

Insurance Rate Public Justification and Accountability Act

Section 1. Findings and Purpose.

Health insurance, home insurance and auto insurance are mandatory for Californians due to economic necessity or the force of law. In such cases, government has an obligation to guarantee that the insurance is affordable, available, competitive and fair.

The purpose of this measure is to ensure fair and transparent rates for health, home and auto insurance by: (1) requiring health insurance companies to publicly disclose and justify their rates, under penalty of perjury, before the rates can take effect; (2) prohibiting unfair pricing for health, auto and home insurance based on prior coverage and credit history; and (3) requiring health insurance companies to pay a fee to cover the costs of administering these new laws so that this initiative will cost taxpayers nothing.

Section 2. Public Scrutiny and Review of Insurance Rates.

Section 1861.17 is added to Article 10 of Chapter 9 of Part 2 of Division 1 of the Insurance Code to read:

Sec. 1861.17. (a) Sections 1861.03(a) and (b) and 1861.04 through 1861.14 shall apply to health insurance, notwithstanding Sections 1851(e) and 10181-10181.13, Sections 1385.01-1385.13 of the Health and Safety Code, or any other provision of law. Health insurance rates proposed after November 6, 2012 shall be approved by the commissioner prior to their use, and health insurance rates in effect on November 6, 2012 are subject to refund under this section. Applications for health insurance rates shall be accompanied by a statement, sworn under penalty of perjury by the chief executive of the company, declaring that the contents are accurate and comply in all respects with California law.

(b) There shall be a transitional period during which the commissioner may permit, on a conditional basis and subject to refund as required by subdivision (c), rates for new health insurance that have not been approved pursuant to section 1861.05, provided (i) that the rates have an implementation date on or before January 1, 2014 and (ii) that the new health insurance has not previously been marketed in California and contains provisions mandated by federal law, or state law in effect as of January 1, 2012.

(c) In a proceeding pursuant to the authority of Section 1861.10(a), including a proceeding under Sections 1861.03 or 1861.05, where it is determined that a

company charged health insurance rates that are excessive or otherwise in violation of this article, the company shall be required to pay refunds with interest, notwithstanding any other provision of law and in addition to any other penalty permitted by law.

(d) With respect to health, automobile and homeowners insurance, the absence of prior insurance coverage, or a person's credit history, shall not be a criterion for determining eligibility for a policy or contract, or generally for rates, premiums or insurability.

(e) Notwithstanding any other provision of law, the commissioner is granted the powers necessary to carry out the provisions of this section, including any and all authority for health care service plan rate review granted to the Department of Managed Health Care by Section 1385.01 et seq. of the Health and Safety Code.

(f) Health insurance companies shall pay the filing fees required by Section 12979, which, notwithstanding Section 13340 of the Government Code, are continuously appropriated to cover any operational or administrative costs arising from this section. The commissioner shall annually report to the public all such expenditures and the impact of this section.

(g) For purposes of this section:

(1) "Health insurance" means a policy or contract issued or delivered in California (i) as defined in Section 106(b); (ii) a health care service plan, as defined by Section 1345(f) of the Health and Safety Code; or (iii) hospital indemnity, accident only, and specified disease insurance that pays benefits on a fixed benefit, cash payment only basis.

(2) "Rate" means the charges assessed for health insurance or anything that affects the charges associated with health insurance, including but not limited to benefits, premiums, base rates, underwriting relativities, discounts, co-payments, coinsurance, deductibles, premium financing, installment fees and any other out of pocket costs of the policyholder.

(3) A large group health insurance contract or policy as defined by Section 10181(a) or Section 1385.01(a) of the Health and Safety Code shall not be subject to this section unless (i) the employer or a collective bargaining representative files a petition to have the contract or policy subjected to this section; (ii) the rate increase for that policy or contract, or any risk category, will exceed ten percent; (iii) the rate increase is more than 125 percent of the consumer price index for medical costs as determined by the United States Department of Labor; or (iv) the contract or policy is changed in a manner that satisfies any one of the situations

described in Section 2590.715-1251(g) of Part 2590 of Title 29 of the Code of Federal Regulations as that provision read on January 1, 2011.

(4) Any policy or contract excluded under Section 10181.2 or Section 1385.02 of the Health and Safety Code, as those provisions were in effect on January 1, 2011, shall not be subject to this section.

Section 3. Technical Matters.

This Act shall be liberally construed and applied in order to fully promote its underlying purposes, and shall not be amended, directly or indirectly, by the Legislature except to further its purposes by a statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electorate. If any provision of this Act or the application thereof to any person or circumstances is held invalid or unenforceable, it shall not affect other provisions or applications of the Act which can be given effect without the invalid or unenforceable provision or application, and to this end the provisions of this Act are severable.