



States Implement Health Reform



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Premium Rate Reviews

Overview

The 2010 Affordable Care Act (ACA) requires that health insurers justify unreasonable health insurance rate increases to states and the federal government. As a result, Americans will know that their insurers are being held accountable for increased insurance premium rates that, in turn, will lead to greater accountability and affordability.

Key Federal Provisions

The 2010 Affordable Care Act, Pub. L. 111–148, Section 2794, requires the secretary of the U.S. Department of Health and Human Services (DHHS; the secretary) to work with states to:

- Establish an annual review process to determine “unreasonable” health insurance rate increases,
- Monitor insurance premium increases, and
- Award grants to help states carry out their rate review process.

Under existing state laws, states can continue reviews or denials that go beyond those specified in federal law or can amend existing law to coordinate with the new federal requirements. Health insurance issuers that offer individual or group coverage must submit justification to the secretary and relevant state for any “unreasonable premium increases.” Both the secretary and the state must receive the justification before increases occur, and the information must be prominently posted on the health insurance issuers’ Web sites. The secretary must ensure public disclosure of information relating to these increases and justifications from all health insurance issuers.

State Roles

Under federal law, states (usually insurance departments) will review rates and determine whether they are unreasonable. If rates are determined to be unreasonable, state responses will vary according to state law. Federal law prescribes state insurance commissioners’ involvement with continuing reviews. However, it does not reference involvement in the initial review process. States are not preempted from regulating insurance unless it might inhibit implementation of the federal law.

States already regulate rates for many types of health insurance. The act addresses only health insurance that covers medical services provided by physicians, hospitals and other medical providers. States have varying authority over current rate review laws and regulations. About half the states have authority to disapprove some rates or rate increases, and most may review all proposed rates. Other states review rates and justification for rate increases, but have no power to disapprove them; a few do not review rates. Most states will need to consider or may choose to amend state law to authorize their insurance commissioners to enforce the federal law. California, Delaware, New York and Washington lawmakers made such changes during 2010.

Timetable

Provisions in the rate review section are effective immediately, beginning with federal FY 2010. The secretary and individual states must annually review unreasonable increases in premiums for health insurance coverage beginning with the 2010 plan year. Key implementation begins in the fall 2010, when private insurers must file advance notice of rates for the 2011 plan year, which often begins January 1. In 2011, the secretary will review and publicize justifications for unreasonable premium increases.

“Self-insured health plans” offered by many large employers are exempt from these rate review provisions. The U.S. Department of Labor regulates most self-insured plans, except for state and local government plans. Regulations defining “unreasonable increases” are not yet available.

For plan years beginning in 2014, the secretary and states must monitor health insurance premium



increases and plan differences offered through the health insurance exchanges (which launch in January 2014) and other plans. States can exclude from new health insurance exchanges any plans that show excessive or unjustified premium increases.

Federal Assistance

Congress appropriated a total of \$250 million to the U.S. Department of Health and Human Services (DHHS) for state grants for federal fiscal years 2010 to 2014. DHHS can award these funds to eligible states during award cycles that begin in 2010. States can use the grants to review premium increases for health insurance coverage and, if allowed under state law, approve or disapprove them.

The first rate review grant applications (Cycle I) were due July 7, 2010, and 46 states applied. Grant applicants proposed a plan—including public rate disclosure—to use funds to develop or improve the state process for health insurance rate review in federal fiscal years 2010 and 2011. Each Cycle I grant recipient will receive \$1 million.

The second grant cycle (Cycle II) solicitation will occur after release of federal regulatory rate review guidance in the fourth quarter of calendar year 2010, and the federal government will award grants Jan. 1, 2011. State awardees must implement rate review requirements according to regulatory guidance. States must meet the following requirements:

- Provide information to the secretary about trends in health insurance coverage premium increases in premium rating areas; and
- Recommend excluding particular health insurance issuers from participating in the exchange (as of 2014) based on a pattern or practice of excessive or unjustified premium increases.

Strengthening state rate review also could require expanding the actuarial capacity of a state's insurance department.

According to proposals filed as of July 2010, funding uses include the following.

- Fifteen states and the District of Columbia proposed to pursue legislative authority changes. This could include creating a new rate review program or requiring advance approval of rate increases.
- Twenty-one states and the District of Columbia proposed to expand the scope of the rate review process.

- Of the federal grant applicants, all 46 states and the District of Columbia proposed requiring health care insurance issuers to report additional information through the rate review process and will develop and upgrade existing technology.
- Forty-two states and the District of Columbia proposed to publicize more information about the premium review process.

State Experiences

Twenty-four states give the state insurance department or commissioner legal power of prior approval or disapproval of certain rate changes.

- Of these, at least 15—Colorado, Florida, Iowa, Kentucky, Maryland, Minnesota, New Mexico, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, Vermont and West Virginia—have broad authority of approval or disapproval that applies to all or major segments of state-regulated health insurance policies..
- At least 10 states— Connecticut, Georgia, Hawaii, Indiana, Nevada, New Hampshire, Oregon, South Carolina and Tennessee—have selective prior approval requirements for specific policies, such as individual, small group or HMOs. A Washington law applies to the individual market.
- The degree of state enforcement also varies.

Additional Resources

For more information, visit NCSL's page "Health Insurance State Rate Approval and Disapproval Laws 2010" at <http://www.ncsl.org/?tabid=19787>.

The U.S. DHHS provides information about this issue at www.healthcare.gov.

The federal government posted a chart summarizing how each state will use the 2010 federal grant funds at <http://www.healthcare.gov/news/factsheets/rateschart.html>.

The U.S. DHHS will publish subsequent Affordable Care Act Health Insurance Rate Review Grant solicitations on <http://www.grants.gov>.

The National Association of Insurance Commissioners Rate Filing Disclosure Form is available at http://www.naic.org/documents/index_health_reform_rate_review_final_rate_filing_summary.pdf.

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