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AMERICAN ACADEMY *of* ACTUARIES

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October 15, 2013

ASOP No. 8 Revision  
Actuarial Standards Board  
1850 M Street, NW, Suite 300  
Washington, DC 20036

Re: Comments on ASOP No. 8 Exposure Draft

To Whom It May Concern:

Thank you for the opportunity to comment on the proposed revision to ASOP No. 8, *Regulatory Filings for Health Benefits, Health Insurance, and Entities Providing Health Benefits*. Several members of relevant American Academy of Actuaries’<sup>1</sup> Health Practice Council (HPC) work groups developed the following comments on behalf of the HPC<sup>2</sup> for your consideration.

**Comments by Section**

In general, we are concerned that the proposed revised title for the ASOP may not clearly indicate that this ASOP is intended to apply to a broader definition of health benefits (e.g., long-term care or disability insurance). We would suggest revising the title to include reference to “accident” or “disability”—for example, *Regulatory Filings for Health Benefits **Accident** and Health Insurance, and Entities Providing Health Benefits*. [emphasis added]

In Section 1.2, *Scope*, we would recommend that the ASB consider including within the scope of this ASOP actuaries who may be called to testify and/or review filings on behalf of consumers.

There is a typo in Section 2.1, *Filing Actuary*. “Reviewing actuary” is defined in Section 2.7 not Section 2.9.

Section 3.4.6, *Health Cost Trends*, includes a number of items that should be considered when determining trend. We would recommend also including items that should not be considered, essentially identifying factors that are outside of trend. Our suggested language would be “In analyzing trend, the actuary should make an effort to remove and

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<sup>1</sup> The American Academy of Actuaries is a 17,500-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 qualifications, practice, and professionalism standards for actuaries in the United States.

<sup>2</sup> The principal drafters of this comment letter were Joyce E. Bohl, MAAA, ASA; James E. Drennan, MAAA, FSA, FCA; Thomas Keller, MAAA, FSA, FCA; and Barbara P. Niehus, MAAA, FSA.

separately analyze other factors that affect cost—examples include, but are not limited to, demographic changes, plan mix changes, durational effects, deductible leveraging, and underwriting.”

In addition, we recommend adding “provider contracting” to the following “The actuary should consider changes in benefit provisions *and provider contracting* when projecting future trends from historical trends, as the change in unit costs and utilization may differ from prior periods.” (emphasis added). We suggest the addition because taking provider contracting arrangements into account affects the unit cost portion of the projected trend.

Section 3.6, *Use of Business Plans to Project Future Results*, would benefit from language that helps distinguish how business plans should be used to develop rates versus disclosed in filings. We would recommend the addition of the following sentence, “The regulatory actuary should consider requesting this information when it is important to the consideration of rate adequacy for solvency.”

In Section 3.7, *Use of Past Experience to Project Future Results*, we recommend adding two more items to the list of items to which any changes may have a material effect on expected future results. One new item (k) would be “changes to federal or state regulations (e.g., risk adjustment, reinsurance, risk corridors, underwriting requirements, and benefit mandates).” The second new item (l) would be “underlying change in medical practice (e.g., changes in medical technology and provider organization).” While this could be included in item (f), listing it separately may help actuaries think about changes to these areas specifically.

In Section 3.12.2, *Rates Not Excessive*, we have concerns with the phrase “reasonable contingency and profit margins.” Specifically, the concern stems from how and who would define what profit margins are “reasonable.” Our suggestion would be to reword the phrase so that it reads “contingency and profit margins that are not unreasonable.”

Section 3.13, *Reasonableness of Assumptions*, allows for the actuary to use his or her professional judgment to determine reasonableness of assumptions. For any given assumption, however, it may be reasonable to vary the level of review of that assumption based on the materiality of the issue. To address this issue, we would suggest adding the following language (emphasis added for new language)—“The support for reasonableness should be determined based on the actuary’s professional judgment, using relevant information available to the actuary, *and taking into account all aspects of the filing.*”

It also may be worth commenting in this section on assumptions that are regulated. This is covered in Section 4.1, but also could be added here in the second paragraph as follows “The filing actuary should use any such assumption only if the actuary believes it is reasonable, *unless it is prescribed by applicable law.*” (emphasis added)

In the Appendix, we request clarification related to the discussion of the rate review practice note and addendum. The addendum to the original practice note was drafted

because the US Department of Health and Human Services (HHS) changed the forms required to be filed. As such, we recommend revising the description in the Appendix to state “The addendum to the practice note addresses a revised HHS form filing called the uniform rate review template (URRT) and actuarial memorandum instructions. The originally published practice note provided guidance on the preliminary justification form, which was replaced by the URRT and actuarial memorandum instructions by HHS.”

### **Responses to Specific Questions from ASB**

- 1. This ASOP addresses regulatory filings for health plan entities. The proposed revisions provide additional guidance on rate filings, specifically to address requirements of the Affordable Care Act. Do you believe that this exposure draft has the appropriate level of detail on rate filing and review?***

The exposure draft includes significant information on what is necessary from the actuary who prepares the filing; however, there is not as much detail as to the responsibilities of the reviewing actuary. Recognizing that the burden is on the filing actuary, it may make sense for there to be more guidance for filing actuaries compared to reviewing actuaries. But we wanted to raise the observation for consideration by the ASB.

- 2. Is it clear that the scope is broader than medical expense benefits and includes regulatory filings related to such benefits as VEBA, long-term care, and disability?***

We believe that Section 1.2, Scope, should be more explicit in terms of this ASOP being applicable to a broader definition of health filings. Simply referring to “health insurance” does not adequately convey that this includes other benefits such as long-term care and disability.

- 3. For some filings, such as those for individual and small group medical, the assumptions discussed in section 3.4 are generally used for setting rates and calculating regulatory benchmarks. For others, such as those for disability income and long term care, they may only be used in calculating regulatory benchmarks. Is it clear that the guidance in section 3.4 applies to regulatory filings only?***

No comment

- 4. As with the current ASOP No. 8, this exposure draft covers actuaries preparing filings and regulatory actuaries reviewing filings. As written, this draft does not have a separate section for regulatory actuaries. Unless otherwise indicated, it is assumed that the same general guidance is appropriate for all actuaries producing or reviewing filings. Is the exposure draft clear as to which guidance pertains to filing actuaries, which to regulatory/reviewing actuaries, and which pertains to both? Do you believe this structure gives appropriate guidance to regulatory actuaries?***

We do agree that the exposure draft is clear about application of guidance, and we believe it does provide appropriate guidance to regulatory actuaries. As noted above, the guidance also should apply to actuaries commenting or testifying on behalf of consumers or consumer organizations.

5. *There may be cases where the regulatory actuary exercises judgment according to this ASOP and makes a determination that is not accepted by the person designated under the law to make a final determination, generally the commissioner or other chief insurance regulator. This may involve disapproving a rate filing that the actuary intended to approve or approving a rate filing that the actuary intended to disapprove. Is the guidance provided sufficient for this situation?*

No comment

6. *Section 3.2.10 provides guidance to the actuary on regulatory benchmarks. Does this section adequately address these benchmarks, and in particular, is the guidance related to adequate or excessive rates appropriate?*

We agree that this section adequately addresses regulatory benchmarks and the guidance is appropriate.

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If you have any questions or would like to discuss any of our comments further, please contact Heather Jerbi, the Academy's assistant director of 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