

## § 158.230

this section, except that the total incurred claims and expenditures for activities that improve health care quality incurred in 2014 in the respective State and market may be multiplied by a factor of 1.0004.

(8) Beginning with the 2017 MLR reporting year, an issuer has the option of reporting an amount equal to 0.8 percent of earned premium in the relevant State and market in lieu of reporting the issuer's actual expenditures for activities that improve health care quality, as defined in §§ 158.150 and 158.151. If an issuer chooses this method of reporting, it must apply it for a minimum of 3 consecutive MLR reporting years and for all of its individual, small group, and large group markets; and all affiliated issuers must choose the same reporting method.

(c) *Denominator.* The denominator of an issuer's MLR must equal the issuer's premium revenue, as defined in § 158.130, excluding the issuer's Federal and State taxes and licensing and regulatory fees, described in §§ 158.161(a) and 158.162(a)(1) and (b)(1), and after accounting for payments or receipts related to risk adjustment, risk corridors, and reinsurance, described in § 158.130(b)(5).

[75 FR 74921, Dec. 1, 2010, as amended at 76 FR 76593, Dec. 7, 2011; 77 FR 16469, Mar. 21, 2012; 78 FR 15540, Mar. 11, 2013; 79 FR 30352, May 27, 2014; 83 FR 17070, Apr. 17, 2018]

### § 158.230 Credibility adjustment.

(a) *General rule.* An issuer may add to the MLR calculated under § 158.221(a) of this subpart the credibility adjustment specified by § 158.232 of this section, if such MLR is based on partially credible experience as defined in paragraph (c)(2) of this section. An issuer may not apply the credibility adjustment if the issuer's experience is fully credible, as defined in paragraph (c)(1) of this section, or non-credible, as defined in paragraph (c)(3) of this section.

(b) *Life-years.* The credibility of an issuer's experience is based upon the number of life-years covered by the issuer. Life-years means the total number of months of coverage for enrollees whose premiums and claims experience is included in the report to the Secretary required by § 158.110 of this part, divided by 12.

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(c) *Credible experience.* (1) An MLR calculated under § 158.221(a) through (c) of this subpart is fully credible if it is based on the experience of 75,000 or more life-years.

(2) An MLR calculated under § 158.221(a) through (c) of this subpart is partially credible if it is based on the experience of at least 1,000 life-years and fewer than 75,000 life-years.

(3) An MLR calculated under § 158.221(a) through (c) of this subpart is non-credible if it is based on the experience of less than 1,000 life-years.

(d) If an issuer's MLR is non-credible, it is presumed to meet or exceed the minimum percentage required by § 158.210 or § 158.211 of this subpart.

### § 158.231 Life-years used to determine credible experience.

(a) The life-years used to determine the credibility of an issuer's experience are the life-years for the MLR reporting year plus the life-years for the two prior MLR reporting years. If a State requires the small group market and individual market to be merged, then life-years used to determine credibility must be the life-years from the small group market and the individual market for the MLR reporting year plus the life-years from the small group market and the individual market for the two prior MLR reporting years.

(b) For the 2011 MLR reporting year, the life-years used to determine credibility are the life-years for the 2011 MLR reporting year only.

(c) For the 2012 MLR reporting year—

(1) If an issuer's experience for the 2012 MLR reporting year is fully credible, the life-years used to determine credibility are the life-years for the 2012 MLR reporting year only;

(2) If an issuer's experience for the 2012 MLR reporting year only is partially credible or non-credible, the life-years used to determine credibility are the life-years for the 2011 MLR reporting year plus the life-years for the 2012 MLR reporting year.

(d) For the 2013 MLR reporting year for the student market only, the life-years used to determine credibility are the life-years for the 2013 MLR reporting year only.

(e) For the 2014 MLR reporting year for the student market only—