

AFSCME Facts

Medical Loss Ratio Rebates

The Affordable Care Act (ACA) requires insurance companies in the individual and small group markets to spend at least 80 percent of the premium dollars they collect on medical care and quality improvement activities. Insurance companies in the large group market must spend at least 85 percent of premium dollars on medical care and quality improvement activities.

These percentages are known as “Medical Loss Ratios” or MLR. Insurance companies must report their MLR data to the Department of Health and Human Services (HHS) on an annual basis so that residents of every state will have information on the value of health plans offered by different insurance companies in their state. If an insurer does not meet these requirements, it must provide a rebate on the portion of the premium dollars that exceeded this limit. The MLR requirements apply to fully-insured group health plans and individual health plans, including health plans that are grandfathered under the ACA. These requirements do not apply to self-insured plans.

The first report, covering calendar year 2011, was filed on June 1, 2012, and insurers made the first round of rebates to consumers in 2012. According to the HHS, more than \$1.1 billion in rebates went out to policyholders covering more than 12.8 million Americans. Under HHS regulations, if a rebate is provided to the policyholder, all enrollees should be notified by the insurer about the amount due to the policyholder.

In 2012 all insurers, including those who met the MLR regulation, were required to issue notices to enrollees; beginning in 2013, insurers who meet the MLR regulation are not required to issue notices to their policyholders. In 2013, rebates declined as more insurers met the MLR requirement with a total of \$504 million in rebates going out to policyholders covering 8.5 million Americans.

Rebates must be paid by Aug. 1 each year. It is important to note, each option has tax implications for the employee; if premiums are paid on a pre-tax bases, then the MLR rebate is taxable if the policyholder forwards a portion of the rebate to plan participants. The IRS provided guidance on this topic and it can be found at [irs.gov/uac/Medical-Loss-Ratio-\(MLR\)-FAQs](http://irs.gov/uac/Medical-Loss-Ratio-(MLR)-FAQs).

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How rebates are distributed may differ based on the plan type. For non-federal government plans (e.g. state or local government), the insurer must issue the MLR rebates for these policies to the policyholder (usually the employer). The policyholder must use the amount of an MLR rebate that is proportionate to the premiums paid by subscribers in one of these ways:

1. For all subscribers covered under any option offered under the policyholder's group health plan at the time the rebate is received by the policyholder, to reduce the subscribers' portion of premium for the subsequent policy year;
2. For subscribers covered, at the time the rebate is received by the policyholder, under the group health plan option for which the issuer is providing a rebate, to reduce the subscribers' portion of premium for the subsequent policy year; or
3. A cash refund to subscribers enrolled in the group health plan option for which the insurer provides the rebate.

It is important to note that option is chosen at the policyholder's discretion. As such, it would be important that the union contact the policyholder (typically the employer) immediately and outline the union's preferred option.