

PPACA: How Small is Small?

- By [ALLISON BELL](#)

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A National Association of Insurance Commissioners (NAIC) panel has been thinking about how the term "small group" should be defined in minimum medical loss ratio (MLR) regulations.

The [Actuarial and Health Working Group](#), a part of the Life and Health Actuarial Task Force at the NAIC, Kansas City, Mo., has posted documents relating to that definition and others on its section of the NAIC website.

Minimum MLR provisions in the Affordable Care Act, the federal legislative package that includes the Patient Protection and Affordable Care Act (PPACA), will require the minimum amount of revenue spent on health care and quality improvement activities to be at least 85% at large plans and at least 80% at individual and small group health insurance operations. Plans and carriers that violate the limits are supposed to pay rebates.



Insurers, consumer groups, regulators and others are going over each proposed variable in the MLR calculations, and the precise definition of each variable, with great care. The working group's PPACA Actuarial Subgroup has received a number of comment letters about a number of topics, such as whether the same MLR rules ought to apply to limited-benefit medical plans as to major medical plans, and an argument that broker commissions are paid by the customer, not the health insurer, and should not be included in MLR calculations.

One question that came up has to do with the definition of "small group" to be used when deciding to apply the 80% minimum MLR or the 85% ratio to a health plan.

James Brone, chief actuary at Nippon Life Insurance Company of America, New York, raised the question.

"Why are small group health plans defined as employer groups of 2 - 50 employees in the draft rebate calculation methodology?" Brone asks in a comment letter. "The Health Care Reform law defines small group health plans as less than 100 employees."

Steve Ostlund, the subgroup chair, has recommended setting the limit at 50 rather than at 100.

"We considered if Section 1304, or some other section of the law created the definition of small group," Ostlund writes in a reply to the Brone comment.

The minimum MLR section of PPACA amends the federal Public Health Service Act, and the Public Health Service Act defines a small group as having 2 to 50 lives, Ostlund says.

"That section of Public Health Service Act was not amended by PPACA," Ostlund says.

PPACA Section 1304 gives state regulators leeway to decide between setting the boundary at 50 lives or 100 lives. But "the Section 1304 definition is applied to other sections of PPACA which are not amendments to the PHS Act - such as [health insurance] exchanges- and explicitly are not effective until Jan. 1, 2014," Ostlund says.