

2014 -- S 2558

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO INSURANCE - RATE REVIEW ACT

Introduced By: Senator Maryellen Goodwin

Date Introduced: February 27, 2014

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-19-6 of the General Laws in Chapter 27-19 entitled "Nonprofit
2 Hospital Service Corporations" is hereby amended to read as follows:

3 ~~27-19-6. Rates charged subscribers — Reserves~~ **Rates charged subscribers. -- (a)**

4 Public hearings or public meetings: - The rates proposed to be charged or a rating formula
5 proposed to be used by any corporation organized under this chapter to employers, the state or
6 any political subdivision of the state, or individuals, shall be subject to the requirements of § 42-
7 62-13. filed by the corporation at the office of the health insurance commissioner. Within sixty
8 ~~(60) days after receipt of the application, the commissioner, or his or her designee shall hold a~~
9 ~~hearing on all rates proposed for health insurance coverage offered in the individual market as~~
10 ~~defined in section 27-18.5-2 upon not less than ten (10) days written notice prior to the hearing.~~
11 ~~With regard to any other rates subject to the commissioner's jurisdiction the commissioner, or his~~
12 ~~or her designee, may hold a hearing upon not less than ten (10) days written notice prior to the~~
13 ~~hearing. The notice shall be published by the commissioner in a newspaper or newspapers having~~
14 ~~aggregate general circulation throughout the state at least ten (10) days prior to the hearing. The~~
15 ~~notice shall contain a description of the rates proposed to be charged and a copy of the notice~~
16 ~~shall be sent to the applicant and to the department of the attorney general. In addition, the~~
17 ~~applicant shall provide by mail, at least ten (10) days prior to the hearing, notice of the proposed~~
18 ~~rate increase for health insurance coverage offered in the individual market as defined in section~~
19 ~~27-18.5-2 to all subscribers subject to the proposed rate increase.~~

1 ~~(b) Filings with the Attorney General's Office: The applicant shall provide a copy of~~
2 ~~the filing on all rates proposed for health insurance coverage offered in the individual market as~~
3 ~~defined in section 27-18.5-2 to the Insurance Advocacy Unit of the Attorney General's Office~~
4 ~~simultaneously with the filing at the office of the health insurance commissioner.~~

5 ~~(c) Procedures: At any hearing held under this section, the applicant shall be required to~~
6 ~~establish that the rates proposed to be charged or the rating formula to be used are consistent with~~
7 ~~the proper conduct of its business and with the interest of the public.~~

8 ~~Rates proposed to be charged by any corporation organized under this chapter shall be~~
9 ~~sufficient to maintain total reserves in a dollar amount sufficient to pay claims and operating~~
10 ~~expenses for not less than one month. Those reserves shall be computed as of each December~~
11 ~~31st, and a report setting forth the computation shall be submitted to the commissioner together~~
12 ~~with the corporation's Rhode Island annual statement to the commissioner. Any documents~~
13 ~~presented in support of a filing of proposed rates under this section shall be made available for~~
14 ~~inspection by any party entitled to participate in a hearing or admitted as an intervenor in a~~
15 ~~hearing or such conditions as the commissioner may prescribe provided under this section at a~~
16 ~~time and at a place as the commissioner may deem reasonable. The commissioner, or his or her~~
17 ~~designee, upon the hearing, may administer oaths, examine and cross-examine witnesses, receive~~
18 ~~oral and documentary evidence, and shall have the power to subpoena witnesses, compel their~~
19 ~~attendance, and require the production of books, papers, records, correspondence, or other~~
20 ~~documents which he or she deems relevant. The commissioner shall issue a decision as soon as is~~
21 ~~reasonably possible following the completion of the hearing. The decision may approve,~~
22 ~~disapprove, or modify the rates proposed to be charged by the applicant. Applicants requesting~~
23 ~~changes in rates shall underwrite the reasonable expenses of the commissioner in connection with~~
24 ~~the hearing, including any costs related to advertisements, stenographic reporting, and expert~~
25 ~~witnesses fees.~~

26 ~~(d) The term "designee" as used in this section shall mean a person who is impartial, a~~
27 ~~member in good standing of the Rhode Island bar and a person who is sufficiently acquainted~~
28 ~~with the rules of evidence as used in the superior court of the state so as to enable that person to~~
29 ~~conduct a hearing as designee of the commissioner. The reasonable per diem cost of the designee~~
30 ~~as appointed by the commissioner shall be paid by the applicant requesting changes in the rates.~~

31 SECTION 2. Section 27-20-6 of the General Laws in Chapter 27-20 entitled "Nonprofit
32 Medical Service Corporations" is hereby amended to read as follows:

33 **27-20-6. Rates charged subscribers -- Reserves -- Hearing by director Rates charged**
34 **subscribers.** -- (a) Public hearings or public meetings: - The rates proposed to be charged or a

1 rating formula proposed to be used by any corporation organized under this chapter to its
2 subscribers, employers, the state or any political subdivision of the state, or individuals, shall be
3 subject to the requirements of § 42-62-13. ~~filed by the corporation at the office of the health~~
4 ~~insurance commissioner. Within sixty (60) days after receipt of the application, the~~
5 ~~commissioner, or his or her designee, shall hold a hearing on all rates proposed for health~~
6 ~~insurance coverage offered in the individual market as defined in section 27-18.5-2 upon not less~~
7 ~~than ten (10) days written notice prior to the hearing. With regard to any other rates or rating~~
8 ~~formula subject to the commissioner's jurisdiction the commissioner, or his or her designee, may~~
9 ~~hold a hearing upon not less than ten (10) days written notice prior to the hearing. The notice~~
10 ~~shall be published by the commissioner in a newspaper or newspapers having aggregate general~~
11 ~~circulation throughout the state at least ten (10) days prior to the hearing. The notice shall contain~~
12 ~~a description of the rates proposed to be charged and a copy of the notice shall be sent to the~~
13 ~~applicant and to the department of the attorney general. In addition, the applicant shall provide~~
14 ~~by mail, at least ten (10) days prior to the hearing, notice of the proposed rate increase for health~~
15 ~~insurance coverage offered in the individual market as defined in section 27-18.5-2 to all~~
16 ~~subscribers subject to the proposed rate increase.~~

17 ~~(b) Filings with the Attorney General's Office: The applicant shall provide a copy of~~
18 ~~the filing on all rates proposed for health insurance coverage offered in the individual market as~~
19 ~~defined in section 27-18.5-2 or for a Medicare supplement policy as defined in section 27-18.2-1~~
20 ~~to the Insurance Advocacy Unit of the Attorney General's Office simultaneously with the filing at~~
21 ~~the office of the health insurance commissioner.~~

22 ~~(c) Procedures: At any hearing held under this section, the applicant shall be required to~~
23 ~~establish that the rates proposed to be charged or the rating formula proposed to be used are~~
24 ~~consistent with the proper conduct of its business and with the interest of the public.~~

25 ~~Rates proposed to be charged by any corporation organized under this chapter shall~~
26 ~~maintain total reserves in a dollar amount sufficient to pay claims and operating expenses for not~~
27 ~~less than one month. Those reserves shall be computed as of each December 31st, and a report~~
28 ~~setting forth the computation shall be submitted to the commissioner together with the~~
29 ~~corporation's Rhode Island annual statement to the insurance commissioner of the state of Rhode~~
30 ~~Island. Any documents presented in support of a filing of proposed rates under this section shall~~
31 ~~be made available for inspection by any party entitled to participate in a hearing or admitted as an~~
32 ~~intervenor in a hearing on such conditions as the commissioner may prescribe provided pursuant~~
33 ~~to this section at a time and at a place as the commissioner may deem reasonable. The~~
34 ~~commissioner, or his or her designee, upon the hearing, may administer oaths, examine and cross~~

1 ~~examine witnesses, receive oral and documentary evidence, and shall have the power to subpoena~~
2 ~~witnesses, compel their attendance, and require the production of books, papers, records,~~
3 ~~correspondence, or other documents which the director deems relevant. The commissioner shall~~
4 ~~issue a decision as soon as is reasonably possible following completion of the hearing. The~~
5 ~~decision may approve, disapprove, or modify the rates proposed to be charged by the applicant.~~
6 ~~Applicants requesting changes in rates shall underwrite the reasonable expenses of the~~
7 ~~commissioner in connection with the hearing, including any costs related to advertisements,~~
8 ~~stenographic reporting, and expert witnesses fees.~~

9 ~~(d) The term "designee" as used in this section shall mean a person who is impartial, a~~
10 ~~member in good standing of the Rhode Island bar and a person who is sufficiently acquainted~~
11 ~~with the rules of evidence as used in the superior court of the state so as to enable that person to~~
12 ~~conduct a hearing as designee of the commissioner. The reasonable per diem cost of the designee~~
13 ~~as appointed by the commissioner shall be paid by the applicant requesting changes in the rates.~~

14 SECTION 3. Section 42-62-13 of the General Laws in Chapter 42-62 entitled
15 "Catastrophic Health Insurance Plan Act" is hereby amended to read as follows:

16 **42-62-13. Rates charged.** -- (a) (i) The rates proposed to be charged or a rating formula
17 proposed to be used by any health insurer, dental insurer, nonprofit hospital service corporation,
18 nonprofit medical service corporation, nonprofit dental service corporation, nonprofit optometric
19 service corporation or health maintenance organization subject to title 27 of the general laws
20 ~~under this section~~ to employers, the state or any political subdivision of the state, or individuals,
21 shall be filed ~~by the insurer or health maintenance organization~~ at the office of the ~~director of~~
22 ~~business regulation~~ health insurance commissioner. ~~This section does not apply to any entity~~
23 ~~subject to section 27-19-1 et seq., and/or section 27-20-1 et seq. The rates proposed to be charged~~
24 ~~by those entities shall be governed by the provisions of section 27-19-1 et seq., and/or section 27-~~
25 ~~20-1 et seq. The applicant shall be required to establish that the rates proposed to be charged or~~
26 ~~the rating formula proposed to be used are consistent with the proper conduct of its business and~~
27 ~~with the interest of the public. The applicant shall also be required to establish that it has~~
28 ~~employed strategies that enhance the affordability of its products.~~ Within sixty (60) days after
29 receipt of the ~~application filing~~, the ~~director commissioner~~, or the ~~director's commissioner's~~
30 designee, may hold a public hearing upon not less than ten (10) days' written notice prior to the
31 public ~~hearings~~ hearing. The notice shall contain a description of the rates proposed to be
32 charged or the rating formula proposed to be used, and a copy of the notice shall be sent to the
33 applicant and to the ~~consumer protection~~ insurance advocacy unit of the department of attorney
34 general. ~~At any hearing held under this section, the applicant shall be required to establish that the~~

1 ~~rates proposed to be charged or the rating formula proposed to be used are consistent with the~~
2 ~~proper conduct of its business and with the interest of the public.~~ Any documents presented in
3 support of ~~a~~ the filing ~~of proposed rates~~ under this section shall be made available for public
4 examination at any time and place that the ~~director~~ commissioner may deem reasonable. (ii)
5 Notwithstanding anything to contrary in this section, the commissioner shall hold a public hearing
6 in any instance where the rate proposed to be charged reflects an increase in the overall average
7 rate in excess of ten percent (10%) in any single filing or any combination of filings in the same
8 market during a twelve (12) month period. The term “overall average rate” means the average
9 increase for all enrollees weighted by premium volume.

10 (b) Public hearings. If a public hearing is held pursuant to subsection (a), ~~The director~~ the
11 commissioner, or the ~~director's~~ commissioner's designee, upon that hearing may administer oaths,
12 examine and cross-examine witnesses, receive oral and documentary evidence, and shall have the
13 power to subpoena witnesses, compel their attendance and require the production of all books,
14 papers, records, correspondence, or other documents which he or she deems relevant. The public
15 hearing shall be conducted in accordance with chapter 42-35. Neither the commissioner nor the
16 commissioner's designee, whoever holds the public hearing, may, during the course of the public
17 hearing, engage in any ex parte consultation prohibited by § 42-35-13 regarding the public
18 hearing unless either the applicant, the attorney general and other participants are present or the
19 communications are made part of the record. Any designee who shall conduct a hearing pursuant
20 to this section shall report his or her findings in writing to the ~~director~~ commissioner within
21 eighty (80) days of the filing with a recommendation for approval, disapproval, or modification of
22 the rates proposed to be charged by the applicant. The recommended decision shall become part
23 of the record. The ~~director~~ commissioner shall make and issue a decision not later than ten (10)
24 days following the issuance of the recommended decision or, if the ~~director~~ commissioner ~~hears~~
25 ~~the application~~ conducts a hearing without the appointment of a designee, as soon as is reasonably
26 possible following the completion of the hearing ~~on the proposed rate change~~. The decision may
27 approve, disapprove, or modify the ~~rates proposed to be charged by the applicant~~ filing. ~~Insurers~~
28 ~~requesting changes in rates shall underwrite the reasonable expenses of the department of~~
29 ~~business regulation in connection with the hearing, including any costs related to advertisements,~~
30 ~~stenographic reporting, and expert witnesses fees. Notwithstanding any other provisions of law,~~
31 ~~the filing of proposed rates or a rating formula and the holding and conduct of any hearings in~~
32 ~~connection with these proposed rates or rating formula shall be pursuant to this section.~~

33 (c) Public comment. Whether or not a public hearing is held pursuant to subsection (a) of
34 this section, the commissioner shall solicit public comment regarding the rates proposed to be

1 charged and the commissioner may solicit public comment regarding any formula proposed to be
2 used. Public comment shall be solicited upon not less than ten (10) days written notice prior to the
3 date that either:

4 (1) A public meeting at which verbal comments may be provided; or
5 (2) That written comment must be received by the commissioner. The notice shall contain
6 a description of the rates proposed to be charged or the formula proposed to be used, and a copy
7 of the notice shall be sent to the applicant and to the insurance advocacy unit of the department of
8 attorney general. Any documents presented in support of the filing under this section shall be
9 made available for public examination at a time and place that the commissioner may deem
10 reasonable.

11 (d) Notwithstanding any other provisions of law, the filing of proposed rates or a rating
12 formula and the holding and conduct of any public hearing in connection with these proposed
13 rates or rating formula of any health insurer, dental insurer, nonprofit hospital service corporation,
14 nonprofit medical service corporation, nonprofit dental service corporation, nonprofit optometric
15 service corporations, or health maintenance organization subject to title 27 shall be pursuant to
16 this section.

17 ~~(b)~~(e) Whenever the term "designee" is used in this section, it shall mean a person who is
18 impartial, a member in good standing of the Rhode Island bar and a person who is sufficiently
19 acquainted with the rules of evidence as used in the superior court of the state so as to enable that
20 person to conduct a public hearing as designee of the ~~director~~ commissioner. The reasonable ~~per~~
21 ~~diem~~ cost of the designee as appointed by the ~~director~~ commissioner shall be paid by the ~~insurers~~
22 ~~requesting changes in the rates~~ applicant.

23 (f) The applicant shall bear the reasonable expenses of the commissioner in connection
24 with a filing made pursuant to this section, including any costs related to advertisements,
25 stenographic reporting, and expert fees.

26 (g) The appeal rights created by this section are not intended to limit the appeal rights of
27 any person or entity that had the right to appeal a final decision of the commissioner under § 27-
28 19-6, 27-20-6 or 42-62-13.

29 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO INSURANCE - RATE REVIEW ACT

1 This act would create a uniform rate review procedure for rates proposed to be changed
2 or rating formulas proposed to be used by nonprofit hospital service corporations, nonprofit
3 medical services corporations and the catastrophic health insurance plan requiring public hearings
4 or public meetings with the applicant bearing the reasonable expenses of the filing. This act would
5 not limit the appeal rights of any person or entity that had the right to appeal a final decision of
6 the commissioner under § 27-19-6, 27-20-6 or 42-62-13.

7 This act would take effect upon passage.

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