Rate Increase Disclosure and Review
45 CFR Part 154

Sally McCarty
National Health Policy Forum
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Section 2794

- Added to the Public Health Service Act by the Affordable Care Act.
- Directs Secretary to establish a process for the “review of unreasonable increases in premiums for health insurance coverage”
- Directs Issuers to submit to Secretary and to the state regulator justification for an unreasonable rate increase
- Final rule published on May 23, 2011
- Program became effective on September 1, 2011
Subject to Review

• Concept developed to identify universe of rate increases most likely to contain unreasonable increases.
• Rate filings proposing increases of 10% or higher
  • Non-grandfathered plans
  • Individual and small group market
• Based on:
  • Change in the underlying rating formula or structure
  • Weighted average
  • Combined increases in a 12-month period
• State-specific thresholds will be developed in 2012
Preliminary Justification

- **Three-parts**
- **Part One**
  - Required by *all* Issuers filing rate increases subject to review
  - Summary data related to the increase
  - Excel format uploaded to Health Insurance Oversight System (HIOS) Rate Review Module
  - HIOS calculates data from Part One
  - Posts Part I data and Part II as Consumer Disclosure on Healthcare.gov
    - A consumer-friendly presentation of rate increase data.
Preliminary Justification

Part Two

- Required by *all* Issuers filing rates subject to review
- Technical narrative that explains the rate increase
- Entered in text box in HIOS Rate Review Module
- Becomes part of the Consumer Disclosure
Preliminary Justification

- **Part 3 - Rate filing**
  - Filed only when CMS is reviewing a rate
    - Includes elements typical of all rate filings
    - PDF format
  - Issuers upload a public and private version
    - Public version redactions must be allowable under federal law
    - Linked to Consumer Disclosure
Effective Rate Review Program

- Authority to require rate review data and documentation
- Authority to conduct effective and timely reviews
- Examines
  - Reasonableness of assumptions
  - Validity of historical data
  - History of projections vs. actual experience
  - List of 12 data elements, “to the extent applicable”
- Unreasonableness standard in law or regulation
- Post Preliminary Justifications (or link to CMS posting)
- Means for public input
Effective Rate Review

- **Rate Review Team**
  - State laws, regulations, bulletins
  - Discussions with State regulators
  - Communication/document review in support of State attempts to achieve effective review status.

- **Result, as of this week:**
  - 42 States, DC, 3 Territories Effective (Added Guam and PR)
  - 2 States Partially Effective
  - 6 States, 2 Territories Not Yet Effective

- Recently completed the process for authority to review association coverage, effective November 1, 2011.
Review Results

- State or CMS posts results of reviews
  - In free text box in HIOS
  - Becomes part of the Consumer Disclosure on Healthcare.gov
- Several Options:
  - Not Unreasonable
  - Not Unreasonable Modified (displays new increase)
  - Unreasonable Withdrawn
  - Unreasonable
  - Etc.
Unreasonable Rate Increase

- If CMS or State finds increase to be unreasonable
  - Issuer implements the increase
  - Final justification required within 10 days of notice
    - Posted as part of Consumer Disclosure on Healthcare.gov
    - Posted on issuer’s web site
  - Issuer withdraws increase
    - “Unreasonable but withdrawn” posted on CMS web site
Association Plans

- Amendment to final regulation,
  - Published September 6, 2011.
  - Adds individual and small group coverage that would be considered part of the Individual and Small group market had it not been sold or offered through an association.
  - Effective November 1, 2011

- Effective Review Status for Association Coverage:
  - Effective: 30 States, DC, 3 Territories
  - Partially effective: 10 States
  - Not yet effective: 10 States, 2 Territories
**Rate Review Process**

1. **Issuer must file 3-Part Preliminary Justification for all applicable* rate Increases of 10% + (“Subject to Review”)**

   - **Part 1** is posted on healthcare.gov with link to Parts 2 and 3**

2. **State Reviews**
   - Rate filing is submitted to and reviewed by State
     - State finds the rate increase unreasonable
       - Issuer implements rate increase
     - State finds the rate increase not unreasonable
       - Issuer does not implement rate increase

3. **CMS Reviews**
   - Rate filing is submitted to and reviewed by CMS
     - CMS finds the rate increase not unreasonable
       - Issuer does not implement rate increase
     - CMS finds the rate increase unreasonable
       - Issuer implements rate increase

   **State or CMS updates posting with report of rate review outcome**

   - Issuer posts justification of rate increase on its website

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*Increases for non-grandfathered plans in the Small Group or Individual Markets
**Part 3 is filed only when CMS is primary reviewer (for states that do not have an effective rate review program).
Rate Review Grant Program

• Cycle I
  • Awarded August 2010
  • 43 States $43 million

• Achievements
  • 70 Staff Hired
  • 10 In-house actuaries, 33 actuarial contracts in place
  • 17 States introduced legislation to enhance rate review
  • 9 States passed legislation

• Cycle II, Phase 1
  • Awarded September 26, 2011
  • 30 States $109,000,000
Up-to-the-Minute Rate Review System Information