



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB0289

Introduced 01/28/11, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

New Act

Creates the Health Insurance Rate Review Act. Creates the independent quasi-judicial Health Insurance Rate Review Board to ensure insurance rates are reasonable and justified. Sets forth duties and prohibited activities concerning the Board. Creates the Health Insurance Rate Review Board Nomination Panel to provide a list of nominees to the Governor for appointment to the Health Insurance Rate Review Board. Sets forth the procedures for nomination. Provides requirements and procedures for health carriers to file current and proposed rates and rate schedules with the Health Insurance Rate Review Board. Provides that the Board shall review and approve or disapprove all rates and rate schedules filed or used by a health carrier. Sets forth provisions concerning rate standards, public notice, hearings, and the disapproval and approval of rates and rate schedules.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning insurance.

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

4 Section 1. Short title. This Act may be cited as the Health
5 Insurance Rate Review Act.

6 Section 5. Definitions. For the purposes of this Act:

7 "Board" means the Health Insurance Rate Review Board.

8 "Director" means the Director of Insurance.

9 "Health benefit plan" means a policy, contract,
10 certificate, plan, or agreement offered or issued by a health
11 carrier to provide, deliver, arrange for, pay for, or reimburse
12 any of the costs of health care services.

13 "Health care services" means services for the diagnosis,
14 prevention, treatment, cure, or relief of a health condition,
15 illness, injury or disease.

16 "Health carrier" means an entity subject to the insurance
17 laws and regulations of this State, or subject to the
18 jurisdiction of the Director, that contracts or offers to
19 contract to provide, deliver, arrange for, pay for, or
20 reimburse any of the costs of health care services, including a
21 sickness and accident insurance company, a health maintenance
22 organization, or any other entity providing a plan of health
23 insurance, health benefits, or health care services. "Health

1 carrier" also means Limited Health Service Organizations and
2 Voluntary Health Service Plans.

3 "Insured" means an individual who is enrolled in or
4 otherwise participating in a health benefit plan.

5 "Rate" means premium, deductible, co-payment, or any other
6 amount that the health carrier requires its policyholders to
7 pay.

8 "Supplementary rating information" means any manual,
9 rating schedule, plan of rules, rating rules, classification
10 systems, territory codes and descriptions, rating plans, and
11 other similar information used by the insurer or health
12 maintenance organization to determine the applicable rates for
13 an insured. The term includes factors and relativities,
14 including increased limits factors, classification
15 relativities, deductible relativities, premium discount, and
16 other similar factors and rating plans such as experience,
17 schedule, and retrospective rating.

18 Section 10. Health Insurance Rate Review Board.

19 (a) There is created the Health Insurance Rate Review Board
20 independent of the Department of Insurance to ensure insurance
21 rates are reasonable and justified. The Board shall be a
22 quasi-judicial body. The Board shall consist of 5 persons
23 appointed, with the advice and consent of the Senate, by the
24 Governor with the assistance of a Nomination Panel. The term of
25 each member of the Board shall be 4 years.

1 (b) No member of the Board shall be involved in the
2 operation or management of, have a pecuniary interest or a
3 direct financial interest in, or be otherwise employed by a
4 health carrier or any other organization or entity regulated by
5 the Department of Insurance.

6 (c) Each member of the Board shall devote his or her entire
7 time to the duties of his or her office, and shall hold no
8 other office or position of profit, or engage in any other
9 business, employment, or vocation.

10 (d) No member of the Board or person employed by the Board
11 shall solicit or accept any gift, gratuity, emolument, or
12 employment from any person or corporation subject to the
13 supervision of the Board, or from any officer, agent, or
14 employee thereof; nor solicit, request from, or recommend,
15 directly or indirectly, to any such person or corporation, and
16 every officer, agent, or employee thereof, the appointment of
17 any persons to any place or position. If any Board member or
18 person employed by the Board violates any provisions of this
19 subsection (d), then he or she shall be removed from the Board
20 or employment. Every person violating the provisions of this
21 subsection (d) shall be guilty of a Class A misdemeanor.

22 (e) No former member of the Board or person formerly
23 employed by the Board may represent any person before the Board
24 in any capacity with respect to any particular Board proceeding
25 in which he or she participated personally and substantially as
26 a member or employee of the Board.

1 (f) No former member of the Board may appear before the
2 Board in connection with any Board proceeding for a period of 2
3 years following the termination of service with the Board.

4 (g) No former member of the Board may accept any employment
5 for 2 years following the termination of services with the
6 Board with any entity subject to Board regulation or with any
7 industry trade association that (1) receives a majority of its
8 funding from entities regulated by the Board or (ii) has a
9 majority of members regulated by the Board.

10 (h) No entity subject to Board regulation or trade
11 association that (i) receives a majority of its funding from
12 entities regulated by the Board or (ii) has a majority of
13 members regulated by the Board shall offer a former member of
14 the Board employment for a period of 2 years following the
15 termination of member's services with the Board, or otherwise
16 hire such person as an agent, consultant, or attorney where
17 such employment or contractual relation would be in violation
18 of this Act.

19 (i) The Board shall employ employees as may be necessary to
20 carry out the provisions of this Act or to perform duties and
21 exercise the powers conferred by law upon the Board.

22 (j) The Board shall adopt rules that the Board considers
23 necessary to carry out the provisions of this Act or to perform
24 duties and exercise the powers conferred by law upon the Board.

25 Section 15. Nomination panel.

1 (a) The Health Insurance Rate Review Board Nomination Panel
2 is established to provide a list of nominees to the Governor
3 for appointment to the Health Insurance Rate Review Board.

4 The Panel shall consist of 5 members. Members of the Panel
5 must be appointed by majority vote of the following appointing
6 authorities: the Governor, the Director, and the Attorney
7 General. The term of each member of the Panel shall be 4 years.
8 The Panel shall solicit recommendations from consumer
9 advocates, health providers, insurers, and business advocates.

10 Candidates for nomination to the Health Insurance Rate
11 Review Board may apply or be nominated. The Panel has 30 days
12 after it is established to accept applications and nominations.
13 All candidates must fill out a written application and submit
14 to a background investigation to be eligible for consideration.
15 The written application must include a sworn statement signed
16 by the candidate disclosing communications relating to the
17 regulation of health insurance, managed care plans, and health
18 maintenance organizations that the applicant has engaged in
19 within the last year with a constitutional officer, a member of
20 the General Assembly, an officer or other employee of the
21 executive branch of the State, or an employee of the
22 legislative branch of this State.

23 A person who provides false or misleading information on
24 the application or fails to disclose a communication required
25 to be disclosed in the sworn statement under this Section is
26 guilty of a Class 4 felony.

1 Once an application is submitted to the Nomination Panel
2 and until (i) the candidate is rejected by the Nomination
3 Panel, (ii) the candidate is rejected by the Governor, (iii)
4 the candidate is rejected by the Senate, or (iv) the candidate
5 is confirmed by the Senate, whichever is applicable, a
6 candidate may not engage in ex parte communications.

7 Within 60 days after the Nomination Panel is established,
8 the Nomination Panel must review written applications,
9 determine eligibility for oral interviews, confirm
10 satisfactory background investigations, and hold public
11 hearings on qualifications of the candidates. Initial
12 interviews of candidates need not be held in meetings subject
13 to the Open Meetings Act; members or staff may arrange for
14 informal interviews. Prior to recommendation, however, the
15 Nomination Panel must question candidates under oath in a
16 meeting subject to the Open Meetings Act.

17 The Nomination Panel must recommend 10 nominees for
18 appointment to the Health Insurance Rate Review Board within 60
19 days after the Nomination Panel is established. The Governor
20 may choose only from these nominations. The Nomination Panel
21 shall deliver a list of the nominees, including a memorandum
22 detailing the nominees' qualifications, to the Governor. After
23 submitting the list to the Governor, the Nomination Panel shall
24 file a copy along with a statement confirming delivery of the
25 list and memorandum to the Governor with the Secretary of
26 State. The Secretary of State shall indicate the date and time

1 of filing.

2 After reviewing the nominations, the Governor may select 5
3 nominees, including the chairperson, for appointment to the
4 Health Insurance Rate Review Board, to be confirmed by the
5 Senate. The Governor shall file the names of his or her
6 appointments with the Senate and the Secretary of State. The
7 Secretary of State shall indicate the date and time of filing.

8 The Governor shall have 30 days from the date the
9 Nomination Panel files its list of nominees with the Secretary
10 of State to make appointments to be confirmed by the Senate. If
11 the Governor does not select all appointees within the 30 days,
12 the Nomination Panel may appoint those members not yet selected
13 for appointment by the Governor. The Nomination Panel shall
14 file the names of its appointments with the Senate and the
15 Secretary of State. The Secretary of State shall indicate the
16 date and time of filing.

17 Appointments by the Governor or Nomination Panel must be
18 confirmed by the Senate by two-thirds of its members by record
19 vote. Any appointment not acted upon within 30 calendar days
20 after the date of filing the names of appointments with the
21 Secretary of State shall be deemed to have received the advice
22 and consent of the Senate.

23 (b) When a vacancy occurs on the Health Insurance Rate
24 Review Board, the Nomination Panel shall accept applications
25 and nominations of candidates for 30 days from the date the
26 vacancy occurs. All candidates must fill out a written

1 application and submit to a background investigation to be
2 eligible for consideration. The written application must
3 include a sworn statement signed by the candidate disclosing
4 communications relating to the regulation of health insurance,
5 managed care plans, and health maintenance organizations that
6 the applicant engaged in within the last year with a
7 constitutional officer, a member of the General Assembly, an
8 officer or other employee of the executive branch of this
9 State, or an employee of the legislative branch of this State.

10 A person who provides false or misleading information on
11 the application or fails to disclose a communication required
12 to be disclosed in the sworn statement under this Section is
13 guilty of a Class 4 felony.

14 Once an application is submitted to the Nomination Panel
15 and until (i) the candidate is rejected by the Nomination
16 Panel, (ii) the candidate is rejected by the Governor, (iii)
17 the candidate is rejected by the Senate, or (iv) the candidate
18 is confirmed by the Senate, whichever is applicable, a
19 candidate may not engage in ex parte communications.

20 The Nomination Panel must review written applications,
21 determine eligibility for oral interviews, confirm
22 satisfactory background investigations, and hold public
23 hearings on the qualifications of the candidates. Initial
24 interviews of candidates need not be held in meetings subject
25 to the Open Meetings Act; members or staff may arrange for
26 informal interviews. Prior to recommendation, however, the

1 Nomination Panel must question candidates under oath in a
2 meeting subject to the Open Meetings Act.

3 The Nomination Panel must recommend 2 nominees for the
4 vacancy within 60 days after the vacancy occurs. Within 30 days
5 after the Nomination Panel's recommendation, the Governor
6 shall appoint one of the nominees to fill the vacancy for the
7 remainder of the unexpired term. If the Governor does not fill
8 the vacancy within the 30 days, the Nomination Panel may make
9 the appointment. Vacancies shall be confirmed by the Senate in
10 the same manner as full-term appointments

11 Section 20. Filing and approval of rates and rate
12 schedules.

13 (a) Notwithstanding any law to the contrary, a health
14 carrier may not deliver or issue for delivery any health
15 benefit plan after the effective date of this amendatory Act of
16 the 96th General Assembly unless:

17 (1) the health carrier has filed with the Health
18 Insurance Rate Review Board:

19 (a) all current and proposed rates and rate
20 schedules of the health benefit plan; and

21 (b) if filing changes to a previously approved rate
22 or rate schedule:

23 (i) proposed changes to the rate or rate
24 schedule;

25 (ii) an explanation of the changes;

1 (iii) financial information describing the
2 basis for the proposed changes;

3 (iv) the rate of return anticipated if the rate
4 or rate schedule is approved;

5 (v) the average rate increase or decrease
6 anticipated per insured;

7 (vi) the medical loss ratio reserves and
8 surpluses anticipated if the rate or rate schedule
9 is approved;

10 (vii) a summary of the health carrier's
11 nonmedical expenses for the most recent fiscal
12 year;

13 (viii) supplementary rating information;

14 (ix) any other information required by the
15 Board by rule; and

16 (2) the Board has approved the rates and rate schedules
17 of the health benefit plan.

18 (b) The Board shall review and approve or disapprove all
19 rates and rate schedules filed or used by a health carrier or
20 filed by a rating or advisory organization on behalf of a
21 health carrier.

22 (c) Within 30 days after the date a rate or rate schedule
23 is filed with the Board, the Board shall:

24 (1) approve the rate or rate schedule if the Board
25 determines that the rate or rate schedule is not excessive,
26 inadequate, or unfairly discriminatory; or

1 (2) disapprove the rate or rate schedule if the Board
2 determines the rate or rate schedule is excessive,
3 inadequate, or unfairly discriminatory.

4 (d) Except as provided in subsection (e), if a rate or rate
5 schedule has not been approved or disapproved by the Board
6 before the expiration of the 30-day period, the rate or rate
7 schedule is considered approved and the rate or rate schedule
8 may be used.

9 (e) For good cause, the Board may, on expiration of the
10 30-day period, extend the period for approval or disapproval of
11 a rate or rate schedule for one additional 30-day period.

12 (f) If the Board determines that the information filed by a
13 health carrier under this Section is incomplete or otherwise
14 deficient, the Board may request additional information from
15 the health carrier. If the Board requests additional
16 information from the insurer during the 30-day period provided
17 in subsection (c) or under a second 30-day period provided
18 under subsection (e), then the time between the date the that
19 Board submits the request to the health carrier and the date
20 that the Board receives the information requested is not
21 included in the computation of the first 30-day period or the
22 second 30-day period, as applicable.

23 Section 25. Rate standards.

24 (a) A rate or rate schedule is excessive if the rate or
25 rate schedule is likely to produce a long-term profit that is

1 unreasonably high in relation to the insurance coverage
2 provided.

3 (b) A rate or rate schedule is inadequate if:

4 (1) the rate or rate schedule is insufficient to
5 sustain projected losses and expenses to which the rate
6 applies; and

7 (2) the continued use of the rate or rate schedule:

8 (a) endangers the solvency of an insurer using the
9 rate or rate schedule; or

10 (b) has the effect of substantially lessening
11 competition or creating a monopoly in a market.

12 (c) A rate or rate schedule is unfairly discriminatory if
13 the rate or rate schedule:

14 (1) is not based on sound actuarial principles;

15 (2) does not bear a reasonable relationship to the
16 expected loss and expense experience among risks; or

17 (3) is based wholly or partly on the race, creed,
18 color, ethnicity, or national origin of the policyholder or
19 an insured.

20 Section 30. Public notice of filing.

21 (a) The Board must issue a notice to the public within 7
22 days after a filing for approval of a rate or rate schedule is
23 received by the Board. The notice must include:

24 (1) the filing health carrier;

25 (2) the current rate or rate schedule;

- 1 (3) the proposed rate or rate schedule;
- 2 (4) notice that a consumer who is aggrieved by the rate
- 3 change may request a hearing on the proposed change within
- 4 30 days after the proposed change has been filed;
- 5 (5) address and contact information of the Board.

6 Section 35. Hearings on proposed changes.

7 (a) Within 30 days after the proposed change to a rate or

8 rate schedule has been filed, the Board may request a hearing

9 on the filing to hear testimony on the filing.

10 (b) Within 30 days after the proposed change has been

11 filed, any person who is aggrieved with respect to any filing

12 under this Act, the Director, or any public official charged

13 with protecting insurance consumers may submit a request in

14 writing to the Board for a hearing on the filing. The request

15 must specify the grounds for the requester's grievance.

16 (c) The Board must hold a hearing as requested under

17 subsection (b) not later than 30 days after the date the Board

18 receives the request for hearing if the Board determines that:

- 19 (1) the request is made in good faith;
- 20 (2) the requester would be aggrieved as alleged if the
- 21 grounds specified in request were established; and
- 22 (3) the grounds specified in the request otherwise
- 23 justify holding the hearing.

24 (d) The Board must provide written notice of a hearing to

25 the requester, if any, and each affected health carrier not

1 later than 10 days before the date of the hearing. The Board
2 shall also provide public notice of the hearing not later than
3 10 days before the date of the hearing.

4 (e) If, after the hearing, the Board disapproves of the
5 filing, the Board shall issue an order:

6 (1) specifying in what respects the filing fails to
7 meet those requirements; and

8 (2) stating the date on which the filing is no longer
9 in effect, which must be within a reasonable period after
10 the order date.

11 The Board must send copies of the order to the requester,
12 if any, and each affected health carrier.

13 Section 40. Hearings on filings in effect.

14 (a) The Board may disapprove a rate or rate schedule that
15 is in effect only after a hearing. The Board must provide the
16 filer at least 20 days written notice of the hearing.

17 The Board must issue an order disapproving a rate or rate
18 schedule under this subsection (a) within 15 days after the
19 close of the hearing. The order must:

20 (1) specify in what respects the filing fails to meet
21 those requirements; and

22 (2) state the date on which further use of the rate or
23 rate schedule is prohibited.

24 (b) Any person who is aggrieved with respect to any filing
25 under this Act that is in effect, the Director, or any public

1 official charged with protecting insurance consumers may apply
2 to the Board in writing for a hearing on the filing. The
3 request must specify the grounds for the requester's grievance.

4 (c) The Board must hold a hearing as requested under
5 subsection (b) not later than 30 days after the date the Board
6 receives the request for hearing if the Board determines that:

7 (1) the request is made in good faith;

8 (2) the requester would be aggrieved as alleged if the
9 grounds specified in request were established; and

10 (3) the grounds specified in the request otherwise
11 justify holding the hearing.

12 (d) The Board must provide written notice of a hearing to
13 the requester, if any, and each affected health carrier not
14 later than 10 days before the date of the hearing. The Board
15 shall also provide public notice of the hearing not later than
16 10 days before the date of the hearing.

17 (e) If, after the hearing, the Board disapproves of the
18 filing, the Board shall issue an order:

19 (1) specifying in what respects the filing fails to
20 meet those requirements; and

21 (2) stating the date on which the filing is no longer
22 in effect, which must be within a reasonable period after
23 the order date.

24 The Board must send copies of the order to the requester,
25 if any, and each affected health carrier.

1 Section 45. Disapproval of rate or rate schedule.

2 (a) If the Board disapproves a filing under this Act, then
3 the Board shall issue an order specifying in what respects the
4 filing fails to meet the requirements of this Act.

5 (b) The aggrieved filer is entitled to a hearing on written
6 request made to the Board within 30 days after the date the
7 order disapproving the rate or rate schedule filing takes
8 effect.

9 Section 50. Approval of rate or rate schedule; use of the
10 approved rate or rate schedule. If the board approves a rate or
11 rate schedule filing under this Act, the Board shall provide
12 the health carrier with a written or electronic notification of
13 the approval. The health carrier may use the rate or rate
14 schedule on receipt of the approval notice. The Board shall
15 provide public notice of its approval or disapproval of all
16 filings.