



AMERICAN ACADEMY of ACTUARIES

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May 1, 2015

Minimum Value Actuarial Value Draft  
Actuarial Standards Board  
1850 M Street, Suite 300  
Washington, DC 20036

To Whom It May Concern –

On behalf of the American Academy of Actuaries’<sup>1</sup> Health Practice Council, I am submitting the following comments, by topic and section, on the exposure draft of the Minimum Value (MV) and Actuarial Value (AV) Actuarial Standard of Practice (ASOP).<sup>2</sup>

#### Scope

The scope of the exposure draft specifies that the ASOP applies to actuaries calculating actuarial values and testing minimum value requirements. We recommend including language that specifies the scope also applies to actuaries responsible for the development and documentation of the actual calculators.

#### Normalization of Data

The Centers for Medicare & Medicaid Services (CMS) has not provided much in the way of specific details on the populations that are included in the AV and MV calculators. As such, we would recommend the ASOP to provide more guidance on what approaches might be appropriate to normalize data to a consistent population for use in making adjustments to either the input or output from the calculators.

#### Use of Calculator(s)

Section 3.1 of the draft ASOP states “The actuary should use the appropriate calculator when calculating the actuarial value.” The ASOP should specifically reference the use of the calculator for the appropriate plan year. For example, the sentence could be modified to state “The actuary should use the appropriate calculator **for the appropriate plan year** when calculating the actuarial value.” This could also be addressed by revising the definitions for the calculators in Sections 2.2 and 2.7.

To ensure that the ASOP does not need to be revised if future regulations change the available options, we recommend revising both Sections 3.2 and 3.3 to include an item (c):

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<sup>1</sup> The American Academy of Actuaries is an 18,000+ member professional association whose mission is to serve the public and the U.S. actuarial profession. The Academy assists public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

<sup>2</sup> These comments were developed by members of the Health Practice Council’s AV/MV Subgroup.

### “c. any other options allowed under federal regulations”

#### Materiality

Section 3 should directly reference materiality. The rules and guidance, as well as unofficial statements from the Center for Consumer Information and Insurance Oversight (CCIIO), have stressed the importance of materiality when determining whether and how to incorporate particular plan design features into AV and MV calculations.<sup>3</sup> We recommend a change to the language in Section 3.4 (emphasis added) and the addition of a new section immediately following 3.4:

Section 3.4 Evaluating Non-Standard Plan Designs—The AV and MV Calculators do not accommodate all plan designs. In situations of a non-standard plan design, the ACA requires the actuary to evaluate the plan and to certify the value of the plan. **Adjustments to the AV/MV calculations are required if non-standard plan design features would have a material effect on the AV or MV calculation.** When evaluating non-standard plan designs, the actuary should confirm that the data, methods, and assumptions used are consistent with those underlying the applicable AV or MV calculator, as required by regulations. For example, the actuary should use a model that is based on data for a population that is consistent with the population underlying the applicable AV or MV calculator, where possible.

[Proposed New Section.] Materiality – A non-standard plan design feature has a material effect if it changes the AV metal tier or if it changes whether the plan meets the MV threshold. When considering whether a particular plan design feature(s) would have a material effect on the AV or MV calculation, the actuary should consider both the potential magnitude of the impact to AV/MV and the location of that particular plan with respect to the de minimis AV range or the MV threshold. A specific plan design attribute might be material to the AV but not the MV, or vice versa.

#### Unreasonable Results

Section 3.6 indicates that the actuary may use “unreasonable results” “if required to do so by regulators.” We believe that the language in the exposure draft may be inconsistent with the regulations that require adjustments be made for material items that cannot be accommodated by the calculator(s). We recommend modifying the draft ASOP to state that **“the actuary should make adjustments to inputs/outputs if the results are unreasonable unless required not to do so by regulators.”** At the very least, if the actuary is aware the result from the calculator is unreasonable but is still using it, which currently appears to be allowed under the ASOP exposure draft, the actuary should disclose that fact in the actuarial certification. At this time, the ASOP exposure draft states that the actuary “should consider” documenting the “nature of the unreasonable results.”

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<sup>3</sup> See for example questions 2 and 3 of “Frequently Asked Questions on Health Insurance Market Reforms and Marketplace Standards,” available from: <http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/Final-Master-FAQs-5-16-14.pdf>.

### Documentation

Related to our recommendation with respect to the scope of the ASOP, we suggest that the ASB consider whether Section 3.7 applies also to actuaries involved with the development of the AV and MV calculators.

### Certification

Section 4.1 addresses actuarial certifications. We are concerned about certifying that the AV/MV was determined in accordance with the ASOPs, when the ASOPs at present do not explicitly apply to the development of the calculator as well. Since actuaries are required by law to use the AV/MV calculator, an actuarial certification should indicate reliance on a regulatory tool. In other words, we recommend language be included to explicitly state that the actuary is certifying the numbers based on the calculator, but not the calculator itself. For instance, the regulatory definition of certification (as it appears in CMS' Health Insurance Oversight System (HIOS)) states that an individual is certifying that the plan was entered correctly (i.e., the tool was used correctly regardless of whether the tool is accurate). Language similar to that requirement could be included in Section 4 of the draft ASOP.

### Current Practices

In the Appendix of the draft ASOP, under "Current Practices," we recommend strengthening the language related to actuarial value determined via the calculators and the AV that may be used in pricing (emphasis added):

"The actuarial value calculated with the AV and MV calculators **is likely to differ** from actuarial values that may be used in pricing..."

### Minimum value

The current benefit and payment parameters rule<sup>4</sup> establishes the requirement that to meet MV requirements, an employer-sponsored plan must provide a benefit package that meets a minimum standard of benefits. In particular, an employer plan must provide substantial coverage of both inpatient hospital services and physician services. This change in regulation needs to be reflected in the ASOP.

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We appreciate the opportunity to submit these comments. If you have any questions or would like to discuss any of this information further, please contact Heather Jerbi, the Academy's assistant director for public policy, at 202.785.7869 or [jerbi@actuary.org](mailto:jerbi@actuary.org).

Sincerely,

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Vice President, Health Practice Council  
American Academy of Actuaries

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<sup>4</sup> HHS Notice of Benefit and Payment Parameters Rule for 2016: <http://www.gpo.gov/fdsys/pkg/FR-2015-02-27/pdf/2015-03751.pdf> (Feb. 27, 2015).