



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1912

Introduced 2/9/2023, by Sen. Laura Fine

SYNOPSIS AS INTRODUCED:

20 ILCS 1405/1405-26 new

215 ILCS 5/355

215 ILCS 125/4-12

from Ch. 73, par. 967

from Ch. 111 1/2, par. 1409.5

Amends the Department of Insurance Law. Provides that the Department of Insurance shall establish the Office of the Healthcare Advocate. Provides that the Office shall be administered by the Chief Health Care Advocate, who shall report to the Director of Insurance. Amends the Illinois Insurance Code and the Health Maintenance Organization Act. Provides that all individual and small group accident and health policies written subject to certain federal standards must file rates with the Department for approval. Provides that unreasonable rate increases or inadequate rates shall be modified or disapproved. Provides that when an insurer files a schedule or table of premium rates for individual or small group health benefit plans, the insurer shall post notice of the premium rate filings and a filing summary in plain language on the insurer's website. Provides that the Department shall post all insurers' rate filings and summaries on the Department's website. Provides that the Department shall open a 30-day public comment period on the date that a rate filing is posted on the website. Provides that the Department shall hold a public hearing during the 30-day comment period. Provides that the Director shall adopt affordability standards that must be considered in any decision to approve, disapprove, or modify rate filings. Provides that after the close of the public comment period, the Department shall issue a decision to approve, disapprove, or modify a rate filing, and post the decision on the Department's website. Provides that the Department shall adopt rules implementing specified procedures. Defines "inadequate rate", "plain language", and "unreasonable rate increase".

LRB103 25851 BMS 57008 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Department of Insurance Law is amended by
5 adding Section 1405-26 as follows:

6 (20 ILCS 1405/1405-26 new)

7 Sec. 1405-26. Office of the Healthcare Advocate.

8 (a) The Department of Insurance shall establish the Office
9 of the Healthcare Advocate. The Office shall be administered
10 by the Chief Health Care Advocate, who shall report to the
11 Director. The Advocate shall be an individual with expertise
12 and experience in the fields of health insurance and consumer
13 advocacy. The Advocate may employ legal counsel, independent
14 actuaries, and other employees and contractors as needed to
15 carry out the duties of the Office.

16 (b) The Advocate shall evaluate data, in consultation with
17 an actuary, to assess individual and small group health
18 benefit plan rate filings, networks, and affordability; and
19 represent the interests of individuals and small business
20 owners in public hearings held pursuant to subsection (e) of
21 Section 355 of the Illinois Insurance Code and subsection (f)
22 of Section 4-12 of the Health Maintenance Organization Act.

23 (c) The Advocate shall have access to the unredacted

1 actuarial memos that insurers send to the Department as part
2 of the rate filings.

3 (d) In the performance of the Advocate's duties, the
4 Advocate shall act independently of the Department. Any
5 recommendations made or positions taken by the Advocate do not
6 reflect those of the Department.

7 (e) The Department may adopt reasonable rules necessary to
8 implement this Section.

9 Section 10. The Illinois Insurance Code is amended by
10 changing Section 355 as follows:

11 (215 ILCS 5/355) (from Ch. 73, par. 967)

12 Sec. 355. Accident and health policies; provisions.
13 ~~policies-Provisions.)~~

14 (a) As used in this Section:

15 "Inadequate rate" means a rate:

16 (1) that is insufficient to sustain projected losses
17 and expenses to which the rate applies; and

18 (2) the continued use of which endangers the solvency
19 of an insurer using that rate.

20 "Plain language" shall have the same meaning as "plain
21 writing" as used in the federal Plain Writing Act of 2010, and
22 subsequent guidance documents, including the Federal Plain
23 Language Guidelines.

24 "Unreasonable rate increase" means a rate increase that

1 the Director determines to be excessive, unjustified, or
2 unfairly discriminatory in accordance with 45 CFR 154.205.

3 (b) No policy of insurance against loss or damage from the
4 sickness, or from the bodily injury or death of the insured by
5 accident shall be issued or delivered to any person in this
6 State until a copy of the form thereof and of the
7 classification of risks and the premium rates pertaining
8 thereto have been filed with the Director; nor shall it be so
9 issued or delivered until the Director shall have approved
10 such policy pursuant to the provisions of Section 143. If the
11 Director disapproves the policy form he shall make a written
12 decision stating the respects in which such form does not
13 comply with the requirements of law and shall deliver a copy
14 thereof to the company and it shall be unlawful thereafter for
15 any such company to issue any policy in such form.

16 (c) Rate increases for all individual and small group
17 accident and health insurance policies subject to the
18 standards of 45 CFR Part 154 must be filed with the Department
19 for approval. Unreasonable rate increases or inadequate rates
20 shall be modified or disapproved.

21 (d) When an insurer files a schedule or table of premium
22 rates for individual or small group health benefit plans, the
23 insurer shall post notice of the rate filing and a filing
24 summary in plain language on the insurer's website. The
25 Department shall post all insurers' rate filings and summaries
26 on the Department's website. All summaries shall include a

1 brief justification of any rate increase or decrease
2 requested, including the number of individual members, the
3 medical loss ratio, medical trend, administrative costs, and
4 any other information requested by the Director. The plain
5 language summary shall include notification of the public
6 comment period established in subsection (e).

7 (e) The Department shall open a 30-day public comment
8 period on the rate filing beginning on the date that the rate
9 filing is posted on the website. The Department shall post all
10 of the comments received to the Department's website within 5
11 business days after the comment period ends. The Department
12 shall hold a public hearing during the 30-day comment period.

13 (f) The Director shall adopt affordability standards that
14 must be considered in any decision to approve, disapprove, or
15 modify rate filings. These affordability standards include,
16 but are not limited to, the following:

17 (1) trends, including historical rates for existing
18 products and national and regional medical and health
19 insurance trends;

20 (2) inflation;

21 (3) price comparisons to other market rates for
22 similar products;

23 (4) the ability of low-income individuals to pay for
24 health insurance;

25 (5) the ability of small businesses to pay for health
26 insurance;

1 (6) health insurers' efforts to control administrative
2 costs; and

3 (7) effective strategies implemented by health
4 insurers to increase affordability, including payment
5 reform across the delivery system.

6 (g) After the close of the public comment period described
7 in subsection (e), the Department shall issue a decision to
8 approve, disapprove, or modify a rate filing. The Department
9 shall notify the insurer of the decision, and make the
10 decision available to the public by posting it on the
11 Department's website, and include the following information:

12 (1) an explanation of the findings and rationale that
13 are the basis for the decision; and

14 (2) any actuarial or other analyses, calculations, or
15 evaluations relied upon by the Department in arriving at
16 the decision.

17 (h) If, following the issuance of a decision but before
18 the effective date of the premium rates approved by the
19 decision, an event occurs that materially affects the
20 Director's decision to approve, deny, or modify the rates, the
21 Director may consider supplemental facts or data reasonably
22 related to the event.

23 (i) The Department shall adopt rules implementing the
24 procedures described in subsections (d) through (h).

25 (Source: P.A. 79-777.)

1 Section 15. The Health Maintenance Organization Act is
2 amended by changing Section 4-12 as follows:

3 (215 ILCS 125/4-12) (from Ch. 111 1/2, par. 1409.5)

4 Sec. 4-12. Changes in Rate Methodology and Benefits,
5 Material Modifications. A health maintenance organization
6 shall file with the Director, prior to use, a notice of any
7 change in rate methodology, or benefits and of any material
8 modification of any matter or document furnished pursuant to
9 Section 2-1, together with such supporting documents as are
10 necessary to fully explain the change or modification.

11 (a) Contract modifications described in subsections
12 (c) (5), (c) (6) and (c) (7) of Section 2-1 shall include all
13 form agreements between the organization and enrollees,
14 providers, administrators of services and insurers of health
15 maintenance organizations.

16 (b) Material transactions or series of transactions other
17 than those described in subsection (a) of this Section, the
18 total annual value of which exceeds the greater of \$100,000 or
19 5% of net earned subscription revenue for the most current
20 twelve month period as determined from filed financial
21 statements.

22 (c) Any agreement between the organization and an insurer
23 shall be subject to the provisions of the laws of this State
24 regarding reinsurance as provided in Article XI of the
25 Illinois Insurance Code. All reinsurance agreements must be

1 filed. Approval of the Director is required for all agreements
2 except the following: individual stop loss, aggregate excess,
3 hospitalization benefits or out-of-area of the participating
4 providers unless 20% or more of the organization's total risk
5 is reinsured, in which case all reinsurance agreements require
6 approval.

7 (d) Rate increases for all individual and small group
8 accident and health insurance policies subject to the
9 standards of 45 CFR Part 154 must be filed with the Department
10 for approval. Unreasonable rate increases in relation to
11 benefits under the policy provided or inadequate rates shall
12 be modified or disapproved.

13 (e) When a health maintenance organization files a
14 schedule or table of premium rates for individual or small
15 group health benefit plans, the health maintenance
16 organization shall post notice of the rate filing and a filing
17 summary in plain language on the organization's website. The
18 Department shall post all insurers' rate filings and summaries
19 on the Department's website. All summaries shall include a
20 brief justification of any rate increase or decrease
21 requested, including the number of individual members, the
22 medical loss ratio, medical trend, administrative costs, and
23 any other information requested by the Director. The plain
24 language summary shall include notification of the public
25 comment period established in subsection (f).

26 (f) The Department shall open a 30-day public comment

1 period on the rate filing beginning on the date that the rate
2 filing is posted on the website. The Department shall post all
3 of the comments received to the Department's website within 5
4 business days after the comment period ends. The Department
5 shall hold a public hearing during the 30-day comment period.

6 (g) The Director shall adopt affordability standards that
7 must be considered in any decision to approve, disapprove, or
8 modify rate filings. These affordability standards include,
9 but are not limited to, the following:

10 (1) trends, including historical rates for existing
11 products and national and regional medical and health
12 insurance trends;

13 (2) inflation;

14 (3) price comparisons to other market rates for
15 similar products;

16 (4) the ability of low-income individuals to pay for
17 health insurance;

18 (5) the ability of small businesses to pay for health
19 insurance;

20 (6) health insurers' efforts to control administrative
21 costs; and

22 (7) effective strategies implemented by health
23 insurers to increase affordability, including payment
24 reform across the delivery system.

25 (h) After the close of the public comment period described
26 in subsection (f), the Department shall issue a decision to

1 approve, disapprove, or modify a rate filing. The Department
2 shall notify the health maintenance organization of the
3 decision, and make the decision available to the public by
4 posting it on the Department's website, and include the
5 following information:

6 (1) an explanation of the findings and rationale that
7 are the basis for the decision; and

8 (2) any actuarial or other analyses, calculations, or
9 evaluations relied upon by the Department in arriving at
10 the decision.

11 (i) If, following the issuance of a decision but before
12 the effective date of the premium rates approved by the
13 decision, an event occurs that materially affects the
14 Director's decision to approve, deny, or modify the rates, the
15 Director may consider supplemental facts or data reasonably
16 related to the event.

17 (j) The Department shall adopt rules implementing the
18 procedures described in subsections (e) through (i).

19 (k) As used in this Section:

20 "Inadequate rate" means a rate:

21 (1) that is insufficient to sustain projected losses
22 and expenses to which the rate applies; and

23 (2) the continued use of which endangers the solvency
24 of an insurer using that rate.

25 "Plain language" shall have the same meaning as "plain
26 writing" as used in the federal Plain Writing Act of 2010, and

1 subsequent guidance documents, including the Federal Plain
2 Language Guidelines.

3 "Unreasonable rate increase" means a rate increase that
4 the Director determines to be excessive, unjustified, or
5 unfairly discriminatory in accordance with 45 CFR 154.205.

6 (Source: P.A. 86-620.)