supplemental health insurance coverage, health insurance coverage offered to beneficiaries of public programs (such as Medicare and Medicaid), and group health plans as defined in §145.103 of this chapter and administered by the issuer.

(d) Maintenance of records. The issuer must maintain and make available to the Secretary upon request the data used to allocate expenses reported under this part together with all supporting information required to determine that the methods identified and reported as required under paragraph (b) of this section were accurately implemented in preparing the report required in §158.110 of this subpart.

Subpart B—Calculating and Providing the Rebate

§ 158.210 Minimum medical loss ratio.

Subject to the provisions of §158.211 of this subpart:

(a) Large group market. For all policies issued in the large group market in a State during the MLR reporting year, an issuer must provide a rebate to enrollees if the issuer has an MLR of less than 85 percent, as determined in accordance with this part.

(b) Small group market. For all policies issued in the small group market in a State during the MLR reporting year, an issuer must provide a rebate to enrollees if the issuer has an MLR of less than 80 percent, as determined in accordance with this part.

(c) Individual market. For all policies issued in the individual market in a State during the MLR reporting year, an issuer must provide a rebate to enrollees if the issuer has an MLR of less than 80 percent, as determined in accordance with this Part.

(d) Adjustment by the Secretary. If the Secretary has adjusted the percentage that issuers in the individual market in a specific State must meet, then the adjusted percentage determined by the Secretary in accordance with §158.301 of this part et seq. must be substituted for 80 percent in paragraph (c) of this section.

§ 158.211 Requirement in States with a higher medical loss ratio.

(a) State option to set higher minimum loss ratio. For coverage offered in a State whose law provides that issuers in the State must meet a higher MLR than that set forth in §158.210, the State’s higher percentage must be substituted for the percentage stated in §158.210. If a State requires the small group market and individual market to be merged and also sets a higher MLR standard for the merged market, the State’s higher percentage must be substituted for the percentage stated in §158.210 for both the small group and individual markets.

(b) Considerations in setting a higher minimum loss ratio. In adopting a higher minimum loss ratio than that set forth in §158.210, a State must seek to ensure adequate participation by health insurance issuers, competition in the health insurance market in the State, and value for consumers so that premiums are used for clinical services and quality improvements.


§ 158.220 Aggregation of data in calculating an issuer’s medical loss ratio.

(a) Aggregation by State and by market. In general, an issuer’s MLR must be calculated separately for the large group market, small group market and individual market within each State. However, if a State requires the small group market and individual market to be merged, then the data reported separately under subpart A of this part for the small group and individual market in that State must be merged for purposes of calculating an issuer’s MLR and any rebates owing.

(b) Years of data to include in calculating MLR. Subject to paragraphs (c) and (d) of this section, an issuer’s MLR for an MLR reporting year is calculated according to the formula in §158.221 of this subpart and aggregating the data reported under this part for the following 3-year period:

(1) The data for the MLR reporting year whose MLR is being calculated; and

(2) The data for the two prior MLR reporting years.