Comment #14 – 10/13/14 – 4:05 p.m.

October 13, 2014

ASOPs – Public Pension Plan Funding Request for Comments
Actuarial Standards Board
1850 M Street, NW, Suite 300
Washington, DC 20036-4601

Re: Considering the appropriateness of additional guidance for public pension plan actuarial work

Dear Actuarial Standards Board,

As ASB members, you are undoubtedly familiar with the proposed new ASOP: Medicaid Managed-Care Capitation Rate Development and Certification and the comments that have been submitted. Because of the public work commonality, I urge you to consider this proposed health discipline standard and the comments submitted when you consider the question of whether additional guidance might be appropriate for public pension plan work, either in the form of a separate standard or additional language in existing standards. When you do so, I believe that you will conclude that:

1. The ASB and the actuarial community have already "crossed the bridge" with respect to setting separate standards if the regulatory environment and duty to the public are sufficiently different when serving public and private principals, even if the work is conceptually the same.

2. There are significant parallels between Medicaid managed-care capitation rate development and certification and public pension plan actuarial work, specifically public pension plan contribution rate development.

Managed-care rate development and certification are core assignments for health insurance actuaries. ASOP 8: Regulatory Filing for Health Plan Benefits, Accident and Health Insurance, and Entities Providing Health Benefits and other ASOPs articulate standards for such work. ASOP 8 "*provides guidance to actuaries when performing professional services with respect to preparing or reviewing required regulatory filings related to rates or financial projections for health plan benefits, health insurance, and entities providing health benefits.*" Medicaid managed-care capitation rate development and certification are therefore clearly within scope of ASOP 8.

A separate standard, however, is proposed for Medicaid work. That's because the ASB and the actuarial community feel that Medicaid managed care rate development and certification are sufficiently different from general health plan rate setting and certification to merit additional guidance. The differences motivating the change included differences in regulatory environment, the ambiguities of the federal rules for Medicaid rates, and duty to the public.

The appropriateness of a separate Medicaid rate standard does not appear to be controversial. When asking for comments on the standard, the ASB did not pose a question regarding the appropriateness of a separate standard. Furthermore, within the comments there was only one objection to the overall proposed standard – an objection by a non-actuary (the Texas Medicaid Director). Finally, while attending various calls and meetings with health actuaries, I have never heard anyone voice an overall objection to having a separate standard. The discussion has always been with respect to merits of specific portions of the standard.

The comments submitted to the ASB, in fact, included substantial affirmative statements in support for the standard. Sabrina Gibson made the strongest statement. In my opinion, her words become equally applicable to actuaries setting public pension plan contribution rates if one simply deletes the underlined words and substitutes the plan sponsor name for “CMS”:

> *As public actuaries, actuaries who complete Medicaid rate setting have special responsibilities. We are bound by the American Academy of Actuaries Code of Professional Conduct as follows:*
>
> *Professional Integrity*
> *Precept 1:*
>
> > *A public actuary shall act honestly, with integrity and competence, and in a manner to fulfill the profession’s responsibility to the public and to uphold the reputation of the actuarial profession.*
>
> *The Public Actuary can be considered to have a unique role, different from the role in the private sector. One example of this is the importance of balancing concerns regarding underfunding or overfunding of public programs. When the actuary does not address issues with unsound rate projections, the actuary is not upholding this requirement as a public actuary.*
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> *Medicaid managed care rate setting actuaries are responsible for the public welfare which, in this case, is assuring that the rates paid to the MCOs to provide services to Medicaid members are* ***projected*** *to be adequate to cover costs. When viewed after the fact, the rates may not cover costs or they may more than cover costs, but that isn’t the issue this is addressing. If the rate setting actuary did not have the information needed to determine appropriate assumptions for projecting costs, they must consider how the information would have affected their projections. If they determine they would have developed materially different assumptions, they cannot claim the original capitation rates are actuarially sound.*
>
> *Additionally, the principal is not the only user of the rates. The actuary develops the work product knowing that the principal is not the only user of the actuarial certification of rate soundness. CMS is the ultimate user of the certification and is the entity that relies on the certification for accuracy. Simply reporting the issue to the principal does not fulfill the rate setting actuary’s requirement to make anyone dependent upon the data aware that the rates are not actuarially sound.*
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> *(Underlines added by me. One spelling mistake corrected. Sabrina Gibson has granted permission for the reuse of her words, submitted to ASB May 1, 2014.)*

I hope that the ASB will consider the precedent set by the proposed Medicaid rate ASOP and Sabrina’s words when strengthening public pension plan standards.

Sincerely,

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