

Health Insurance Rate Review

SENATE Public Health

Exhibit No. 1

Date 4-3-2013

Bill No. HB 87

HB 87 · Section-by-Section Summary, as passed by the House

Section 1 Health Insurance Rates -- Filing Required -- Use

This section requires health insurance companies to file premium rates and a justification for rate increases with the insurance Commissioner for individual and small group policies. Filings must be made at least 60 days before the rate becomes effective, at the same time companies notify small group policyholders of a rate increase in existing law.

After 60 days, insurers may use the new rate unless the Commissioner finds the data submitted was insufficient. A single rate filing may be filed for numerous products. Amendments to previous filings can be made. Complete new rate filings are not required unless there is material change from the previous filing. Rate filings must include an actuarial justification and information sufficient to support the rate.

Section 2 Standards for Review -- Notice of Deficiency

The Commissioner may issue a notice of deficiency to the company if the Commissioner finds the premium rate that is filed is excessive, inadequate, unjustified or unfairly discriminatory. The health insurance issuer then has 30 days to respond to the notice. If the Commissioner upholds the finding that the rate is not acceptable, the insurer may still use the rate, but the Commissioner's finding will be posted publicly.

Section 3 Trade Secret Disclosure Exemption

When an insurer makes the request, the Commissioner will determine whether a filing contains trade secrets pursuant to the definition in Montana law, and if so, will not disclose that part of the filing. The Commissioner must notify the insurance company 30 days before releasing the information to the public.

Section 4 Rulemaking

The Commissioner may adopt rules necessary to implement the provisions of the bill.

Section 5 Amends Section 33-31-111, MCA

This section includes health maintenance organizations' rates under the Commissioner's rate review authority.

Section 6 Codification Instruction

This bill will be incorporated in Title 33, the Montana insurance code.

Section 7 Severability

If part of this act is invalid, all valid parts will remain in effect.

Section 8 Effective Date -- Applicability

This act is effective July 1, 2013, and applies to rate filings that affect health insurance coverage in the individual and small group market issued after January 1, 2014.

Contact CSI

Web: www.csi.mt.gov

Email: csi@mt.gov

Phone: 406.444.2040



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Opinion Desk: 447-4080
greg.lemmon@helenair.com

Opinion

Independent
Record
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Insurance rate review authority needed

Despite changes in federal regulations, health-care costs are still a concern for most Montanans.

However, legislation proposed for this coming Montana legislative session could help ensure that all Montanans will at least be treated fairly by insurance companies looking to increase their rates.

The legislation, House Bill 87, which is being promoted by Montana State Auditor Monica Lindeen and sponsored by Rep. Jeff Walborn, R-Dillon, will give Lindeen's office review authority for insurance rate increases.

This might seem to be a minor issue, but Montana is only one of three states that currently have no authority to review insurance rate increases, Lindeen said.

As state auditor, Lindeen has the authority to review insurance rates in all other categories, including home, auto and life. This has allowed her to reduce rate increases that have seemed too unjustifiably high.

It also allows her to make sure rate increases are legal, said Lindeen's spokesman, Lucas Hamilton.

The lack of review authority also gives insurance companies the ability to take advantage of Montanans. Lindeen cites a recent example where a health insurance company proposed rate increases around the country. The average increase was 18 percent, but in some cases customers saw their rates increase by 50 percent.

These rates were challenged by Montana's neighbor South Dakota, which has health insurance rate review authority. South Dakota negotiated a lower rate increase with this particular insurance company on behalf of its citizens. Montana wasn't allowed the same benefit and customers of that particular insurance company were forced to accept the rate increases with no discussion.

Another benefit to the rate review authority is that it benefits the

health insurance industry as a whole in Montana by bringing fairness to the marketplace. Lindeen will have the authority to review rates that are too low and attempt to undercut the market, said Blue Cross and Blue Shield of Montana spokesman Fred Cote.

Without state review authority, insurance companies could run rates much lower than the market standard, upsetting the balance in the market and also running the risk of becoming insolvent, Cote said.

For the health insurance industry it will provide an independent review of rates, which will help consumers ensure the increases are justified, he said.

The review authority will allow Lindeen only to review the rates and the justification for the rates. She will not be allowed to reject a rate increase.

This is a bill that Cote said Blue Cross and Blue Shield will support. The federal government, through the Affordable Care Act, also has

health insurance rate review authority when rates increase by at least 10 percent. However, the local review authority is a better option for Montanans because local regulators will better understand local markets.

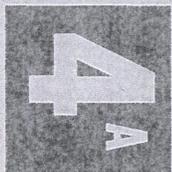
During the 2011 legislative session, a similar bill was tabled in the House Business and Labor Committee after a compromise was reached between the auditor's office and a handful of Montana health insurance companies along with the Montana Chamber of Commerce and the Montana Small Business Alliance. Mysteriously, this commonsense bipartisan legislation was a casualty of the opposition to President Barack Obama's Affordable Care Act.

HB 87 represents the same compromise bill from the last session. Let's hope this time around legislators can see the benefits for Montanans and give the state auditor the review authority her office needs.



**Health insurance
rate review
needed**

Montana State Auditor Monica Lindeen is going to ask the legislature for insurance rate review authority. We think it would be a good thing for Montana citizens. The biggest insurance company in the state agrees.



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Opinion Desk: 447-4080
greg.lemmon@helenair.com

Opinion

Independent
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Rate review important for cost control

By **MONICA J. LINDEEN** and
REP. JEFFREY WELBORN

More than a decade ago, then-Secretary of Defense Donald Rumsfeld famously summarized a quandary we face in national security: there are things we know, things we don't know and things we don't know we don't know.

Rumsfeld took flak in the media for his wordplay, but the concept he tried to express is one that we face both in and out of the national security arena.

In health insurance, for example, we know the cost of insurance and the cost of health care are out of control. Chalk that one up in the "things we know" category.

Because insurers aren't required to share their premium information with the state, we also know that we don't know how insurance companies are setting their rates. That falls in Rumsfeld's second category — the known unknowns.

But that's not the case across the country. In fact, Montana is now one of only two states without information about how health insurers set their rates

for individuals and families.

In every other state, insurance companies file their rates with the state insurance regulator who reviews rates to make sure they are reasonable and justified. Normally, it's hard to put a price on "reasonable" and "justified." But today,

we can compare the rates we see in Montana with other states and get a good sense of the higher prices we pay in Montana.

Take the example of a national insurer that recently instituted an average rate increase in Montana of about 18 percent. Several other states, like South Dakota and Kansas, saw the same company propose average rate hikes in the same neighborhood.

The Kansas insurance commissioner reviewed the rate, decided it was excessive and negotiated with the insurer to cut the average rate hike in half. In South Dakota, the state found the rate excessive and worked with the company to bring the average rate increase down to just 6.5 percent.



Welborn



Lindeen

But here in Montana, where we have no rate review authority, the insurer went ahead with the rate as planned. That means Montanans paid a hefty price for not knowing how rates are set. In the broader scheme of things, it also means Montanans are paying more so the company can offer lower rates in other states.

To put it lightly, this is unfair to all Montanans. Health insurance is expensive enough when rates are reasonable and fully justified. That's why we're working on bipartisan legislation to finally give Montanans the benefit of health insurance rate review.

It's worth noting that the Montana Insurance Commissioner reviews rates in most other types of insurance in the state, from auto and home to Medicare supplement and long-term care insurance. Health insurers should play by the same rules and file their rates with the commissioner.

Our proposal, HB 87, would give the Montana Insurance Commissioner the

ability to review rates before they take effect and negotiate down unjustified rates. It's a commonsense measure that would make health insurance more affordable and transparent. With support from industry groups and consumer advocates alike, HB 87 should be a no-brainer.

Nearly every other state in the country has seized on the opportunity to flex local authority with state-based rate review. They have shown how leveraging rate review can protect consumers. Best of all, state-based rate review laws — including our proposal — maintain local control instead of handing it to the federal government.

Ultimately, rate review can't solve all of the problems we face in health insurance and health care, but it does relieve Montanans of the heavy cost we pay for not knowing how rates are set. Let's work together and put an end to the unknowns of health insurance rating, once and for all.

Monica Lindeen is the *Montana Commissioner of Insurance*. **Jeffrey Welborn** is a *Republican state representative from Dillon*.