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HENRY A. WAXMAN, CALIFORNIA  
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ONE HUNDRED TWELFTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

December 7, 2011

Ms. Susan Voss  
Commissioner  
National Association of Insurance Commissioners  
330 E. Maple Street  
Des Moines, IA 50319

Ms. Jane Cline  
Spilman, Thomas & Battle, PLLC  
300 Kanawha Boulevard, East  
Charleston, WV 25301

Ms. Sandy Praeger  
Commissioner of Insurance  
State of Kansas  
420 S.W. 9<sup>th</sup> Street  
Topeka, KS 66612-1678

Dear Ms. Voss, Ms. Cline and Ms. Praeger:

Given your active role in shaping the rules implementing the Patient Protection and Affordable Care Act (PPACA) through your current or former positions with the National Association of Insurance Commissioners (NAIC), we are writing to you today to obtain information on the deliberations related to PPACA's medical loss ratio (MLR) requirements.

Section 2718 of PPACA requires the NAIC to establish uniform definitions of activities which "improve health care quality." These definitions were to serve as the basis for regulations implementing the law's MLR requirements. On October 21, 2011, the Executive and Plenary Committee of the NAIC approved model regulations containing the definitions and methodologies for calculating MLR. The Department of Health and Human Services (HHS)

announced in their interim final rule regarding the MLR requirements that HHS had relied heavily on the NAIC model regulations.<sup>1</sup>

The Energy and Commerce Committee has held multiple hearings at which Administration officials and stakeholders testified regarding the MLR. Several witnesses have given testimony regarding the law's harmful impacts on jobs in the agent and broker community. We have also heard testimony regarding the negative impacts of the MLR provision on patient choice in health coverage, as well as its deleterious effects on health care quality and the prevention of fraud. With this in mind, we would like to understand the processes behind NAIC's deliberations on the MLR rule and its decision to recommend the model regulation as drafted. Specifically, the Committee asks that you provide responses to the following questions and requests for information:

1. Did HHS officials<sup>2</sup> discuss the MLR regulations with either you or NAIC staff? If so, which HHS officials spoke with you or NAIC staff? If NAIC staff were involved in such discussions, please provide a list of the names of those staff members.
2. Did HHS officials engage in any communications with you or any NAIC staff, whether oral or written, which indicated that HHS would refuse to certify in whole or in part the model regulations being considered by the NAIC? If so, please provide summaries of such information and any relevant documentation. This request includes any suggestions by HHS officials that certain provisions should be included, excluded, or modified in any way.
3. Did HHS officials provide you or NAIC staff with legal interpretations of activities that may or may not be included within the definition of "activities that improve health care quality" and "non-claims costs" under Section 2718(a) of the Public Health Service Act (PHSA)? If yes, please provide the relevant documentation provided by HHS to you or NAIC staff.
4. Did HHS officials provide you or NAIC staff with legal interpretations of the term "Federal and State taxes and licensing or regulatory fees" contained in Section 2718 of the PHSA? If yes, please provide the relevant documentation provided by HHS to you or NAIC staff.

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<sup>1</sup>The Department "adopt[ed] and certif[ied] in full all of the recommendations in the model regulation of the [NAIC]." "Health Insurance Issuers Implementing Medical Loss Ratio (MLR) Requirements Under PPACA; Interim Final Rule". 75 Fed. Reg. 74864 (December 1, 2010)

<sup>2</sup> For the purposes of this request, we will use the phrase "HHS officials" to describe any individual or groups of individuals that could reasonably be interpreted as representing the interest of the Administration or HHS. This would include any current or former HHS employees, representatives, or volunteers, as well as individuals working in other parts of the administration

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Thank you for your prompt response to this matter. Please provide the requested information by December 19, 2011. If you have any questions regarding this request, please contact Paul Edattel or Sean Hayes with the Committee staff at (202) 225-2927.

Sincerely,



Fred Upton  
Chairman



Cliff Stearns  
Chairman  
Subcommittee on Oversight and Investigations



Joseph R. Pitts  
Chairman  
Subcommittee on Health



Michael C. Burgess  
Vice Chairman  
Subcommittee on Health

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Diana DeGette, Ranking Member  
Subcommittee on Oversight and Investigations

The Honorable Frank Pallone, Jr., Ranking Member  
Subcommittee on Health