

# Bill Summary

**COMMITTEE:** Banking and Insurance

**DATE:** 11/7/11

**PRIME SPONSOR:** D. White

**BILL NO:** SB1336

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**PRINTER'S NO:** 1766

## **A. Synopsis:**

Senate Bill 1336 will give Pennsylvania the authority to review rates for the small group market.

## **B. Summary:**

Because Pennsylvania does not currently have this authority, the federal government (under the Affordable Care Act) has taken over the review of rates for small group products that are, according to HHS, presumed "unreasonable" (currently, HHS deems a rate increase of 10% or more to be presumed unreasonable and subject to review). With passage of this bill, HHS will recognize Pennsylvania as having an "effective rate review program," and will once again allow Pennsylvania to regulate rates for Pennsylvanians.

Chapter Divisions: These were added to allow Pennsylvania to go back to the current law if the rate review provision of the ACA is repealed by Congress or invalidated by the US Supreme Court. To go back to the current law, the old language has to be "in print." So the law now has 2 chapters; the new language is in Chapter 3, and the old language is in Chapter 5. If/when the Commissioner issues a notice announcing the repeal or invalidation of the rate review provision (see §5103), Chapter 3 will expire (§315) and Chapter 5 will be added and take effect (§5104(2)).

### Scope of Filings Subject to Review (§303):

- The current law only allows the PID to review group rates for products issued by HMOs or the parent Blue entities. Commercial insurers and commercial subsidiaries of the Blue entities are exempt. With the revisions, all small group rates will be filed with the PID, and increase to base rates of 10% or more will be subject to review, as will increases to rates for specific groups that deviate from the base rate by 15% or more. Base rates not currently on file with the PID must be filed with the PID within 45 days of the effective date of the revisions (denoted by reference to §314, which is the only entirely new section of Chapter 3.)
- Large group rates, which are generally rated based on the experience of the large group and not subject to the same volatility as small group rates, will not be subject to review.
- No changes are made to individual rate review: all individual rates will continue to be subject to review.
- Flexibility is given to the Commissioner to adjust the 10% threshold to coordinate the filing requirements to the federal law as necessary to retain the authority of the PID to review rates for Pennsylvanians.

Timing of Filing and Use: For clarity, the timing for when filings must be made and how soon they may be used was broken out from one subsection (old 3803(f)), into each paragraph of 303(c) and (e).

Procedure for Review (§304):

- For clarity, language previously in old subsection 3803(f) addressing the process for reviewing and approving (or disapproving) a filing is moved to the procedure section.
- Because filings are now immediately accessible on the PID's website, the timing for public comment and the PID's review has been put on a faster track.
- The PID is given the flexibility to retain outside actuarial services to review individual and small group rate filings that are subject to review (all individual rates, new small group base rates, increases to base rates of 10% or more, and increases to rates for specific groups that deviate from the base rate by 15% or more).
- To assure that filings made online did not escape review by the PID, insurers are to give notice to the PID before they use rates that are deemed approved. This is similar to a provision for motor vehicle insurance rates (see 75 Pa. C.S.A. §2007).

Reporting: To preserve the PID's authority as against the federal government, §305 provides for the reporting required under federal law.

Change of term: to clarify the distinctive roles of the Department (rate reviewer) and the Commissioner (adjudicator of rate disapproval appeals), the more precise term was inserted in several instances.

Public Comment: This section was revised to satisfy federal requirements so that the PID will have authority to review rates, rather than defaulting to the federal government. This section was further revised to account for the possibility of posting on other electronic media.

Regulations: A provision allowing the PID to promulgate regulations was added.

Chapter 5: Chapter 5 is included so that, if the rate review provision of the federal law is repealed by Congress or invalidated by the US Supreme Court, state law can revert back to the current language of Act 159 (with the only changes being the change of term from "Commissioner" to Department" in the same instances as in Chapter 3, and the addition of a regulations provision). This reversion would occur upon publication of a notice by the Commissioner (under §5103): Chapter 3 would expire, and Chapter 5 would take effect.