

§ 158.403 Circumstances in which a State is conducting audits of issuers.

(a) If a State conducts an audit of an issuer's MLR reporting and rebate obligations, HHS may, in the exercise of its discretion, accept the findings of that audit if HHS determines the following:

- (1) The laws of the State permit public release of the findings of audits of issuers;
 - (2) The State's audit reports on the validity of the data regarding expenses and premiums that the issuer reported to the Secretary, including the appropriateness of the allocations of expenses used in such reporting and whether the activities associated with the issuer's reported expenditures for quality improving activities meet the definition of such activities;
 - (3) The State's audit reports on the accuracy of rebate calculations and the timeliness and accuracy of rebate payments;
 - (4) The State submits final audit reports to HHS within 30 days of finalization; and
 - (5) The State submits preliminary or draft audit reports to HHS within 6 months of the completion of audit field work unless they have already been finalized and reported under paragraph (a)(4) of this section.
- (b) If HHS accepts an audit conducted by a State, and if the issuer makes additional rebate payments as a result of the audit, then HHS shall accept those payments as satisfying the issuer's obligation to pay rebates pursuant to this part.