EXHIBIT 11
DATE 2/16/2011
HB 105

Amendments to House Bill No. 105
1st Reading Copy

Requested by Representative Robyn Driscoll

For the House Business and Labor Committee

Prepared by Susan Byorth Fox
January 28, 2011 (11:04am)

1. Title, line 6 through line 8.
Following: "PROVIDING"
Insert: "STANDARDS"
Strike: "CERTAIN" on line 6 through "APPROVAL" on line 8
Insert: "REVIEW AND NOTICE OF DEFICIENCY"

2. Title, line 8 and line 9.
Strike: "FOR" on line 8 through "GUARANTEE" on line 9
Insert: "RULEMAKING AUTHORITY; PROVIDING FOR CONTINGENT VOIDNESS"

3. Title, line 9.
Following: "DATE"
Insert: "AND AN APPLICABILITY DATE"

4. Page 1, line 14 and line 15.
Following: "issuer" on line 14
Insert: ", including a consumer operated and oriented plan established under 42 U.S.C. 18042,"
Strike: "any health plan"
Insert: "individual health insurance coverage or small group health insurance coverage"
Following: "individual"
Strike: ","
Insert: "or"
Following: "small"
Strike: "employer"
Following: "group" on line 14
Strike: ", or large" through "group" on line 15

5. Page 1, line 15.
Following: "before"
Strike: "use"
Insert: "the effective date of the rate"

6. Page 1, line 16.
Strike: "that" through "subscribers"
Insert: "each product form intended for use in Montana, together with sufficient information to support the premium to be

charged as described in [sections 1 through 5]"

7. Page 1, line 17.
Strike: "rate"
Insert: "premium"
Following: "policyholders"
Insert: "and certificate holders"

8. Page 1, line 18.
Following: line 17
Insert: "(2) A health insurance issuer may submit a single combined justification for rate increases subject to review affecting multiple products if the claims experience of all products has been aggregated to calculate the rate increases and the rate increases are the same across all products. Rate increases are determined by combining the total amount of increases taken on a single product form, or market segment if the rate increase is the same for all products, over a 12-month period. A market segment means the individual or small group market."
Renumber: subsequent subsections

9. Page 1, line 26.
Strike: "number"
Insert: "numbers"
Following: "date of"
Strike: "the"
Insert: "each"

10. Page 1, line 28.
Strike: "data"
Insert: "information"
Following: "rate"
Insert: ", as described in [section 2]"

11. Page 2, line 2.
Following: "rates"
Insert: "are not excessive, inadequate, unjustified, or unfairly discriminatory, as defined in [section 2], and"

12. Page 2, line 7.
Following: "unless"
Strike: remainder of line 7
Insert: "the health insurance issuer fails to provide the minimum documentation required in [section 2]."

13. Page 2, line 8.
Following: "through"
Strike: "9"
Insert: "5"
Following: "benefits"
Insert: "defined in 33-22-140"

14. Page 2, line 10.
Following: "2."
Strike: remainder of line 10
Insert: "Standards for review -- notice of deficiency."

15. Page 2, line 11 through line 16.
Strike: "disapprove a rate filing"
Insert: "issue a notice of deficiency"
Following: "filing"
Insert: "of premium rates"
Following: "."
Strike: "If the" on line 11 through "[section 1]," on line 16
Insert: "(2) (a) When reviewing a premium rate filing,"
Renumber: subsequent subsections

16. Page 2, line 17 through line 21.
Strike: ":" on line 17 through "(c)" on line 21
Following: "inadequate," on line 21
Insert: "unjustified,"

17. Page 2, line 21 and line 22.
Following: "discriminatory."
Strike: remainder of line 21 through "rates" on line 22
Insert: "(b) Rates"

18. Page 2, line 22 through line 24.
Strike: "are likely" on line 22 through "rates are" on line 24
Insert: "cause the premium charged for the health insurance coverage to be unreasonably high in relation to the benefits provided under the coverage. In order to determine if the rate is unreasonably high, the commissioner shall consider whether:

(i) the rate increase falls within the allowable federal minimum loss ratio as determined under 45 CFR, part 158;

(ii) the assumptions on which the rate increase is based are reasonable; and

(iii) one or more of the assumptions are not supported by the evidence.

(c) Rates may be considered inadequate if the rate is unreasonably low for the coverage provided, and the commissioner

may consider whether the rate would endanger the solvency of the insurer or disrupt the insurance market in Montana.

(d) A rate increase may be considered unjustified if the health insurance issuer provides data or documentation in connection with the increase that is incomplete or inadequate or otherwise does not provide a basis upon which the reasonableness of an increase may be determined.

(e) Rates may be considered"

19. Page 2, line 27 through line 28.
Strike: line 27 through line 28 in their entirety

20. Page 2, line 30 through page 3, line 1.
Following: "inadequate,"
Insert: "unjustified,"
Following: "discriminatory,"
Strike: remainder of line 30 through "[section 5]," on page 3, line 1

21. Page 3, line 7.
Strike: line 7 in its entirety
Renumber: subsequent subsections

22. Page 3, line 13.
Following: ";"
Strike: "and"

23. Page 3, line 15.
Following: "future"
Strike: "."
Insert: ";

(h) historical and projected claims experience;

(i) trend projections related to utilization and service or unit cost;

(j) allocation of the overall rate increase to claims and nonclaims costs;

(k) per enrollee per month allocation of current and projected premium;

(l) 3-year history of rate increases for the product or group of products associated with the rate increase if the product is 3 years old or older, otherwise any available rate history;

(m) employee and executive compensation data from the health insurance issuer's annual financial statements; and

(n) any other applicable information identified in administrative rules adopted pursuant to Title 33.

(4) The commissioner shall review rate filings and, if applicable, shall provide a notice of deficiency containing detailed reasons describing why the commissioner finds that the proposed premium rate is excessive, inadequate, unjustified, or

unfairly discriminatory. The notice must be provided within 60 days of receipt of filing.

(5) Within 30 days after receiving a notice of deficiency alleging that a proposed rate is excessive, inadequate, unjustified, or unfairly discriminatory, the insurer may amend its rate filing, request reconsideration based upon additional information, or implement the proposed rate unless the rate is unfairly discriminatory as described in subsection (2)(e).

(6) At the end of the 30-day period described in subsection (5), if the insurer implements a rate that the commissioner has determined to be excessive, unjustified, or unfairly discriminatory and if the rate is above the federal threshold described in 45 CFR 154.200, the commissioner shall file a report with the secretary of health and human services, indicating the commissioner's determination."

24. Page 3, line 17 through page 4, line 10.
Strike: section 3 in its entirety
Renumber: subsequent sections

25. Page 4, line 16.
Following: "section."
Insert: "The commissioner shall provide the issuer with 30 days' advance notice of the determination before releasing the information to the public."

26. Page 4, line 18 through page 7, line 16.
Strike: sections 5 and 6 in their entirety
Renumber: subsequent sections

27. Page 7, line 20.
Following: "services"
Strike: "under 42 U.S.C. 300gg-94"

28. Page 7, line 22.
Following: "post"
Strike: "the public report referred to in [section 5] and"

29. Page 7, line 23.
Strike: "of this section"

30. Page 7, line 24.
Strike: "[section 4]"
Insert: "[section 3]"

31. Page 7, line 26 through page 8, line 2.
Strike: section 8 in its entirety
Renumber: subsequent sections

32. Page 8, line 5.
Strike: "9"
Insert: "5"

33. Page 8, line 7.
Strike: "9"
Insert: "5"

34. Page 8, line 9.
Strike: "9"
Insert: "5"

35. Page 8, line 10.
Insert: "NEW SECTION. **Section 7. {standard} Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."
Insert: "NEW SECTION. **Section 8. Contingent voidness.** If the parts of the Patient Protection and Affordable Care Act that relate to health insurance rates are repealed or found to be unconstitutional by a court with final jurisdiction, then [this act] is void."

36. Page 8, line 12.
Insert: "NEW SECTION. **Section 10. {standard} Applicability.** [This act] applies to rate filings that affect health insurance coverage in the individual or small group market issued on or after January 1, 2012."

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