



HealthWatch Wisconsin

# REPORTER

June 29, 2011

Private Health Insurance Rate Review in Wisconsin!

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*ABC for Health, in partnership with HealthWatch Wisconsin, a membership organization that focuses work on maximizing access to care and coverage for the people of Wisconsin, has developed "The HealthWatch Wisconsin Reporter."*

*This special edition newsletter tackles the big issues, providing in-depth analysis and insight into complex public health and health coverage questions.*

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## A Special In Depth Report: Health Insurance Rate Review in Wisconsin

*You are receiving this Special Edition Newsletter as a benefit of being a subscriber to the HealthWatch Wisconsin Update Newsletter. Thank you!*

### Attend the Rate Review Public Meeting:

What:	When:	Where:	Agenda Items:
Rate Review Discussion	June 29, 2011, 1:00-3:00pm	Commissioner of Insurance, 125 S. Webster Street, Madison, Conf. Rm. 227	Rate Review Grant, Updated Rate Review Process

### The Rate Review Situation in Wisconsin

The Affordable Care Act, (health reform) requires states and the federal government to review private health insurance premium increases that appear excessive. In a [final regulation](#), the US Department of Health and Human Services (HHS) has determined that an insurance plan rate increase of 10% or more is considered "unreasonable." These plans will be subject to further review to determine if the increase is justified. HHS does not have the authority to block a rate increase after it has been determined to be unreasonable. States will decide if they want to exclude that unreasonable plan from participation in future exchanges.



In the summer of 2010, HHS distributed \$250 million in grants for states to implement or expand the scope of their premium review processes, increase transparency, and provide more data to consumers. In Wisconsin, then Commissioner of Insurance Sean Dilweg helped bring \$1 million of federal money to improve Wisconsin's rate review process. Historically, Wisconsin does not require insurance companies to get "prior approval" of proposed rate increases. In fact, Wisconsin is quite lax in its oversight of increases, the only state in the country that merely requires insurers to tell regulators about new rates as they go into effect or "soon thereafter." The federal money was designed to help prevent

Whether you are joining for the first time or renewing, you are teaming up with an impressive effort in Wisconsin that champions education and the accurate dissemination of health coverage information and the accessibility of health coverage for all people in Wisconsin. Let HealthWatch help you amplify your voice! The membership and subscription year begins July 1 of each year, but individuals or organizations may join at any time! [Click here](#) to complete an application. Thank you!

### HealthWatch Public Hearings: The Human Impact of Medicaid/BadgerCare Cuts in Wisconsin

HealthWatch Wisconsin has posted the complete video footage of public testimony on the impact of proposed BadgerCare+ and Medicaid cuts that will affect 1.2 million Wisconsinites covered by these programs. In March, HealthWatch Wisconsin sponsored two days of public hearings during the HealthWatch Wisconsin Annual Conference, drawing hundreds of people to listen, learn, and for some, to share their stories and the stories of loved ones. HealthWatch Wisconsin staff was on hand to record participants' testimony. Please

"unreasonable" rate increases.

Fast forward to spring 2011. Wisconsin's new Insurance Commissioner, Ted Nickel maintains that aggressive rate regulation is not necessary because Wisconsin "has a competitive insurance market." Wisconsin statute actually presumes that if price competition exists in the market, then rates are not excessive. The Office of the Commissioner of Insurance (OCI) is holding the \$1 million with instructions to implement the new rate review procedures and rules, including a rule that says any rate increase of 10% or more is considered "unreasonable."

There are three key questions for Wisconsin's administration as it carries out its proposed plan to improve health insurance rate review:

1. Has transparency and accessibility of rate information improved?
2. What staff, capacity or resources have been added to conduct an adequate review?
3. What will you do to change the culture to "active review" in Wisconsin?

We can presume this will be an uphill battle with an insurance commissioner who sees little value to rate regulation. Before we look ahead, we'll begin with a refresher of some of the basics of rate review, and more perspective from Wisconsin's history.

### What is Rate Review?

An insurance rate is a factor used to calculate the premiums an insurance company charges for a policy. In the world of individual and small group private health insurance, the policyholders' premiums are consolidated into blocks of insurance. The consolidated policyholders are often limited to the risk associated with the block of insurance that includes other individuals or small groups. First and foremost, the company wants to collect an overall amount of **revenue** that covers their expenses and **costs**. Consumers should expect a fair and transparent process to ensure that rates are set fairly. Unfortunately, the rate review process is dominated by insurance industry insiders.

### The Need for Transparent Rate Review

People enrolling in health plans often lack the tools they need to understand why rates are changing or if that change is appropriate. We can point to a few potential influences dictating the current rate insurers charge:

- The increase in current medical costs
- Fragmented individual markets (lack of risk-pooling)
- Low medical loss ratios
- Inflated cost projections
- Adverse selection
- Lack of or lax oversight

At a minimum, rate review should include the **calculations** and the

[CLICK HERE](#) to view these HealthWatch Wisconsin public hearings.

**NOW OPEN:  
Immigrant Health  
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**Attention  
HealthWatch  
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The July 21 Immigrant Health Coverage Issues Training is **FREE** for 2011-2012 HealthWatch Wisconsin Members!

The Immigrant Health Options Training is a member favorite that explores the health care coverage options available to non-qualified immigrants in Wisconsin. This year, the training will be a live, interactive webcast.

The webcast will air **LIVE on July 21 at 9:30 a.m.**, and viewers will be able to submit questions as it plays.

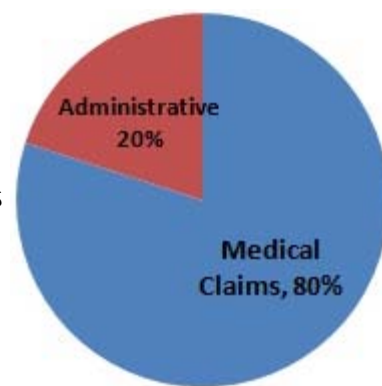
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This training is **FREE for 2011-2012 HealthWatch Wisconsin members and subscribers.** (The cost of this training is \$50 for non-members/subscribers.) If you haven't joined or renewed your HealthWatch Wisconsin membership in time for the new membership year (effective July 1, 2011), [CLICK HERE](#) to

**documentation** that provide the foundation for rate setting by insurers.

**Defining the Medical Loss Ratio (MLR)**

The share of premiums that insurers ultimately pay out on health care claims is the medical loss ratio. The remainder goes toward administrative expenses, other costs and profits. Enter the Affordable Care Act, addressing MLR. Patient advocates and others worry that if the medical loss ratios are not stringent enough, insurers won't do enough to reduce administrative costs and premiums won't come down for consumers. On the other hand, health insurers wanted as many things as possible included under the "medical" and "quality improvement" categories in order to more easily meet the minimum spending requirements. The Affordable Care Act sets new MLR standards for insurers. Insurers must spend at least 80% of individual and small group premiums (85% for large groups) on medical care and activities that improve healthcare quality. By summer 2012, insurers will be required to submit a report to the federal government on how their MLR calculation added up for the prior calendar year.



**The Role of States**

Oversight of private health insurance is largely a state function (unless it is a plan that falls under federal supervision, such as an ERISA self-funded plan.) Yet, states vary substantially on their rules, mandates and oversight. Most states require insurance companies to submit information on the premiums and rates they intend to charge. In fact, 43 states have some sort of process already in place where state regulatory authorities review rates in the individual or small group markets. Wisconsin is not included in this count. Wisconsin uses an approach called "use and file," which means insurers must "tell regulators about new rates as they go into effect or soon thereafter." They do not have to get "prior authorization" to have rates approved by regulators before they are effective. Wisconsin is among a handful of state that "review" rates in a hands-off fashion.

**Health Reform Changes Everything**

The Affordable Care Act requires states and the federal government to review private health insurance premium increases that appear excessive. The federal government is now charged with helping states to develop a process for reviewing the unreasonable increases in premiums for categories of health insurance. The first step: define the word "unreasonable." HHS issued a proposed rule in the late spring of 2011 to try and accomplish this objective, to discourage insurers from inappropriately increasing premiums while also making the insurance market more transparent. In May 2011, HHS issued a final regulation that will take effect September 1, 2011.

Under the regulation, an insurance plan rate increase of **10% or more** will be considered **unreasonable**. The rule is effective for

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Not available to watch on July 21? Don't worry! After the live showing, the Immigrant Health Options webcast will be available on-demand to HWW members in the HealthWatch Wisconsin Training Portal.

### **New Content is Posted in the Online Training Portal!**

Today, a new training has been posted in the HealthWatch Wisconsin Online Training Portal! The training, called "**An Introduction to Disability Programs**" begins with Elderly, Blind, and Disabled Medicaid and the Medicaid Assistance Purchase Plan. Next week, HealthWatch will continue to delve into Wisconsin disability programs. Stay tuned for another new training!

### **How You Can Watch the Training for Free!**

Access to the HealthWatch Wisconsin Training Portal is **FREE** with your HealthWatch Wisconsin membership! With the new HealthWatch Wisconsin membership year comes a new series of trainings on the [HealthWatch Wisconsin Training Portal](#). [Join HealthWatch Wisconsin TODAY](#) to have access to the Training Portal.

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plans with a filing or effective date of July 1, 2011. These plans will be subject to further review to determine if the increase is "justified." (This applies to individual and small group markets only, not large group or grandfathered plans.) The 10% threshold applies in 2011 only. Future thresholds will be determined more on a state-by-state basis.

### **Enforcement**

If HHS determines a rate increase is unreasonable, the Affordable Care Act does not give HHS authority to block the increase. Some states may have the authority to do so. Once HHS determines a rate increase is unjustified, excessive or unfairly discriminatory, it will be considered "unreasonable," and the insurer might choose to withdraw or reduce the requested rate increase. It may also choose to go ahead with the increase. Then the company must publicly disclose the increase on its website and provide a final justification to HHS. The Affordable Care Act says that states have the option of excluding from participation in a future insurance exchange any insurer with a history of excessive or unjustified premium increases.



### **Funding Rate Review through Health Reform**

The federal government's power is on the front end of the process of building better rates and transparency. In August 2010, the federal government distributed the allocated \$250 million in grants for states to implement or expand the scope of their premium review processes, improve information reporting, create legislative authority to strengthen programs, increase transparency, upgrade technology to enhance data sharing, and provide more data to consumers. The focus of federal funding is to ensure a sufficient rate review process. Forty-five states, including Wisconsin, received \$1 million in grants that are anticipated to run for 5 years.

### **Wisconsin's \$1 Million Proposal To "Improve" Rate Review**

#### **Stubborn Wisconsin:**

Wisconsin requires rate filing within 30 days of use. We use the "[use and file](#)" approach when it comes to review authority. With regards to our small group plan type, Wisconsin only requires an actuarial certificate and still uses the "use and file" approach to review the rate increase in question. Rates are generally reviewed only in response to consumer complaints. However, this review is constrained by a statutory presumption under [Wisconsin Statute](#) that if price competition exists in the market, then the rates are not excessive. More typically, the rates are only checked for completeness.



The people of Wisconsin currently have access to rate information on [OCI's website](#) that is difficult to navigate. However, Wisconsin generally presumes that all information included in a rate filing should

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[ABC for Health, Inc.](#) is a Wisconsin-based, nonprofit public interest law firm dedicated to linking children and families, particularly those with special health care needs, to health care benefits and services. ABC for Health's mission is to provide information, advocacy tools, legal services, and expert support needed to obtain, maintain, and finance health care coverage and services.

be public. A policyholder can request a rate hearing, but the Commissioner has the discretion to determine whether there is sufficient cause to hold one.

## Using the Federal Money: The Wisconsin Plan

The following is a general summary of how Wisconsin originally intended to use its funding from the federal government according to a summary of the proposal posted on [healthcare.gov](#):



- **Additional Legislative Authority:** Grant funds will be used to assess the need to pursue additional statutory authority to collect and review--on an ongoing basis--detailed rate information for the *large group* market.
- **Expand the Scope of the Review Process:** The State will expand health insurance premium review of non-group and group markets.
- **Improve the Review Process:** Wisconsin currently reviews health insurance premium filings for the individual market using actuaries, but only in a limited way. Grant funds will be used for actuarial consulting to develop more rigorous standardized requirements. Funding will also be used to assess the need for additional legislation or regulations.
- **Increase Transparency and Accessibility:** Wisconsin currently publishes health insurance premium filings on their website and insurers are required to provide 60 days of notice to consumers for increases. Using federal grants, Wisconsin will develop a public hearing and comment process and create more understandable information and explanations for consumers.
- **Develop and Upgrade Technology:** Wisconsin will establish a data center to compile and publish fee schedule information.

With a new administration and new leadership at OCI, we can expect changes in Wisconsin's approach to rate review. On January 27, 2011, Governor Scott Walker signed into law Executive Order #10 establishing the [Office of Free Market Health Care](#), directed by the Department of Health Services and OCI. Governor Walker recommended a plan for state review of insurance premium increases that would:

- Encourage transparency in all efforts of the Office of Free Market Health Care so that Wisconsin residents and employers may make appropriate health care decisions;
- Assess the impact of Health Reform on Wisconsin insurance and programs;
- Seek council from a wide range of health care stakeholders including but not limited to consumers, small businesses, providers, insurers, labor unions, and other vested organizations;
- Conditionally develop a plan for the design and implementation of a Wisconsin health benefit exchange that utilizes a free-market, consumer driven approach;
- Explore all opportunities and alternative approaches that would free Wisconsin from establishing a health benefit exchange, including federal waivers.



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## Holding Wisconsin Accountable

Advocates must keep an eye on Wisconsin's Office of Free Market Health Care, to ensure the goals, objectives and activities of rate review are completed as required by federal law. Federal regulators should be alerted if Wisconsin fails to:



- Increase transparency--actually show consumers' rates, rate justifications and notices to consumers when there is a change or a hearing.
- Provide an opportunity for public comment on premium increases.
- Work with insurers and consumers, consumer groups and other key stakeholders to develop efficiencies for insurers and consumers.
- Hire actuaries and staff with their grant to be able to review the rate increase proposals and determine if they meet the "reasonableness" test.
- Build and leverage information technology to create administrative efficiencies.

### What You Can Do as A Stakeholder:

As stakeholders in Wisconsin's insurance marketplace, there are actual accountability steps we can take to ensure we have a well managed insurance marketplace:

**Educate.** See our [webpage](#) and follow the [Updates!](#) Educate yourself and others on what health reform does for Wisconsin. Consider what are other states doing-especially a model state like Oregon or Maine. Learn the reasons insurance companies are providing for their rate hikes. Are we holding them accountable?

**Advocate.** For a fair, transparent process, advocate for improving Wisconsin's rate review to match other model states--those with "prior approval" of rate increases, consumer input, advocacy watchdog groups, and active insurance commissioners. Provide comment to the Commissioner of Insurance, Department of Health Services and Office of Free Market Health Care, and encourage others to do the same. Tell the real stories of real people. Access to affordable insurance and quality benefits is the difference between life-saving, affordable care and uninsurance, medical debt, and chronic illness for real people. Tell the stories of real people to agency representatives, advocates, community members and the media. It will make a difference.

### Additional Federal Funding Available: Will Wisconsin Apply?

In August 2011, HHS is making a second round of rate review grants available to states. A total of \$199 million will be awarded. This "Cycle II" grant funding opportunity is designed to further assist states in improving and enhancing their health insurance rate review and reporting processes. Funding is available to develop an effective rate review program as set forth in the final rate review rule. An

effective rate review program meets the following criteria:

- The State receives data and documentation to determine if a rate increase is unreasonable;
- The State has adequate resources to effectively and timely review that data;
- The State's review examines the reasonableness of the assumptions used by the issuer in developing its rate proposal; and
- The State's determination of "reasonable" is based on a standard in State statute or regulation.

Wisconsin must complete the benchmarks of the Cycle I funding. Meaningful consumer involvement in the process of establishing rate review is a funding consideration. Should Wisconsin successfully complete Cycle I and subsequently apply for the Cycle II funding, the grant could be awarded by the end of September 2011. This grant program is being administered by HHS under the authority of the Public Health Service Act entitled, "Ensuring That Consumers Get Value for Their Dollars."

## Conclusion

While other issues are garnering more media attention, rate review issues discussed here will have significant and long-term effects on the quality of care and the access to that care in Wisconsin. The Office of the Commissioner of Insurance is moving ahead quickly with measures that may ultimately harm consumers. Please show the powers that be that you *are* paying attention and speak up in favor of a fully transparent rate review process in Wisconsin that includes consumer input!

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