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July 21, 2014

Ms. Debra Judy
Policy Director
Colorado Consumer Health Initiative
1536 Wynkoop Street, Ste 101
Denver, Colorado 80202

Re: Kaiser Foundation Health Plan of Colorado
Individual Rate Filing Submitted on May 29, 2014
Proposed Rate Increase of 7.0%
SERFF Tracking No. KFHP-129483478

Dear Ms. Judy:

In accordance with your request, we have reviewed the above captioned individual rate filing by Kaiser Foundation Health Plan of Colorado (KFHPCO) submitted to the Colorado Department of Regulatory Agencies, Division of Insurance (CODOI) on May 29, 2014. The purpose of this document is to assist the Colorado Consumer Health Initiative (CCHI) in submitting comments on the KFHPCO filing to the CODOI.[1] It should not be used for any other purpose. Our comments are based upon the information contained in the SERFF filing available from the CODOI website, as well as other publicly available documents.[2]

The KFHPCO filing proposed an average rate increase of 7.0% with an implementation date requested of January 1, 2015.[3,4] The total annual premium change being requested is about $20.136 million.[5,6] The average annual premium change per policyholder is about $664.[7]

[1] This would include CCHI submitting this letter to CODOI.

[2] These types of documents are commonly relied upon by actuaries and are generally considered reliable. However, we have not verified that the information contained in the filing or documents are accurate.

[3] KFHPCO filing, Filing at a Glance and General Information Page

[4] The filing also proposes changing: (i) the pricing AVs for various plans and (ii) geographical rating area factors. Reflecting these other changes, the range of rate changes by policyholder is from a minimum of -9.3% to a maximum of 14.3%. The average rate impact of the base rate change +7.8%, pricing AV of -1.1% and area factors of 0.4% combined give an overall rate change of 7.0% (1.078 X 0.989 X 1.004 = 1.070). (Actuarial Memorandum – Item A2)

[5] KFHPCO filing; Rate Information Page

[6] There appears to be some discrepancy between the figures shown in the Rate Information Section of the filing. That gives a value for "Written Premium for this Program" of $239.578 million. A 7% increase applied to that value is an increase of $16.8 million.

Our overall opinion is that the Kaiser filing was not adequately documented and can be expected to result in excessive rates being charged to Colorado policyholders.

Various concerns we have with the rate filing are:[8,9]

- Lack of Documentation of Ratemaking Factors
- Unsupported Risk Adjustment Payment
- Unsupported Reinsurance Provision
- Unsupported Expense Provisions
- Loss Trends Inconsistent with Historical Experience
- Inconsistent Treatment of Incurred But Not Report (IBNR)
- Failure to Account for Reduction in Uncompensated / Charity Care

These items are discussed in more detail in the remainder of this letter.

1. Lack of Documentation of Ratemaking Factors

The rate filing by KFHPCO that was made publicly available did not contain the derivation of the rate change. While an actuarial memorandum was included, it provided only vague statements about the methods and some of the factors used in the analysis. KFHPCO requested that thirteen different items involved in deriving the price to be charged to Colorado policyholders be kept secret. The items that KFHPCO wants hidden from policyholders were the following pricing assumptions[10]:

i. Detailed summary of all pricing impacts

ii. Third party agreements

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[7] $20,136,000 / 30,322 (number of policyholders), KFHPCO filing; Rate Information Page

[8] If an issue in the rate filing is not discussed, that should not be taken to mean that we agree with the procedures used in the rate filing.

[9] Our analysis is based upon the information available to us. If additional information becomes available, that could impact our analysis.

[10] KFHPCO filing, Vaughn Index

iii. Demographic experience & projections

iv. Geographic experience & projections

v. Risk and morbidity experience & projections

vi. Reinsurance development assumptions

vii. Benefit pricing

viii. Benefit pricing and third party information

ix. Network pricing

x. Membership distribution and cost curves

xi. Benefit and network pricing

xii. Company strategic discussions / assumption support

xiii. Company financial discussions / cost allocation

The lack of information in the filing appears to be contrary to the intent of CODOI Regulation 4-2-11 which states in part:

> Section 6 Actuarial Memorandum
>
> K. Complete Explanation as to How the Proposed Rates were Determined: The memorandum must contain a section with a complete explanation as to how the proposed rates were determined, including all underlying rating assumptions, with detailed support for each assumption.

Given the huge number of pricing assumptions for which information was not provided in the public filing, as well as the lack of the actual rate calculation, it is quite clear that the ability of Colorado policyholders to evaluate how the proposed rates were determined is seriously obstructed.

Actuarial Standards of Practice also address the issue of disclosure as follows[11]:

> 3.2 Actuarial Report

[11] Actuarial Standard Of Practice No. 41, "Actuarial Communications", http://www.actuarialstandardsboard.org/asops.asp

> …
> In the actuarial report, the actuary should state the actuarial findings, and identify the methods, procedures, assumptions, and data used by the actuary with sufficient clarity that another actuary qualified in the same practice area could make an objective appraisal of the reasonableness of the actuary's work as presented in the actuarial report.

The lack of information contained in the rate filing impedes the ability of another actuary to evaluate the KFHPCO filing.

Furthermore, the lack of information in the KFHPCO Colorado filing is inconsistent with the practices regarding rate filings in other states, where this type of information is routinely provided. For example, the Kaiser Foundation Health Plan of the Northwest / Oregon rate filing for an increase of 0.2% proposed effective 1/1/2015 includes exhibits and calculations for "Index Rate Development – Summary", "Risk Adjustment and Morbidity Development", "Reinsurance Adjustment Factor" and "Build-up of Expense Assumptions".[12] It is unclear why Kaiser believes that information should be hidden from Colorado policyholders when comparable information was provided to those in Oregon.

In summary, we believe that adequate documentation and support for many of the specific numerical ratemaking values and calculations used in the filing were not provided. We believe the CODOI should carefully consider whether this information should continue to be hidden from Colorado policyholders.

2. **<u>Unsupported Risk Adjustment Payment</u>**

Kaiser assumes that it will be a net payer into the risk adjustment program stating, "At this time, it is assumed that Kaiser will have pay in to the risk adjustment program in 2015."[13] Kaiser increases the projected incurred claims by 1.0% to account for this.[14] This is quite a change from the prior filing which stated with regard to this issue "Risk Adjustment: -4.4% (assumed plan's 2014 average health risk will be higher than overall population)".[15] Kaiser has not provided adequate justification for this 5.4% upward swing in its loss projection.

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[12] SERFF Tracking #: KFNW-129530066, State Tracking #: KFNW-129530066, Company Tracking #: EOIDDED0115, http://www.oregonhealthrates.org/#search_form. This is a partial list, not a complete list, of the exhibits and calculations in that filing

[13] Actuarial Memorandum – Section H

[14] URRT; $2.68 / $256.10

[15] SERFF Tracking #: KFHP-129012749, State Tracking #: 278032, Company Tracking #: 2014.01 KFHP CO KPIF; Final Disposition Letter

The basis given by Kaiser for the value used in the current filing is "The relative morbidity of the current Kaiser individual risk pool compared to the market has been developed in consideration of data from a statewide study performed by an independent actuarial consulting firm as well as taking into consideration the ability of individuals currently with other carriers to keep their current plans."[16] However, that same unnamed actuarial firm was relied upon by Kaiser in its prior filing for using a risk adjustment in the opposite direction.[17] No explanation was provided by Kaiser as to how this unidentified actuarial firm can arrive at a particular result one year, and the exact opposite result the next year. This certainty casts serious doubt upon the reliability of the results provided by that unknown firm. Furthermore, the fact the Kaiser declined to provide any information about the calculations underlying the risk adjustment figures also raises concerns about the dependability of the values provided.

The additional reason given by Kaiser for the current filing is "taking into consideration the ability of individuals currently with other carriers to keep their current plans". However, that issue is exactly the same for every insurance company, not just for Kaiser. Hence, there is no reason to believe that it would impact the relative risk for Kaiser in a manner that would change the risk adjustment.

In summary, Kaiser has not provided support for the increase to the incurred losses related to risk adjustment, either on a stand-alone basis, or relative to the opposite results presented in the prior year's rate filing.

3. Unsupported Reinsurance Provision

Kaiser assumes reinsurance recoveries from the Federal Reinsurance Program of 2.6% of projected incurred losses.[18] The basis for this is given by Kaiser as follows "A claims probability table was developed using KFHP large group HMO experience, and an expected reinsurance recovery was developed by applying the reinsurance parameters to the claims in this CPD."[19] However, as with so many items in the Kaiser filing, no actual support was provided for this value.

[16] Actuarial Memorandum – Section H

[17] "The relative morbidity of the current Kaiser individual risk pool compared to the market has been developed in consideration of data from a statewide study performed by an independent actuarial consulting firm." Kaiser filing effective 1/1/2014, SERFF Tracking #: KFHP-129012749, Actuarial Memorandum – Section G

[18] URRT; ($3.04 + $3.67) / $258.79; $3.67 is reinsurance premium PMPM

[19] Actuarial Memorandum – Section H

The 2.6% value used by Kaiser is a very low percentage recovery.[20] The American Academy of Actuaries has estimated a range of reinsurance recoveries for 2015 from 6% to 8%, "For 2015, projected reinsurance program payments will likely reduce net claims by about 6 to 8 percent".[21] In Oregon, Kaiser used a reinsurance recovery rate of 4.8%.[22]

Kaiser has not shown the basis for its projected Federal reinsurance recoveries, which are very low. We believe the CODOI should carefully evaluate whether the value used by Kaiser is reasonable and whether it gives Colorado policyholders the full credit to which they are entitled.

4. <u>Unsupported Expense Provisions</u>

The CODOI had some objections to the expenses included in the Kaiser rate filing as follows: "Please clarify why in the Actuarial Memorandum Section (G) Relationship of Benefit to Premium the general expenses is 12%, however, the financials indicate that the general expenses is 6.66%" and "Please clarify/explain why in the Actuarial Memorandum Section (G) Relationship of benefit to Premium the commissions listed is 2.50%, however, the financials indicate .28% in commissions".[23]

Kaiser gave the same vague perfunctory response to both inquiries stating "There are multiple reasons that the amounts in the Supplemental Health Care Exhibit (SHCE) to the Annual Statement differ from the amounts in the rate filing. For example, this rate filing is specific to non-grandfathered ACA compliant individual plans while the individual bucket in the SHCE includes all individual plans - grandfathered, non-grandfathered, and conversion. For a more extensive discussion of other differences, please refer to Appendix II on the Supporting Documents tab." Kaiser, however, failed to explain why non-grandfathered ACA compliant individual plans should have expenses twice as high as that for grandfathered, other non-grandfathered and conversion plans. It should also be noted that the filing available to the public did not contain the Appendix II referenced in Kaiser's response.

The Kaiser filing includes a combined provision for commissions, general expenses and

[20] The values discussed in this paragraph are based upon 50% reimbursement for costs from $70,000 to $250,000. It is possible that the final parameters for the Federal reinsurance program will provide more coverage which will result in higher reimbursements – i.e., lower net costs to insurance companies.

[21] Drivers of 2015 Health Insurance Premium Changes, May 2014

[22] Exhibit 1 : Index Rate Development – Summary, Line (14), factor of 0.952 is a 4.8% reduction; SERFF Tracking #: KFNW-129530066

[23] CODOI Objections 2 and 3

medical management of 16.8%.[24] By way of comparison, the "Annual Report of the Commissioner of Insurance to The Colorado General Assembly on 2012 Health Insurance Costs" found that during 2011 KFHPCO had "Administrative Expenses as a Percent of Colorado Earned Health Premiums" of 5.49% and "Claims Adjustment Expenses as a Percent of Colorado Earned Health Premium" of 1.97%.[25] The combined value of these expenses is 7.46%, which is considerably less than the 16.8% previously discussed. Expenses as a percent of premium will vary depending upon the type of coverage, and the values shown in the Commissioner's report are not necessarily applicable to this filing. However, KFHPCO should provide documentation and support for the specific numerical values shown in the filing, as required by CODOI Regulation 4-2-11 which states in part:

> H.2. Retention Percentage: The actuarial memorandum must list and adequately support each specific component of the retention percentage. The support for a health benefit plan must include a comparison of the most recent levels experienced for each component as shown in the plan's financial statements, with an explanation for any variations between retention loads used and actual experience for each component.

It is clear that the Kaiser filing on the CODOI website does not provide this information, support or documentation.

Other items related to expenses which Kaiser did not discuss are the elimination of various expenses related to ACA compliant plans and the impact of expanded business on the fixed expense ratios.

For example, guaranteed issue has eliminated health underwriting for ACA-compliant plans. This can eliminate significant expenses for salaries and related items. It is not clear, how, if at all Kaiser took this into account.

The number of policyholders covered starting in 2014 can be expected to significantly increase as a result of the provisions of the ACA. According to Connect for Health Colorado, the number of submitted enrollments through June 2014 for individual coverage was about 137,000.[26] Kaiser enrolled about ½ of the new policyholders "Kaiser enrolled 58,344 of 127,233 people — or about 46 percent — of those who bought insurance through Connect for Health Colorado between Oct. 1 and the end of open enrollment on March 31."[27]

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[24] G. Relationship Of Benefits To Premium; Values for commissions of 2.5%, general expenses of 12.0% and medical management of 2.3%

[25] Page 40

[26] http://connectforhealthco.com/metrics/october-1-june-14-2014/

[27] http://www.healthnewscolorado.org/2014/04/21/kaiser-other-nonprofits-score-majority-of-exchange-sign-ups/

Various expenses for insurance companies do not increase in direct proportion to premium increases per policyholder or the number of policyholders. Hence, the cost for these types of "fixed expenses" (e.g., salaries, rent, computers, etc.) can be expected to decrease as a percent of premium, especially when both the premium per policyholder and the number of policyholders is increasing. It is not clear, how, if at all Kaiser took this into account.

We believe the CODOI should carefully examine the provisions used by Kaiser for expenses to determine if those values are reasonable, or if those result in excessive charges being imposed on Colorado policyholders.

5. Loss Trends Inconsistent with Historical Experience

Kaiser used an annual loss trend of 4.2% stating "For 2013 to 2015, the projected total average annual benefit expense trend of 4.2% has been assumed based upon regional revenue requirements and analysis of prior Kaiser experience."[28] While a 4.2% annual loss trend is not an inherently unreasonable value, it does appear high in relation to recent trends for Kaiser.

During the period from 2011 to 2013, the Allowed Claims PMPM normalized for demo, geo, and benefit design was $214, $210 and $215.[29] That is, from 2011 to 2013, the annual cost trend experienced by Kaiser was essentially 0%.[30] This low trend actually experienced by Kaiser is consistent with its improving loss ratio from 2011 to 2013, which was in the low to mid 70% range during 2013, as shown in the following table.

[28] Actuarial Memorandum – Section D

[29] J. Trend (3rd page)

[30] Square root of (215 / 214) = 1.002 which is a 0.2% annual trend

COLORADO

Year	Earned Premium	Incurred Claims	Total Estimated IBNR Claims	Total Estimated Incurred Claims	Loss Ratio
2011	70,692,020	62,301,004	-	62,301,004	88.1%
2012	74,633,713	58,000,272	-	58,000,272	77.7%
2013	77,934,560	56,778,537	2,205,016	58,983,553	75.7%

Above data is for: Prior Comparable Products: Total grandfathered and non-grandfathered KFHP of CO individual HMO business. 2010 premium values shown assume standard revenue collection and exclude KP/DOI premium refund agreements.

OTHER DATA

Year	Earned Premium	Incurred Claims	Total Estimated IBNR Claims	Total Estimated Incurred Claims	Loss Ratio
2011	19,156,382	15,136,713	-	15,136,713	79.0%
2012	28,670,876	22,159,257	-	22,159,257	77.3%
2013	37,287,031	26,122,884	966,924	27,089,808	72.7%

Above data is for: Prior Comparable Products: Total non-grandfathered KFHP of CO individual HMO business (subset of table above)

Source: Kaiser Filing -- L. DATA REQUIREMENTS

We believe the CODOI should carefully consider the loss trends used by Kaiser to determine if those are consistent with actual experience.

6. Inconsistent Treatment of Incurred But Not Report (IBNR)

In relation to the issue of the Capital and Contingency Margin, Kaiser states "KFHP does not have investment income attributable to unearned premium reserves, reserves from incurred losses, and reserves from incurred but not reported losses, and therefore it is not considered in the ratemaking process."[31,32] However, Kaiser calculates a value for IBNR for the 2013 year equal to about 4% of incurred losses.[33]

[31] Actuarial Memorandum – Section H

[32] This appears to be inconsistent with the "Annual Report of the Commissioner of Insurance to The Colorado General Assembly on 2012 Health Insurance Costs" which shows for KFHPCO during 2011 a "Net Investment Gain (or loss) as a Percent of Colorado Earned Health Premium" of 0.91%. (page 42)

[33] L. Data Requirements

That situation appears to be inconsistent. Either Kaiser has IBNR in which case the investment income on that should be considered in the ratemaking process, or Kaiser does not have IBNR in which case it should be removed from the loss provision.

Kaiser describes the method it uses to calculate IBNR as follows "A common reserve tool developed and maintained by Kaiser Actuarial Services is used to set Kaiser's IBNR reserves."[34] However, as is the case for so many issues in the filing, Kaiser does not actually document and support the values it uses for IBNR.

We believe the CODOI should carefully examine the provision used by Kaiser for IBNR to determine if it is reasonable, and that IBNR is treated on a consistent basis throughout the filing.

7. Failure to Account for Reduction in Uncompensated / Charity Care

Kaiser does not appear to have adjusted its cost projections to reflect a reduction in uncompensated care and charity care (i.e., "bad debt") from the Affordable Care Act's expansion of coverage. The savings associated with these reductions could be substantial, and should be passed along to consumers in the form of lower rates.

Among the outcomes of this expansion has been a reduction in uncompensated hospital care for uninsured individuals. Since the uninsured often cannot pay for their own care out of pocket, the cost of providing needed care in emergency situations is frequently shifted onto the insured population and is reflected in the reimbursement rates insurers pay hospitals and doctors for various services. This is the so-called "bad debt" factor, and the anticipated reduction in bad debt should exert substantial downward pressure on hospital rates.

Kaiser's filing is silent on this issue, and hence it is not possible to know what, if any, consideration Kaiser gave to this issue in developing the rates it proposed to charge to Colorado policyholders. This is a particularly relevant issue with regard to Kaiser, since it owns many of its medical facilities "As an integrated health care provider, a large portion of Kaiser's expenses are the fixed costs associated with providing medical care through its delivery system including, but not limited to, physicians and support staff FTEs, operating its medical office buildings (MOBs), administrative expenses, and pharmacy delivery."[35] Hence, the saving achieved from a reduction in bad debt flows directly to Kaiser without having to pass through an intermediary.

[34] Actuarial Memorandum – Section I

[35] Actuarial Memorandum – Section J

The evidence is clear that the ACA has resulted in an increase in Medicaid enrollment and a decrease in charity care. A Colorado Hospital Association study confirms this stating in part[36]:

> - The Medicaid proportion of patient volume at hospitals in states that expanded Medicaid increased substantially in the first quarter of 2014. At the same time, the proportion of self-pay and overall charity care declined in expansion-state hospitals.
> - Medicaid, self-pay and charity care showed no change outside normal variation for hospitals in non-expansion states in 2014.
> - The increase in Medicaid volume, which occurred only in expansion states, is due to Medicaid expansion. The parallel decrease in self-pay and charity care shows that previously uninsured patients are now enrolled in Medicaid.
>
> …
>
> The changes reported by hospitals in expansion states nationally are also seen locally across Colorado. Urban, rural and critical access hospitals (CAHs) all demonstrate similar increases in Medicaid volume and decreases in self-pay volume and charity care. The magnitude of the changes in Colorado hospitals is greater than the national trend, as seen in Table 1. Furthermore, the values are outside the range of normal variation, indicating an influence beyond the typical month-to-month change. The proportion of Medicaid charges jumped almost five percentage points for urban hospitals and over three percentage points for CAHs and rural hospitals. Across the state, total Medicaid charges for Colorado grew 37 percent, while total self-pay charges dropped by 27 percent from first quarter 2013 to first quarter 2014.

The decrease in the Average Charity Care Per Hospital for Colorado was -36.2%.

A reduction in uninsured patients along with a beneficial financial impact on uncompensated care is also discussed by the rating agency Fitch which has stated "Relative to the early muted influence of insurance expansion on volume growth, expansion of state Medicaid programs had an immediate and dramatic influence on payor mix. In expansion states, hospitals are experiencing strong growth in Medicaid patient volumes and a drop in uninsured patient volumes. Based on only one-quarter of experience under insurance expansion, it is difficult to determine the longer term effect of the payor mix shift, but these early results show the industry could experience a meaningful and durable reduction in the financial headwind created by uncompensated care."[37]

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[36] Impact of Medicaid Expansion on Hospital Volumes, June 2014, http://www.cha.com/Documents/Press-Releases/CHA-Medicaid-Expansion-Study-June-2014.aspx

[37] https://www.fitchratings.com/gws/en/fitchwire/fitchwirearticle/For-Profit-Hospitals-Potentially?pr_id=837194

The amount of cost savings from the reduction in bad debt can be expected to become more precise -- and to grow -- over time. However, it is abundantly clear that uncompensated care costs are already going down. Furthermore, it is reasonable to believe that some health care providers will accept lower fees because of the reduction in bad debt. This position is supported by Milliman, an actuarial firm commonly relied upon by health insurance companies, which stated that "some providers may be willing to accept lower rates than in the past, perhaps due to a reduction in uncompensated care for the uninsured."[38]

The pattern of reduced bad debt is already clear, and the impact of that can be expected to be even more important in the coming year. If insurance rates are not adjusted to reflect this reality, consumers will be paying premiums for unjustified costs. We believe the CODOI should carefully consider this issue before making a decision on Kaiser's rate proposal.

8. Conclusion

The rate increase requested by KFHPCO is based upon a filing that is not adequately documented with respect to a multitude of different items. Furthermore, it appears that many of the assumptions used by Kaiser are excessive and will result in inflated unreasonable rates being charged to Colorado policyholders.

Please contact me if there is anything you would care to discuss.

Sincerely,

Allan I. Schwartz
FCAS,ASA,MAAA,FCA,ARE,AIC
APA,AU,AIAF,ARM,API,ACS,CRRA
President

[38] 2014 Milliman Medical Index, http://us.milliman.com/uploadedFiles/insight/Periodicals/mmi/pdfs/2014-mmi.pdf