

Comment #10 – 4/30/15 – 5:45 p.m.

April 30, 2015

Minimum Value Actuarial Value Draft
Actuarial Standards Board
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To: Actuarial Standards Board (ASB), Exposure Draft: Determining Minimum Value and Actuarial Value under the Affordable Care Act

I appreciate the ASB's work on issuing the exposure draft on determining the minimum value and actuarial value under the ACA and for inviting actuaries and others to comment on these important issues. I acknowledge the ASB and its Health Committee for their hard work in striving to understand these complicated and interconnected issues.

With Respect,

Joan P Ogden

Response to Exposure Draft
Determining Minimum Value and Actuarial Value
under the Affordable Care Act

I am writing per the Actuarial Standards Board's request for comments on its recent exposure draft for Determining Minimum Value and Actuarial Value under the Affordable Care Act.

Thanks to the Actuarial Standards Board ("ASB") and its Health Committee for the first draft for this topic. The remainder of my response mirrors the combined assessment of various of my colleagues, and addresses the questions posed on page iv of the exposure draft transmittal letter.

Q1. Does this ASOP provide appropriate guidance to actuaries who are determining actuarial values for purposes of meeting the various ACA AV and MV requirements?

Overall, the proposed ASOP provides appropriate guidance for actuaries who are calculating the various actuarial values under the ACA. Smaller details are addressed in subsequent responses to other questions.

I have a concern with clarity with some of the language used in the exposure draft, i.e., in paragraph 1.2, the second purpose cited, “testing whether large employer-sponsored health insurance plans meet the federal minimum value requirements”, uses the phrase “large employer-sponsored health insurance plans” (emphasis mine) whereas the law is careful with its use of terminology to state that the minimum value requirement applies to “self-funded and large employers”. The law clearly applies to all self-funded plans and employers not participating in the SHOP (Small Health Options Program) marketplace. Please consider eliminating the adjective “large” from this sentence and leave it up to the actuary to understand whether or not it applies to his/her client. I would like the following modification to the last paragraph on page 6, to read as, “The benefits offered by applicable employers will be assessed to see whether or not they can be considered to meet the “minimum value” requirement, currently set at 60 percent. In the employer market, the MV requirement is a component of the determination of whether an employer is subject to a penalty.”

Please note that the term “actuarial value” is defined in paragraph 2.1 and used in paragraphs 2.3 and 2.8 but not capitalized. For both the AV and MV calculations, generally, only in-network cost sharing is considered, and that limitation should be included in this document. In addition, if a plan has a “tiered network” design, where “tiered network” means that the cost sharing varies depending in which “tier” the provider is identified as covered, it should reflect that all tier cost sharing designs must be incorporated in the AV/MV calculation.

It probably should include a comment that for the MV calculation, the actuary should be aware of, and comply with, all applicable regulations regarding services that must be covered. This statement would assure that the actuary is aware of various benefit and payment rules issued by CMS, as those rulings take place.

Paragraph 3.1 uses the term “affordable insurance exchanges”. Please consider changing the reference in the second paragraph to, “... markets, both inside and outside the ACA individual health exchange and the ACA Small Business Options Program (SHOP), for the purpose....”

In the second and third paragraphs of paragraph 3.1, I suggest adding, “Except as noted in ...,” at the beginning of each paragraph, where paragraph two would then read, “Except as noted in 3.2, HHS requires....” And paragraph three would then read, “Except as noted in 3.3, HHS and Internal Revenue (IRS) requires...”

The use of the term “AV” in paragraph 3.6 was somewhat confusing, and while upon study, it is apparent that the term applies to the generic definition of actuarial value, it could appear to read, that referents had changed from the provisions applying to both AV and MV calculations to just AV. It may be better to spell out “actuarial value” to avoid confusion.

Q2. Is the ASOP clear that it applies only to the calculation of actuarial value as required by the ACA, and not to other uses and determinations of actuarial value?

The exposure draft was clear that it only applied to the calculation of actuarial values as required by the ACA.

Q3. Do the descriptors AVC-AV and MVC-AV in sections 2.2 and 2.7 add clarity to the ASOP? We note that the American Academy of Actuaries' practice note uses the terms "Metal AV" and "MV" for these two values.

The descriptors are clear as they were used in the exposure draft.

Q4. Is the guidance of the ASOP sufficient for situations where the actuary does not agree with the determination of the AV made by the AV or MV calculator?

It appears the guidance in the exposure draft allows enough flexibility for the actuary to perform the work and is sufficient when the actuary does not agree with results of the calculator.

Q5. Should the title of this proposed ASOP be changed to be more specific regarding testing of minimum values? If so, what change should be made?

No change is suggested.

Q6. Is the detail proposed for a certification in section 4 appropriate? Should additional items be added?

The detail proposed for a certification of the results of the Actuarial Value calculation should specify it is accompanied by other documentation of the plan filing. An actuarial report produced for the Minimum Value calculation will generally not have any other supporting documents, and should include a summary of the plan designs and the source of the plan design information, unless otherwise included elsewhere.

Paragraph 4.2.a. states that if data other than HHS or state data is used, it should be disclosed. Whichever data is used, be it HHS or state or other, that data should be disclosed. Consider including in that paragraph the following: "The actuary should indicate the data that was used and its source (e.g., HHS or state data) to calculate adjustments to the calculator results, the rationale for using the data, and how it was used to calculate the adjustments."

Thank you for the opportunity to comment. I look forward to the next iteration of the Exposure Draft.