

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—

(1) If an issuer's experience for the 2014 MLR reporting year is fully credible, the life-years used to determine credibility are the life-years for the 2014 MLR reporting year only;

(2) If an issuer's experience for the 2014 MLR reporting year only is partially credible or non-credible, the life-

years used to determine credibility are the life-years for the 2013 MLR reporting year plus the life-years for the 2014 MLR reporting year.

[75 FR 74921, Dec. 1, 2010, as amended at 75 FR 82279, Dec. 30, 2010; 77 FR 16469, Mar. 21, 2012; 79 FR 30353, May 27, 2014]

**§ 158.232 Calculating the credibility adjustment.**

(a) *Formula.* An issuer's credibility adjustment, if any, is the product of the base credibility factor, as determined under paragraph (b) of this section, multiplied by the deductible factor, as determined under paragraph (c) of this section.

(b) *Base credibility factor.* (1) The base credibility factor for fully credible experience or for non-credible experience is zero.

(2) The base credibility factor for partially credible experience is determined based on the number of life-years included in the aggregation, as determined under § 158.231 of this subpart, and the factors shown in Table 1. When the number of life-years used to determine credibility exactly matches a life-year category listed in Table 1, the value associated with that number of life-years is the base credibility factor. The base credibility factor for a number of life-years between the values shown in Table 1 is determined by linear interpolation.

TABLE 1 TO § 158.232: BASE CREDIBILITY FACTORS

Life-years	Base credibility factor
<1,000 .....	No Credibility.
1,000 .....	8.3%.
2,500 .....	5.2%.
5,000 .....	3.7%.
10,000 .....	2.6%.
25,000 .....	1.6%.
50,000 .....	1.2%.
≥75,000 .....	0.0% (Full Credibility).

(c) *Deductible factor.* (1) The deductible factor is based on the average per person deductible of policies whose experience is included in the aggregation, as determined under § 158.231 of this subpart. When the weighted average deductible, as determined in accordance with this section, exactly matches a deductible category listed in Table 2,

§ 158.240

the value associated with that deductible is the deductible factor. The deductible factor for an average weighted deductible between the values shown in Table 2 is determined by linear interpolation.

(i) The per person deductible for a policy that covers a subscriber and the subscriber's dependents shall be the lesser of: the deductible applicable to each of the individual family members; or the overall family deductible for the subscriber and subscriber's family divided by two (regardless of the total number of individuals covered through the subscriber).

(ii) The average deductible for an aggregation is calculated weighted by the life-years of experience for each deductible level of policies included in the aggregation.

(2) An issuer may choose to use a deductible factor of 1.0 in lieu of calculating a deductible factor based on the average of policies included in the aggregation.

TABLE 2 TO § 158.232: DEDUCTIBLE FACTOR

Health plan deductible	Deductible factor
<\$2,500 .....	1.000
\$2,500 .....	1.164
\$5,000 .....	1.402
≥\$10,000 .....	1.736

(d) *No credibility adjustment.* Beginning with the 2013 MLR reporting year, the credibility adjustment for an MLR based on partially credible experience is zero if both of the following conditions are met:

(1) Each year in the aggregation included experience of at least 1,000 life-years; and

(2) The issuer's preliminary MLR, as defined under paragraph (f) of this section, for each year in the aggregation was below the applicable MLR standard, as established under §§158.210 and 158.211.

(e) *No credibility adjustment.* Beginning with the 2015 MLR reporting year for the student market only, the credibility adjustment for an MLR based on partially credible experience is zero if both of the following conditions are met:

(1) Each year in the aggregation included experience of at least 1,000 life-years; and

45 CFR Subtitle A (10-1-23 Edition)

(2) The issuer's preliminary MLR, as defined under paragraph (f) of this section, for each year in the aggregation was below the applicable MLR standard, as established under §§158.210 and 158.211.

(f) *Preliminary MLR.* Preliminary MLR means the ratio of the numerator, as defined in §158.221(b) and calculated as of March 31st of the year following the year for which the MLR report required in §158.110 is being submitted, to the denominator, as defined in §158.221(c), calculated using only a single year of experience, and without applying any credibility adjustment.

[75 FR 74921, Dec. 1, 2010, as amended at 75 FR 82279, Dec. 30, 2010; 77 FR 16469, Mar. 21, 2012; 77 FR 28790, May 16, 2012; 78 FR 15540, Mar. 11, 2013; 78 FR 66655, Nov. 6, 2013; 81 FR 94183, Dec. 22, 2016]

§ 158.240 **Rebating premium if the applicable medical loss ratio standard is not met.**

(a) *General requirement.* For each MLR reporting year, an issuer must provide a rebate to each enrollee if the issuer's MLR does not meet or exceed the minimum percentage required by §§158.210 and 158.211 of this subpart.

(b) *Definition of enrollee for purposes of rebate.* For the sole purpose of determining whom is entitled to receive a rebate pursuant to this part, the term "enrollee" means the subscriber, policyholder, and/or government entity that paid the premium for health care coverage received by an individual during the respective MLR reporting year.

(c) *Amount of rebate to each enrollee.* (1) For each MLR reporting year, an issuer must rebate to the enrollee, subject to paragraph (d) of this section, the total amount of premium revenue, as defined in §158.130, received by the issuer from the enrollee, after subtracting Federal and State taxes and licensing and regulatory fees as provided in §§158.161(a) and 158.162(a)(1) and (b)(1), and after accounting for payments or receipts for risk adjustment, risk corridors, and reinsurance as provided in §158.130(b)(5), multiplied by the difference between the MLR required by §158.210 or §158.211, and the issuer's MLR as calculated under §158.221.