)

	Median QI per member
Provider-sponsored	\$37
Non-provider sponsored	\$23
Nonprofit	\$35
For-Profit	\$19
Publicly Traded	\$26
Non-publicly traded	\$22

Early Impacts: Federal Rebates 2011

	Individual Rebates	Small Group Rebates/Avg	Large Group Rebates	Total Rebates
Federal	\$394 million • \$152 avg per family • 4.1 million enrollees • 38% of insurers	\$321 million • \$174 avg per family • 3.3 million enrollees • 17% of insurers	\$386 million • \$135 avg per family • 5.3 million enrollees • 11% of insurers	\$1.1 billion/ • \$151 avg per family • 12.8 million enrollees • 14% of insurers
NJ	\$114,290 • \$25 avg per family • 4,430 enrollees	\$0	\$7.6 million • \$359 avg per family • 40,568 enrollees	\$7.7 million • \$300 avg per family • 44,998 enrollees

Source: healthcare.gov/news/reports/mlr-rebates06212012a.html; CRS 1/30/13

Early Impacts: New Jersey 2011

❖ Individual Market:

- ❖ Average MLR of 87.6% (same as 2010)
- ❖ Rebates ~ \$6.6 million, up from \$229,946 in 2010

❖ Small Group:

- ❖ average MLR decreased from 83.4% to 82.8% (before refunds)
- ❖ Standard market rebates ~ \$16.8 million, down from \$20.2 million for 2010)

Early Impacts: Federal and NJ Rebates Owed in 2012

Insurer	NJ Indl	Fedl Indl	NJ Small (Standard)	Fedl Small	NJ Large	Fedl Large
Ameri-Health			HMO ~ \$1.9 million		n/a	
Celtic	\$14,670					
Cigna Healthcare	\$179,967				n/a	\$407,027
Horizon	BCBS + HMO \$6,362,803		HMO ~\$14.9 million		n/a	

Early Impacts: Federal and NJ Rebates Owed in 2012

Insurer	NJ Indl	Fedl Indl	NJ Small (Standard)	Fedl Small	NJ Large	Fedl Large
Nippon Life			\$1,906		n/a	\$4,144,949
Oxford Health Plans			(for purchasing alliance only)		n/a	\$3,003,799
US Life Ins.		\$114,290			n/a	

Early Impacts: Insurer Responses to Federal MLR Requirements

	Fedl	NJ	Fedl Indl	NJ Indl	Fedl Small	NJ Small	Fedl Large	NJ Large
Δ Overhead	-\$350 million	\$29 million	-\$560 million -\$66pm	\$53 million \$351pm	\$36 million	-\$13 million \$66pm	\$174 million	-\$11 million \$43pm
Admin. Costs			-\$209 million -\$31pm	\$37	-\$190 million -\$17pm	\$87pm	-\$785 million -\$19pm	-\$105pm
Profit Margin /Loss			-1.2% / -\$351 million -\$35pm	\$314pm	\$226 million \$12pm	-\$20pm	\$959 million \$26pm	\$148pm
Δ MLR			3.3%	-8.0%	0.1%	-1.4%	0.1%	-0.4%

Source: McCue & Hall, Commonwealth Fund (Dec. 2012)

pm= per member

Federal and State Methodologies for Medical Loss Ratio Calculations



Photo Credit: walknboston on Flickr.

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