

**Understanding
Health Insurance Rate Filings**

**with a twist:
This is Florida...and this is 2014**

**Florida Health Alliance
July 17, 2014
Presented by Florida CHAIN**

**Health Insurance Rate Review
in Florida, Historically**

- States have long been the primary regulators of health insurance.
- Florida has the Office of Insurance Regulation (OIR), under direction of the Insurance Commissioner
- Insurers filed proposed forms (policies) and rates with OIR, who approve/deny - after scrutiny - within 30 days
- Historically, OIR has not been transparent, but not a weak regulator

Under the Affordable Care Act (ACA)

- The ACA did NOT change the nature of health insurance regulation, but did make essential reforms and provided states with new tools
- States still have the authority and presumed responsibility** to approve/deny rates
- The ACA requires federal HHS to review potentially unreasonable rate increases to provide transparency, but can't reject them**

** - If HHS says the state has an Effective Rate Review program (46 states do)

**FL Senate Bill 1842 (2013):
State Deregulation**

- Prevents OIR from regulating health plans that are subject to ACA requirements (i.e., non-grandfathered plans) until 2016
- In particular, OIR cannot deny (or approve) any proposed rates for non-grandfathered plans
- However, insurers are still required to file proposed rates with OIR, and OIR reviews them for informational purposes

**Where We Stand Re: Rate Review:
A Summary**

- On one hand, OIR is not currently regulating rates
- On the other hand, federal HHS says Florida still has an “effective rate review” program, so isn’t regulating rates either
- Insurers are still at least required to file all proposed rates with OIR and some with HHS

**What Will the Impact of
State Deregulation on Rates Be?**

We don’t really know, but it may **not** be massive.
Why not?

1. Marketplace plan (Qualified Health Plans) rates still negotiated with HHS
2. Most insurers operate in other states where rates *are* regulated
3. There are enough insurers in Marketplace serving FL to ensure competitive rates

So What's the Problem Then?

- OIR is not regulating rates, but OIR is still working
- Our Insurance Commissioner has consistently been a vocal opponent of the ACA's insurance reforms
- OIR's current role:
 - For insurers, ACA advisor/
 - For consumers, ACA antagonist

Is "ACA Antagonist" Label Too Strong?

OIR's Claim: "Rates for self-purchased coverage increased 20 to 30 percent between 2013 and 2014"

Reality: OIR intentionally compared average rate for insurer's typical Silver plan in 2014 vs. average rate for plan with highest enrollment in 2013

Problems with OIR's Approach:

- Manipulation of the basic math
- "Apples to broccoli" comparison: 2013 plan had fewer benefits, higher out-of-pocket costs
- 2014 rates ignored the impact of Premium Tax Credits on what consumers actually pay

Current OIR Issue Is More Basic

- Insurers file rates with OIR using a public disclosure form required by law
- Insurers file using a publicly accessible filing system (I-File System) – initial 2015 Marketplace plan rates have been filed
- OIR encourages public use of the I-File system to review rate filings and offer public comment
- *Caveat:* Some documents that insurers claim are "trade secrets" can be concealed, at least temporarily

Current OIR Issue:

Exception to Transparency Is Now the Rule

Rate Filing = Public Filing Form + Supporting Docs

OIR/Insurers: "The entire public filing is subject to trade secret protection"

- "Actuarial memorandum = **Trade secret!**"
- "Actual rates = **Trade secret!!!**"
- "Aggregate statistics (such as average rate increase among all insurers)= **Trade secret!!!!!!**"

**These Statistics Are a Trade Secret
(i.e., Formula or Method that
Would Give Competitors an Advantage
If Revealed) - Don't Laugh!**

(4)	(5)	(6)	(7)
Average Rate Change Requested (0.0% for ARC Filings)	Minimum Rate Change Requested (0.0% for ARC Filings)	Maximum Rate Change Requested (0.0% for ARC Filings)	Average Benefit Change Requested (0.0% for ARC Filings)
_____	_____	_____	_____

Current OIR Issue:

Just A Lack of Transparency...or Worse?

- The public disclosure forms can't be trade secrets
- The disclosure forms aren't marked as trade secret
- Instead of leaving the average rate increase line blank or writing "N/A", insurers falsely reported "0%"
- This only came to light when the "0%" figures were reported as fact

Coming Up in Rate Review

- Insurers have been notified that "trade secret" documents have been requested. Must disclose or file in court
- For it's part, OIR plans to again release its own "analysis" of rates
- Based on what we have seen, there will be some rates increases, but also some decreases in Marketplace plans
- Remember that, pre-2013, 10%+ annual rate increases were routine

Resources

Florida Office of Insurance Regulation:
<http://www.floir.com>

OIR's I-File System:
<https://apps8.fldfs.com/IFileExternalSearch>

Federal HHS (CCIIO) Rate Review Page:
<http://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Market-Reforms/Review-of-Insurance-Rates.html>

Greg Mellowe:
greg@floridachain.org
