



AMERICAN ACADEMY *of* ACTUARIES

December 19, 2006

Mr. Mark Hamelburg
Director, Employer Policy and Operations
Group, Centers for Medicare and Medicaid
Services Division, United States Department
of Health and Human Services
7500 Security Blvd
Mail Stop C1-22-07
Baltimore, MD 21244-1850

Mr. David Gardner
Director, Employer Operations Division,
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Division, United States Department of
Health and Human Services
7500 Security Blvd
Mail stop N1-14-16
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Dear Mr. Hamelburg and Mr. Gardner:

The American Academy of Actuaries' Health Practice Council has become concerned about a rule in the Retiree Drug Subsidy Program (RDS) that allows only one-role-per-user in the RDS Secure Web Site. An actuary serving as a consultant on health benefit plans may be asked by one or more clients to serve in a non-actuarial role. Those and other clients also rely on them for actuarial services, such as the RDS attestation. We have learned that actuaries who may have logged-in to the RDS Secure Web Site in a non-actuarial role have been prevented from assuming the role of actuary and signing actuarial attestations. We urge the Centers for Medicare and Medicaid Services to reconsider this "one-role-per-user" rule before attestations are due in 2007.

After this problem came to our attention in 2005, the Academy contacted CMS regarding the rule that allows individuals to assume only one role in the RDS Secure Web Site. Being a new program, we understood that the situation would not be addressed before the first attestations were due. It was brought to our attention again in 2006 that there were actuaries who had logged-in to the RDS Secure Web Site in a non-actuarial role during the previous cycle of attestations, and they were subsequently locked-out from signing actuarial attestations in the RDS program.

We contacted to CMS again this past summer to further discuss the issue. We learned that the RDS Secure Web Site, as an Internet-based system that contains protected health information, is required to establish certain protocols for each user to control security. It is our understanding that, in order to comply with information technology safeguards and to maintain tight control over protected data, the RDS Secure Web Site established specific user roles, and individuals were permitted to fulfill only one role in the system.

We also learned that while there are some processes in place for those who might need to change roles in the RDS system in order to provide actuarial attestations, the one-role-per-user rule in the RDS Secure Web Site will not be changed in the foreseeable future. We have been told that CMS may reconsider the user role rules and system functionality in the future, but not until after the core RDS program system functionality (e.g., payment reconciliation) is developed and implemented.

We understand the need to have protections in place in such a system, but credentialed actuaries should not be prevented from performing actuarial duties, such as signing actuarial attestations, within the RDS program. Importantly, while actuaries may be given personally identifiable health data by some plan sponsors for the actuarial equivalence testing, they do not gain any access to it when using the RDS Secure Web Site to certify that a plan passes the actuarial equivalence test. This makes the one-role-per-user rule less significant when applied to the specific role of certifying actuary.

We urge you to reconsider the one-role-per-user rule for actuaries before the attestations are due in 2007 and to investigate alternatives that would not prevent actuaries from fulfilling their actuarial obligations.

We would be glad to discuss this issue further and to work with you on a resolution. Please contact Cori Uccello, Senior Health Fellow, at Uccello@actuary.org or (202) 223-8196.

Thank you.

Sincerely,

John Schubert
Vice President, Health
American Academy of Actuaries

The American Academy of Actuaries is a national organization formed in 1965 to bring together, in a single entity, actuaries of all specializations within the United States. A major purpose of the Academy is to act as a public information organization for the profession. Academy committees, task forces and work groups regularly prepare testimony and provide information to Congress and senior federal policy-makers, comment on proposed federal and state regulations, and work closely with the National Association of Insurance Commissioners and state officials on issues related to insurance, pensions and other forms of risk financing. The Academy establishes qualification standards for the actuarial profession in the United States and supports two independent boards. The Actuarial Standards Board promulgates standards of practice for the profession, and the Actuarial Board for Counseling and Discipline helps to ensure high standards of professional conduct are met. The Academy also supports the Joint Committee for the Code of Professional Conduct, which develops standards of conduct for the U.S. actuarial profession.