



Memo

To: Editorial Page Editors, Editorial Board Members & Columnists
From: Sharon Ward, Director, Pennsylvania Budget and Policy Center
Date: December 6, 2011
Re: **Pending Bills Weaken PA Oversight of Health Insurance Rate Increases**

Many states across the nation have taken steps to ensure that there is a full review of proposed health insurance rate increases for small businesses and individuals.

Pennsylvania, however, is headed in the opposite direction with legislation in the House and Senate that would keep more consumers in the dark and undermine the state's ability to review most rate hikes.

House Bill 1983 and Senate Bill 1336 would extend rate review to insurance providers that currently escape any scrutiny, but fewer rate filings overall would be reviewed. With less scrutiny and less transparency in the rate review process, these bills will put consumers and small businesses at risk of repeated, unjustified rate hikes.

Under current state law, the Pennsylvania Insurance Department has some authority to review rate increases. It is not a perfect system, but the Department has used it effectively to perform rigorous reviews of numerous rate proposals.

Instead of curtailing the Department's authority, lawmakers should improve upon it with greater transparency, citizen input and meaningful review of all rate proposals.

Rate Review in Pennsylvania

Current Pennsylvania law requires the Pennsylvania Insurance Department to review and approve rate increases in the individual health care market and for the non-profit Blue Cross plans and Health Maintenance Organizations (HMOs). Policies issued by commercial carriers, such as Aetna and United Healthcare, and the for-profit subsidiaries of the Blues are exempt from review.

This inequity led the U.S. Department of Health and Human Services (DHHS) to deem Pennsylvania's rate review law as "ineffective." The Commonwealth is one of only seven states to receive this designation.

Beginning in September 2011, rate increases greater than 10% proposed by for-profit insurers came under the purview of DHHS rather than the state's Insurance Department.

The DHHS review was intended to create an incentive for states to improve inadequate statutes, and several states have already done so. DHHS also provided states, including Pennsylvania, with millions of dollars to improve in-house capacity to review rates and to make the entire process more transparent and more consumer-friendly.

Legislative Proposals

House Bill 1983 and Senate Bill 1336 make an end run around federal law rather than better protecting Pennsylvanians from unjustified rate hikes. They expand the scope of rate review to include all insurers in the small group market, but reduce the Insurance Department's authority to review and disapprove rates. So the law achieves parity in rate review between non-profit and for-profit insurers at the expense of a meaningful review process.

Under current law, proposed rate increases up to 10% must be filed and reviewed by the Insurance Department, and rate hikes over 10% require prior approval by the Department. The legislation would allow insurers to file rate hikes up to 10% with no review and ends prior approval for rate increases above 10%.

The Pennsylvania Insurance Department does a good job protecting consumers from unjustified rate increases. According to a recent Government Accounting Office study, in 2010, 37% of rate filings were reduced or withdrawn after Insurance Department review, ranking Pennsylvania 9th in the nation.

Despite Pennsylvania's receipt of millions of dollars through the Affordable Care Act to improve its rate review, the legislation does little to increase information for consumers or improve transparency in the review process. The proposed law does not require rate filings or rate decisions to be made available to the public, nor does it provide for meaningful public comment.

With less scrutiny and less transparency in the rate review process, these bills will leave consumers and small businesses worse off than they are now.

A Better Choice

Consumers need a strong rate review process that ensures all rate increases are justified. The burden of high health care costs is already too much for sole proprietors and small businesses, many of whom are unable to afford insurance for themselves and their employees.

HB 1983 and SB 1336 should be amended to require that all filings are posted and written decisions made available in a consumer-friendly way. The current legislation only requires this level of transparency for rate filings above 10%, which are subject to review by DHHS. The law should also establish a public comment period for all rate requests. The legislation (like current law) leaves public notice and comment to the discretion of the Insurance Department.

Most importantly, the current level of rate review authority should be maintained. In order to give the Department time to handle the new influx of filings, the review period should be extended from 45 to 60 days.

Overall, Pennsylvania's rate review system needs balance between the needs of insurers and the needs of consumers. HB 1983 and SB 1336, as currently drafted, eliminate this balance.