The Affordable Care Act's medical loss ratio has delivered nearly $4 billion in premium refunds to American consumers since 2012.

Billions in ACA rebates show 80/20 Rule's impact

Medical loss ratio forced carriers to devote more premium dollars to care, and record-high rebates are being issued in 2019 following premium spikes in 2018

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In the 8th year of MLR rebates, the rebate checks in 2019 are larger than they've ever been

Ever since 2012, millions of Americans have received rebates from their health insurers each fall, refunding portions of prior-year premiums that were essentially too high.

It's all thanks to the Affordable Care Act's medical loss ratio (MLR) a provision – sponsored by Minnesota's former Senator, Al Franken – that forces health insurance companies to use your premium dollars to provide actual health care and quality improvements for plan participants, or return that money to you. In 2018, insurers were required to pay nearly $707 million in rebates to nearly 6 million consumers. That was based on insurer

evenue and spending for 2015-2017, and it was the highest total rebate mount since the first MLR rebate checks were sent to consumers in 2012.

And although CMS hasn't yet published official data for the rebates that are being issued in 2019, the expectation is that they will be the largest they've ever been: Kaiser Family Foundation has analyzed the MLR data insurers have filed, and their estimation is that MLR rebates issued by the end of September 2019 will amount to $1.28 billion, with $743 million of that going to approximately 3 million individual market consumers (this is very similar to Kaiser Family Foundation's earlier analysis that was based on insurer profitability in 2018).

Prior to 2019, the highest total rebates were issued in 2012, when insurers rebated $1.1 billion to consumers (this was based on performance in 2011, before the bulk of the ACA's provisions had taken effect; the individual market was still medically underwritten in nearly every state at that point). Although insurers, especially in the individual market, struggled to right-size their premiums in the early years of ACA implementation, their profitability had turned a corner by 2016 and grew considerably in 2017 and 2018 as premiums rose sharply.

Including the rebates being issued in the fall of 2019, total rebates issued from 2012 through 2019 will amount to nearly $5.2 billion. From 2013 through 2015, the highest total rebate amount was $504 million in 2013. Total rebate amounts were less than half a billion each year since then, before jumping much higher in 2018 — and as noted above, they're even larger in 2019.

The rebates being issued in the fall of 2019 are based on insurers' MLR performance across 2016, 2017, and 2018. Premiums in the individual market spiked in 2017 and again in 2018, and based on the MLR data, it appears they were set too high by 2018. Not only are total MLR rebates larger in 2019 than they've ever been, but nearly 60 percent of the total rebates are being sent to consumers in the individual market, despite the fact that a very small segment of the population is enrolled in individual market plans; most people with private health insurance coverage have employer-sponsored plans (for perspective, about 19 percent of the total amount that was rebated to consumers in 2018 was for individual market coverage, but the continued sharp increases in premiums in 2018 pushed profitability considerably

higher and has resulted in a much larger total MLR rebate amount for individual market consumers in 2019).

To clarify, the goal is to have insurers spending the majority of your premium dollars on medical claims so that rebates aren't necessary. But given that insurers set premiums a year in advance, it's not always possible to accurately project membership (and thus revenue) and claims costs. So the rebates serve as a backstop, ensuring that even if premiums are ultimately set too high in a given year, the MLR rules still apply.

Rebates vary by state and by insurer

Although total rebates are larger in the fall of 2019 than they've ever been, most people won't receive a rebate check at all, since most insurers tend to be in compliance with the MLR requirements. Every year, there are some states where no rebates are issued (ie, all of the insurers in that state hit the MLR targets), and even in states where MLR rebates are issued, they're usually only sent out by a few insurers.

For the rebates being sent in 2019, official date from CMS will be available later in the fall. But Kaiser Family Foundation has estimated rebate amounts for most states, and at ACA Signups, Charles Gaba has calculated rebate amounts on a per-insurer basis for every state.

In 2018, the largest average rebates were in Minnesota, where more than 41,000 consumers received average rebates of $479 each. Average rebates in Hawaii were $384, but only 818 consumers in Hawaii were owed a rebate. In DC, average rebates were owed to more than 93,000 consumers and averaged $285 each. Nationwide, the average rebate check was $119.

Rebates? What rebates?

The rebates are tied to the medical loss ratio: the percentage of insurance premium dollars spent on actual health care – as opposed to marketing, profits, CEO salaries, and other administrative expenses. If an insurer spends less than 80 percent of individual and small-group plan premiums (85 percent for large-group plans) on providing medical care, they must rebate the excess dollars back to plan members and employers via checks that are sent to consumers each fall.

The majority of very large employers self-insure their employees' health coverage, and MLR rules do not apply to self-insured plans. There were also initially exemptions for non-profit insurers, although they had to begin complying with the MLR requirements in 2014. Some states received CMS approval to modify MLR requirements within the state in the early years, but there are no longer any states with MLR requirements that are lower than the federal rules (Massachusetts has a much higher MLR requirement, at 88 percent for individual and small group plans).

Although the MLR rules are an important regulatory tool, the majority of insureds do not receive a rebate check, as most insurers' administrative costs are less than the allowable amount. About 6 million people received rebates in 2018, which is less than 2 percent of the population.

Rebates are based on a 3-year average MLR

The rebates that are sent out each fall are based on the average MLR for the prior three years. The rebates that were sent out in 2018 were based on each carrier's average MLR for 2015 to 2017. The rebates that are being sent out in the fall of 2019 are based on average MLR for 2016-2018, and so forth.

2018 was the seventh year of payouts through the 80/20 rule. Rebates were highest in 2012, as that was the first year that rebates were sent to consumers and insurers were still fine-tuning their revenues and expenses to comply with the ACA's new rules.

In 2018, rebates were lower than they had been in 2012, but higher than they had been during any year since then. And while the number of states where no rebates are necessary at all had been steadily rising for the last few years, reaching 11 in 2017 (an indication that more insurers were right-sizing their premiums), it dropped to seven in 2018. [Again, this all has to be considered in light of the fact that average premiums in the individual insurance market increased by 25 percent in 2017 as insurers attempted to become profitable in the individual market.] And although record-high rebates are being sent in the fall of 2019, there are 13 states where no rebates are being sent at all.

Most people don't get a rebate check, because most insurers are spending the majority of premiums on medical costs

Across all market segments, the majority of insurers are meeting or exceeding the MLR rules, which is why most people don't receive MLR rebate checks. According to the data that was calculated in 2017 (for plan years 2014-2016), the average individual market MLR was 92.9 percent and the average small group MLR was 86.1 percent (both well above the 80 percent minimum requirement).

In the large-group market, the average MLR was 90.3 percent, also well above the 85 percent minimum requirement for that market segment. For all three market segments, the average MLR reported for 2017 was the highest it had ever been.

HHS also reported that the vast majority of insurers are enrolled in plans that are meeting the MLR requirements. For the MLR reporting in 2017 (based on 2014-2016 MLR numbers), 95 percent of individual market enrollees were in plans that met the MLR rules – so only 5 percent of individual market enrollees ended up getting rebate checks in 2017.

The percentage of individual-market enrollees in plans that met the MLR rules was the highest it had ever been. In 2011, just 82.8 percent of individual-market enrollees had been on plans that spent at least 80 percent of premiums on medical care and quality improvements. Clearly, insurers have gotten better at this over time.

But loss ratios have dropped as insurers regained profitability in the individual market, and this is the driving factor behind the much larger MLR rebates in 2019. Kaiser Family Foundation reported that for the first half of 2018, the average individual-market loss ratio was just 69 percent. That's only for the individual market, and it's only the first half of the year — loss ratios tend to increase as the year goes on, because claims tend to increase after people meet their annual deductibles. But health insurance premiums in the individual market increased sharply in 2017 and again in 2018, allowing insurers to recover from the first few unprofitable years and possibly over-correct.

In short, it was no surprise that MLR rebates were larger in 2018 (for plan years 2015-2017) than they had been in prior years, and it's not surprising that they're larger than ever in 2019 as well (based on revenue and losses for 2016-2018).

Premiums in the individual market only increased slightly for 2019, despite some significant upheaval in the market (elimination of the individual mandate penalty, along with the expansion of short-term plans and association health plans). That's an indication that premiums were certainly adequate in 2018, and possibly too high in some cases (the expectation is that without the aforementioned market upheaval, average rates would have decreased for 2019).

Total rebate amounts so far have been:

$1.1 billion in 2012 (based on 2011 MLR, as the rule became effective that year)
$504 million in 2013
$332 million in 2014
$469 million in 2015
$397 million in 2016
$447 million in 2017
$707 million in 2018
2019 data hasn't yet been published by CMS, but rebates being sent out in September 2019 amount to an all-time high (a Kaiser Family Foundation estimate pegs the total at $1.28 billion; Gaba's calculation puts it at $1.37 billion).

In 2018, nearly 6 million rebated consumers received rebates that averaged $119. (The average was $137 in the individual market, $116 in the small-group market, and $114 in the large-group market.)

The highest average (per household) rebates among families that received them in 2018 were in Minnesota, where average rebates were $479 – about four times as much as the national average. But Minnesota was among the states where there were no MLR rebates at all in 2017, illustrating how much the market can change from one year to another based on premiums and total claims.

In seven states (down from 11 in 2017, but up from six the year before, and just four the year before that), there were no MLR rebates necessary in 2018, because all of the insurers met the MLR requirements: Alaska, Maine, Rhode Island, South Dakota, Vermont, Washington, and Wyoming.

Maine, South Dakota, Vermont, and Wyoming have had no MLR rebates for three years in a row (2016, 2017, and 2018), because all insurers in those

tates have met the MLR requirements each of those years. But it's worth noting that Wyoming had the highest average MLR rebates in 2015, and Hawaii, which had no rebates in 2017, had the highest average rebates in 2016 and the second-highest average rebates in 2018. In small markets like Wyoming and Hawaii, a few expensive claims can have a very significant impact on MLR numbers.

So although nobody received a rebate check in seven states in 2018, that's a good thing — it means that all of the insurers in those states spent at least 80 percent (at least 85 percent for large group plans) of premiums on medical claims and quality improvements, as opposed to administrative costs.

But in most states, at least some consumers received rebate checks in 2018, as had been the case in prior years.

ACA's 2017 medical loss ratio rebates

State	Total Rebates	Consumers Benefiting	Average per Family
Alaska	$0	0	$0
Alabama	$206,196	5,061	$41
Arkansas	$1,944,299	12,870	$151
Arizona	$27,576,292	157,020	$176
California	$97,386,263	919,608	$106
Colorado	$7,475,523	70,758	$106
Connecticut	$48,929	1,154	$423
District of Columbia	$26,601,653	93,420	$285
Delaware	$6,551,746	37,324	$176
Florida	$86,231,898	679,522	$127
Georgia	$29,380,080	403,707	$73
Hawaii	$314,241	818	$384
Iowa	$2,468,147	17,473	$141
Idaho	$64,430	2,021	$32
Illinois	$14,554,527	118,385	$123
Indiana	$1,499,908	74,991	$20

Kansas	$2,695,019	23,526	$157
Kentucky	$26,253	923	$28
Louisiana	$314,880	61,158	$5
Massachusetts	$31,895,756	208,749	$153
Maryland	$75,754,059	552,175	$137
Maine	$0	0	$0
Michigan	$55,651,722	392,288	$142
Minnesota	$19,659,847	41,034	$479
Missouri	$45,538,433	298,071	$153
Mississippi	$10,466,683	91,084	$115
Montana	$116,211	1,102	$105
North Carolina	$4,355,031	112,738	$39
North Dakota	$64,550	794	$81
Nebraska	$69,737	1,665	$42
New Hampshire	$8,064,209	34,995	$230
New Jersey	$14,368,862	94,341	$152
New Mexico	$4,513,998	32,498	$139
Nevada	$6,451,083	43,778	$147
New York	$25,961,536	445,849	$58
Ohio	$4,706,404	26,186	$180
Oklahoma	$2,434,273	33,380	$73
Oregon	$96,757	636	$152
Pennsylvania	$30,734,528	416,910	$74
Rhode Island	$0	0	$0
South Carolina	$453,504	41,437	$11
South Dakota	$0	0	$0
Tennessee	$10,634,459	100,638	$106
Texas	$7,813,406	54,851	$142
Utah	$3,722,184	27,957	$133
Virginia	$35,342,998	210,094	$168

Vermont	$0	0	$0
Washington	$0	0	$0
Wisconsin	$317,325	10,671	$30
West Virginia	$1,207,286	6,840	$177
Wyoming	$0	0	$0
American Samoa	N/A	N/A	N/A
Guam	N/A	N/A	N/A
Northern Mariana Islands	N/A	N/A	N/A
Puerto Rico	N/A	N/A	N/A
Virgin Islands	N/A	N/A	N/A

CMS has a further breakdown by individual, small group and large group markets.

GOP tried unsuccessfully to repeal the federal MLR rules in 2017

While the MLR provision has obvious appeal to consumers, it isn't universally loved – and was among the ACA provisions in Republicans' crosshairs as they attempted to repeal the ACA in 2017. The Senate's 2017 Better Care Reconciliation Act (BCRA) would have eliminated the federal requirement that insurers spend the majority of premiums on health care. (That measure did not pass the Senate when it was introduced as a substitute for H.R. 1628 in July 2017.)

Under the BCRA, states would have become responsible for the regulation of insurers' administrative costs. This is similar to the approach that the Trump Administration has taken with regards to insurers' network adequacy, and it's in keeping with the GOP belief that regulatory authority should be concentrated at the state – rather than federal – level.

The Congressional Budget Office estimated that about half the U.S. population lives in states where the current federal MLR rules would have been maintained if the BCRA had been implemented, and the other half live in states where the rules would have been relaxed. "Relaxed" rules would have led to increased premiums (and of course, smaller MLR rebates),

particularly for people who don't qualify for premium subsidies in the exchange.

GOP efforts to repeal the ACA in 2017 were not successful, though, so insurers in every state still have to spend the majority of your premium dollars on medical costs and quality improvements, rather than administrative expenses.

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