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Rate Review Requirements in Health Care Reform: Increased Information May Improve Consumer Decisionmaking

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The 2010 Patient Protection and Affordable Care Act (ACA) requires an annual review of premium rates for all fully insured health care insurance plans. Greater public transparency concerning costs and revenue will enable consumers to make better insurance choices and strengthen the state's review process, potentially reducing health care costs in Missouri.

Introduction and Background

Rate review is the process of analyzing whether an insurance company justifiably raises their premium rates. Insurance companies have traditionally not given details regarding how they determine monthly premium rates, maintaining that public disclosure would give competitors unfair access to important business decisions.¹ However, beginning September 1, 2011, annual premium increases may be reviewed by state insurance regulators or the U.S. Department of Health and Human Services. This process will be detailed later in this paper.

How Do States Currently Regulate Insurance?

Each state government regulates the insurance industry through a particular agency that is responsible for regulating and monitoring insurance companies conducting business in their respective state. In Missouri, the Department of Insurance (DOI) regulates most types of insurance – except for health insurance. The DOI states that since Missouri is an “open competition state,” it does not have the authority to regulate most health insurance premiums.² However, it does license health insurance companies and assure the solvency of the agencies.

Overall, most states have authority to regulate issues such as how premiums can be calculated; how much premiums can be raised; and if the companies must publicly disclose how rates are set. Although state agencies generally have authority to regulate health insurance companies, each differs drastically in what and how they regulate.

For example, thirty-five states require an insurance company to notify the regulatory agency if they raise premiums in the small and individual group insurance markets.³ (The economic reasoning is that due to

¹ Families USA. Issue Brief- Rate review: Holding health plans accountable for your premium dollars. April 2010. Available at: <http://www.familiesusa.org/assets/pdfs/health-reform/rate-review.pdf> .

² Missouri Department of Insurance. Accident and Health Questions. Available at: <http://insurance.mo.gov/consumers/faq/lhfaqs.php#raise>.

³ Kaiser State Health Facts. State Statutory Authority to Review Health Insurance Rates, Individual Plans, 2010. Available at: <http://www.statehealthfacts.org/comparetable.jsp?ind=887&cat=7>.

their size, an individual or small group market does not have the same bargaining power in setting a low premium rate as the large groups do. Government regulation has traditionally focused more on the small and individual groups to ensure that “reasonable” rates are offered.)

Only three states have no premium rate filing requirements - Georgia, Missouri, and Montana.⁴

Because of the high amount of variability in regulation across the U.S. and the lack of regulation in some states, premium prices differ widely. Since few states require making pricing decisions public, this low level of accountability may also lead to inflated prices.

The Role of Health Reform in Addressing Regulation and Prices

The ACA directs the Secretary of the Department of Health and Human Services (HHS) to create a system so each state annually reviews premium rate increases to ensure none are “unreasonable.” Though it does not define what constitutes an “unreasonable” rate increase, justifications must be given for large rate increases. In May 2011, HHS announced that a rate increase of ten percent or more would trigger a review, though such an increase would not automatically be judged to be an “unreasonable” increase.⁵

The rate review process will include a full accounting report and an annual report on how premiums are spent.⁶ This information must be posted on the websites of both the insurance companies and HHS.⁷ If states have effective review processes that meet HHS requirements, they will review the rates that exceed ten percent and may be unreasonable; otherwise, HHS will review proposed rate increases.

In setting premium rates, insurers consider several factors that will also be examined through rate review. From the insurer’s perspective, their revenues (premiums collected from consumers, income gains from investments, etc.) must equal or exceed their costs (medical claims for consumers; salaries, taxes, and fees; and profits for shareholders). Families USA, a not-for-profit advocacy organization, suggests that answering a series of questions can help determine if a rate increase is “unreasonable.” These include:

- How much of an insured’s premium is spent on medical care?
- Were there any premium increases in the last five years and if so, by what amount?
- Does the insurance company have an excess surplus?
- Is the insurer transparent about overall costs, profits and premium setting policies?⁸

In many states, regulators could deny rate increases found to be unreasonable. Although some states, including Missouri, do not have the authority to deny rate increases, consumers will still benefit by having greater public information about how their premiums are being spent, and will be able to make better informed choices.

⁴ Corlette, S. & Lundy, J. Rate Review: Spotlight on State Efforts to Make Health Insurance More Affordable. Kaiser Family Foundation. December 2010. Available at: <http://www.kff.org/healthreform/upload/8122.pdf>.

⁵ Kaiser Health News. HHS issues finalized health insurance rate review regulation. May 19, 2011. Available at: <http://www.kaiserhealthnews.org/daily-reports/2011/may/19/rate-review-rule.aspx>.

⁶ U.S. Department of Health and Human Services Newsroom. News Release: Affordable Care Act helps fight unreasonable health insurance premium increases. May 2011. Available at: <http://www.hhs.gov/news/press/2011pres/05/20110519a.html>.

⁷ Ibid.

⁸ Ibid #1.

Many states have cited a lack of financing as the reason for lax insurance regulation. The ACA granted \$250 million from 2010 to 2014 to the states to establish yearly rate reviews and give the HHS feedback on successes and failures.⁹ The goal is for every state to develop effective processes to review rate increases. While HHS will set a minimum threshold for “unreasonable” rate increases, states will be allowed to set lower thresholds.

Implications for Missouri Consumers

Because Missouri is one of three states that does not require insurance companies to even report premium increases to the DOI, the state does not meet HHS requirements for effective review. As a result, HHS will review premium rate increases, though it will not have the authority to deny rate hikes.

Instituting a rate review process in Missouri has the potential to at least stabilize prices for private insurance plans by making rate increases public and allowing consumers to make better educated choices. The increased public transparency and accountability included in rate review are both hallmarks of good business practices.

Over the next years, Missouri legislators will have the opportunity to strengthen the state’s premium review process by providing the Department of Insurance with the authority to protect consumers from unjustified rate hikes.

Conclusion

The ACA emphasizes that it is the states’ responsibility to regulate insurance companies and protect consumers. The HHS will establish a nationwide standard for reviewing rates, but allow each state to decide whether to establish even more stringent rate review regulations. The Missouri Department of Insurance must follow the minimum HHS rules about rate review, which will provide greater transparency about how premiums are set and how premium dollars are used. But the legislature could also choose to give the Department of Insurance the power to approve rate increases to more effectively reduce premium costs for Missourians.

⁹ U.S. Department of Health and Human Services. Press Release: Secretary Sebelius announces \$51 million in Affordable Care Act grants to innovate, improve, and enhance health insurance premium rate review. June 2010. Available at: <http://www.hhs.gov/news/press/2010pres/06/20100607a.html>.