

Comment #7 - 4/26/15 – 11:57 a.m.

Thank you for providing me with the opportunity to comment on the Exposure Draft for Determining Minimum Value and Actuarial Value under the Affordable Care Act.

Comment 1: Consider including a sentence in Section 4.1 Actuarial Certifications that a *separate* actuarial report need not be created, if such documentation is included as part of another report (such as the Part III Actuarial Memo, which is common).

Comment 2: Consider whether the ASOP should include an actuary's responsibility if they encounter a plan where the actuary does not agree with another actuary's work in regards to either the metal level compliance (AVC-AV), or the pass/fail opinion for an AVC-MV evaluation. In this case, *timely notification* (to the other actuary as well as to the state/federal regulator) is of the essence in order to achieve comparability for the public, support fair market competition, or in the case of MV, avoid employee/employee penalties.

Comment 3: Consider whether the ASOP should include what an actuary's obligation is in ensuring that each plan they evaluated is actually administered based on how the plan was evaluated. In my direct experience as a state regulator, there are plans that are not operating as the actuary had expected, sometimes due to subsequent changes by claims and marketing staff who forget the actuarial compliance constraints and are accustomed to having broad flexibility. Actuaries are in an ideal position to sample high case claimants in a hindsight manner and ensure that the plan is operating as it should and truly complies with the AV and MV standards.

Comment 4: Given the ramifications to employers and employees of a plan that fails to meet the MV threshold, the ASOP should consider directing the actuary to conduct additional research to confirm that the plan design elements were captured correctly and reflected correctly in the MV tool when a failing result occurs. This may include a review of past cost sharing experience to ensure that the plan design's cost sharing features (deductible, OOP Max, coinsurance, co-pays) were correctly captured, as well as research on possible employer contributions to accounts that help supplement the MV but are often not readily available to the actuary.

Comment 5: The ASOP might need some coverage on how to evaluate certain plans that are substantially missing coverage categories (such as pharmacy or hospitalization), which are not allowed to pass MV per more recent federal guidance.

Comment 6: In the first paragraph of section 1.2, I recommend the ASOP provide more clarity on the self-insured small group case (that is, that the MV calculator, not the AV calculator, should be used for small groups that opt to self-insure).

Comment 7: In the second paragraph of section 1.2, recommend that the standard of practice add more on these topics:

- 1) why the actuarial value calculator is not generally appropriate for calculating plan-level premiums (for example, mention geographic differences, provider practice differences, demographic differences, induced demand reflection),
- 2) reflect that the documentation backing the tool is often not sufficient for the actuary to be confident that use of this tool for pricing purposes is appropriate,
- 3) and reference what ASOP actually applies for the “does not apply” scenario mentioned.

Thank you for your consideration.
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