

May 14, 2010

Office of the Secretary
Department of Health and Human Services
ATTN: DHHS-2010-PRR
Hubert H. Humphrey Building, Room 445-G
200 Independence Avenue SW
Washington, DC 20201

Re: DHHS-2010-PRR; Response to Request for Comments on Premium Review Process (Section 2794 of the Public Health Service Act)

Dear Secretary Sebelius:

The Center for Public Policy Priorities is a nonpartisan, nonprofit policy institute committed to improving public policies to better the economic and social conditions of low- and moderate-income Texans. Along with other issue areas, the center works on increasing access to quality, affordable health insurance. Our work includes research and education on public policies to increase accountability and transparency of health insurance premiums in Texas.

We appreciate the opportunity to offer the following response to your Request for Information related to premium rate review.

- Consumers are entitled to a regulatory review process for health insurance rates that places the interest of consumers first and foremost.
- Today, Texas only requires rate filings in the individual market and for HMOs (about 20% of the market). An actuarial justification is required only if an individual market rate increases more than 50 percent. The Texas Department of Insurance does not release information on premium rates increases from filed rates or actuarial justifications. Texas consumers are harmed by this lack of transparency.
- The Texas Department of Insurance does not have explicit authority to review rates and deny increases that are unreasonable and has never acted to block a rate. This harms Texas consumers who have no assurance that the premiums they are paying are justified and reasonable.
- Because federal health reform gives state and federal regulators a means to identify unreasonable rate increases, but Texas regulators have no way to stop those increases from taking effect, it is critical that the system developed for rate review empower consumers by requiring clear disclosure regarding unreasonable rates.
 - Enrollees should receive annual notice that their plan charges rates deemed unreasonable in advance of enrolling and renewing.
 - Notice of unreasonable rates should be required in all marketing materials.
 - In addition to requiring notice of unreasonable rates on health plan websites, state and federal regulator websites should maintain a consolidated, updated online list of health plans and policies that charge unreasonable rates. Information on this site should be at the policy form level, allowing consumers to determine whether they are charged unreasonable rates for the specific policy they hold. Information on this site should use language that is easy for consumers to understand.
- HHS must set a clear, nationwide standard of review for states to use to determine if rates are unreasonable. These standards must include consideration of the reasonableness of administrative costs, profits, surpluses, and projected future costs. Rates should be examined to ensure that a health plan's costs are accurately accounted for. Affordability for policyholders should be a consideration in the review.

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- If a health plan sets rates at the policy form level, rates must be reviewed at the policy form level. Consumers deserve to know whether the rate they pay for the specific policy they've purchased is reasonable.
 - Both initial rate filings and subsequent rate increases should be reviewed to determine whether they are reasonable.
 - All rate filings and accompanying documentation must be public information that is accessible to consumers through health plan and/or regulator websites. Health plans should not be allowed to claim trade secret or any other exception to disclosure.
 - To conduct meaningful rate review, state regulators must have sufficient resources. When allocating rate review grants to states, HHS should consider the capacity needed by states based on their current capacity for rate review and anticipated rate review volume.

Thank you for considering these comments.

Sincerely,



Stacey Pogue
Senior Policy Analyst