DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Consumer Information and Insurance Oversight
200 Independence Avenue SW
Washington, DC 20201

Date: November 21, 2016

Subject: Release of Reinsurance and Risk Adjustment Holdback for the 2015 Benefit Year and Update on the Release of Risk Adjustment Holdback for the 2014 Benefit Year

Release of Reinsurance and Risk Adjustment Holdback for the 2015 Benefit Year

As stated in the July 27, 2016, "Payments, Invoicing and Collections Process for the Risk Adjustment, Reinsurance and Reconciliation of the Cost-Sharing Reduction Portion of Advance Payments Programs" webinar presentation,[1] CMS will release the 6.8 percent holdback for Reinsurance and 7.0 percent holdback for Risk Adjustment from the 2015 Benefit Year reinsurance and risk adjustment payments in the monthly payment cycle following the end of Fiscal Year 2016 if no administrative appeals are pending or in the monthly payment cycle following the final resolution of all 2015 Benefit Year reinsurance and risk adjustment appeals in the State Market. (Note: The administrative appeal process and timeline are set forth in 45 CFR § 156.1220.)

Risk Adjustment: Based on the current status of 2015 Benefit Year risk adjustment administrative appeals as of November 15, 2016, CMS will **NOT** release payment amounts held back for 2015 Benefit Year risk adjustment appeals in the following State Markets:

1. Arizona individual market
2. Colorado – all markets
3. Hawaii small group market
4. Illinois –all markets
5. New Jersey individual market (including the catastrophic market)
6. New Mexico all markets
7. New York all markets

In all other State Markets, CMS will release the 2015 Benefit Year risk adjustment holdback. We note that any risk adjustment payments made using Fiscal Year 2017 resources will be sequestered at a rate of 7.1 percent. These funds will not be available for payment until the beginning of Fiscal Year 2018, regardless of whether or not a risk adjustment appeal is pending in the State market.

Reinsurance: CMS will make the second 2015 Benefit Year reinsurance payment in January 2017 after the second contribution collection deadline has passed. We note that any reinsurance payments made using Fiscal Year 2017 resources will be sequestered at a rate of 6.9 percent. These funds will not be available for payment until the beginning of Fiscal Year 2018, regardless

[1] Available at: https://www.regtap.info/uploads/library/FT_Slides_072716_v3_5CR_072716.pdf.

of whether or not a 2015 Benefit Year reinsurance appeal is pending. Therefore, the January 2017 payment will be sequestered at rate of 6.9 percent, regardless of any pending reinsurance appeals.

Update on the Release Risk Adjustment Holdback for the 2014 Benefit Year

Based on the current status of 2014 Benefit Year risk adjustment administrative appeals as of November 15, 2016, CMS will **NOT** release payment amounts held back for 2014 Benefit Year risk adjustment appeals and Fiscal Years 2015 or 2016 sequestration in the following State Markets:

1. Wisconsin individual market (including the catastrophic market)
2. Florida individual market (including the catastrophic market)

There are no 2014 Benefit Year pending reinsurance administrative appeals; therefore, issuers have received full 2014 Benefit Year reinsurance payments.

In light of a recent 2014 risk adjustment appeal resolution, CMS will release the payment amounts for the New York individual market (including the catastrophic market) held back for 2014 Benefit Year risk adjustment appeals and Fiscal Years 2015 or 2016 sequestration in the December 2016 payment cycle.

If you have any questions regarding this guidance, please email CMS at ACAfinancialappeals@cms.hhs.gov.