REVIEW OF HEALTH BENEFIT PLAN RATE INCREASES

Section

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120-2-98-0.23-.01 Purpose and Authority.

Section 1003 of the Patient Protection and Affordable Care Act directs the Secretary of the Department of Health and Human Services ("HHS"), in conjunction with the States, to establish a process for the review of unreasonable health insurance rate increases. The federal regulations adopted by HHS at 45 C.F.R. Part 154 set forth criteria for an effective rate review program and provide that, on and after September 1, 2011, HHS will defer to a State review of certain health insurance rate filings only if that State has been deemed to have an effective rate review program. HHS will assert the authority to review certain health insurance rate filings in States without an effective rate review program. Georgia has been deemed to be an effective rate review State subject to the adoption of the federal rate review criteria on or before September 1, 2011. This Emergency Regulation Chapter is necessary to preserve the Commissioner of Insurance's ability to review certain health insurance rates and preserve the public welfare as contemplated by O.C.G.A. § 33-9-1(a) and other applicable provisions of Title 33 cited herein.

This regulation is issued pursuant to the authority vested in the Commissioner under Chapters 2 and 9 of Title 33 and O.C.G.A. Sections O.C.G.A. 33-21-13, 33-21-18, and 33-21-28.

Authority O.C.G.A. §§ 33-2-9, 33-9-1 *et seq.*, 33-21-13, 33-21-18(a), and 33-21-28.

120-2-98-0.23-.02 Definitions.

(1) "CMS" means the Centers for Medicare & Medicaid Services.

(2) "Health benefit plan" has the same meaning as O.C.G.A. § 33-24-59.5 as that term is modified by the exclusions of O.C.G.A. § 33-1-2(1.1).
(3) "Individual market" means the market for health benefit plans where the health benefit plan is issued directly to a natural person and not through coverage under a group, blanket or franchise health benefit plan.
(4) "Rate increase" means any increase of the rates for a health benefit plan offered in the individual or small group market.
(5) "Rate increase subject to review" means a rate increase that meets the criteria set forth in 120-2-98-0.23-.03.
(6) "Secretary" means the Secretary of the Department of Health and Human Services.
(7) "Small group market" means the market within which small group coverage is sold as that term is defined in O.C.G.A. § 33-30-12(a).
(8) "Unreasonable rate increase" means a rate increase subject to review that violates applicable laws, regulations, and rules.

Authority O.C.G.A. §§ 33-2-9, 33-9-1 *et seq.*, 33-21-13, 33-21-18(a), and 33-21-28.

120-2-98-0.23-.03 Rate Increases Subject to Review.

Only rate increases for health benefit plans that are equal to or exceed 10% are subject to review under this regulation. The methodology for determining the amount of a rate increase prescribed in 45 C.F.R. § 154.200 shall be used to determine whether a rate increase is equal to or exceeds 10%.

Authority O.C.G.A. §§ 33-2-9, 33-9-1 *et seq.*, 33-21-13, 33-21-18(a), and 33-21-28.

120-2-98-0.23-.04 Rate Filing Requirements.

In addition to other materials that are otherwise required to be filed, each insurer is required to file the following material for a rate increase subject to review:
(1) The preliminary justification required by 45 C.F.R. § 154.215(b);
(2) The documentary support for all assumptions used by the insurer to develop the proposed rate increase, including historical data underlying the assumptions;
(3) The documentary support demonstrating the insurer's consideration of the applicable factors set forth in 120-2-98-0.23-.05;
(4) Any documentation requested by the Department in association with any rate increase subject to review.

Authority O.C.G.A. §§ 33-2-9, 33-9-1 *et seq.*, 33-21-13, 33-21-18(a), and 33-21-28.

120-2-98-0.23-.05 Standards of Review.

In addition to standards or criteria of review that are otherwise applicable to a rate increase subject to review under this regulation, the following standards will apply to the review of rates:

(1) The impact of medical trend changes by major service categories;
(2) The impact of utilization changes by major service categories;
(3) The impact of cost-sharing changes by major service categories;
(4) The impact of benefit changes;
(5) The impact of changes in enrollee risk profile;
(6) The impact of any overestimate or underestimate of medical trend for prior year periods related to the rate increase;
(7) The impact of changes in reserve needs;
(8) The impact of changes in administrative costs related to programs that improve health care quality;
(9) The impact of changes in other administrative costs;
(10) The impact of changes in applicable taxes, licensing or regulatory fees;
(11) Medical loss ratio; and
(12) The health insurance issuer's capital and surplus.

Authority O.C.G.A. §§ 33-2-9, 33-9-1 *et seq.*, 33-21-13, 33-21-18(a), and 33-21-28.

120-2-98-0.23-.06 Access of Public to Rate Increase Process.

The preliminary justification of a proposed rate increase subject to review, filed pursuant to 120-2-98-0.23-.04(1), will be published to the Department of Insurance website within five (5) business days of receipt. In addition the Department will accept public comments on any proposed rate increase.

Authority O.C.G.A. §§ 33-2-9, 33-9-1 *et seq.*, 33-21-13, 33-21-18(a), and 33-21-28.

120-2-98-0.23-.07 Reporting Final Determination to CMS.

The Department will report its final determination of whether a rate increase subject to review is unreasonable in accordance with 45 C.F.R. § 154.210(b)(2).

Authority O.C.G.A. §§ 33-2-9, 33-9-1 *et seq.*, 33-21-13, 33-21-18(a), and 33-21-28.

120-2-98-0.23-.08 Rate Filing Guidance.

The Commissioner shall issue guidance for electronic filing of rates subject to this regulation via bulletins. All rate filings subject to this regulation must be filed in accordance with the relevant bulletin.

Authority O.C.G.A. §§ 33-2-9, 33-9-1 *et seq.*, 33-21-13, 33-21-18(a), and 33-21-28.

120-2-98-0.23-.09 Applicability of Other Regulations.

These regulations apply in addition to other applicable regulations.

Authority O.C.G.A. §§ 33-2-9 and 33-21-18(a).

120-2-98-0.23-.10 Severability.

If any provision of these sections or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these sections which can be given effect without the invalid provisions or application. To this end all provisions of these sections are declared to be severable.

Authority O.C.G.A. §§ 33-2-9 and 33-21-18(a).

120-2-98-0.23 -.11 Effective Date.

This Emergency Regulation Chapter shall become effective September 1, 2011, and remain effective for a period of not longer than 120 days.