



## Questions to Ask Your Insurance Commissioner About Rates

Insurance companies must file rates, or the projected average cost of health plans with most state insurance departments each year. However, the ability to access rate filings varies widely from state to state. Some state insurance departments post rate filings online, but allow insurers to remove certain information. In other states, accessing a rate filing requires a formal request under the state's public records law. It is important to understand where your state falls on the transparency spectrum in order to effectively advocate for making filings public in your state. Regardless of your department of insurance's authority to make rate filings public or to review and approve (or disapprove) proposed rates, **all commissioners have a duty to ensure consumers are protected and that rates are not excessive and many have authority to question assumptions behind insurers' rates.**

In response to concerns that rates may increase in 2015, this brief includes some questions to ask your commissioner about proposed rates. We recommend also asking these questions *publicly* to educate consumers about rates and the commissioner's duties to provide transparent information and protect consumers.

### Public availability

- *Will your department of insurance release proposed insurance rates to the public in an accessible form?*

Under federal rules, state departments of insurance must make information on proposed rate increases exceeding 10% available to the public, but the amount of information available about all rate filings will vary widely from state to state. Some states offer the public an opportunity to comment on the proposed rates. Transparency about rates and rate increases is important - consumers should be able to know what rate increases will be and how they are calculated. Rate filings can be complex and challenging to find and review, and insurance departments could provide more accessible information for consumers. Check out [Oregon's](#) and [Arkansas'](#) websites for some helpful examples.

### Medical cost trend

*Trend* is the rate at which the cost of medical insurance claims increase or decrease each year, and it has a significant impact on rates. The following questions can challenge an insurer's determination of trend in their rate calculations. Actuaries have broad discretion in determining what historical data to use and what adjustments to make when projecting trends for the future.

- *Is the insurer's calculation of medical costs (i.e. payments to doctors, hospitals, and other health care providers) reasonable in light of the state and national forecasts of medical cost trends?*

**Unit cost trend** is the increase or decrease in prices the insurer pays to doctors, hospitals, and other health care providers. To the extent possible, it should be close to the change in state health care expenditures, or national trends if state data is not available. This 2013 cost trends report from [Massachusetts](#) is an example of a state resource, and this medical cost trend report from [PriceWaterhouseCooper's](#) Health Research Institute is one national resource. Both can be used to help encourage a closer look at the insurer's assumptions of medical cost trend.

- ***Did the insurer take into consideration the likely increase in enrollment and more favorable risk pool in 2015?***

There are a number of reasons to assume that the risk pool, or general health of enrollees, will be better in 2015. Leading up to the release of the 2014 rates last year, insurers argued that individuals with the greatest need for insurance were more likely to sign up for insurance in 2014 than people in better health. If that was the case, then it follows that the 2015 risk pool will be healthier than the 2014 pool. Also, people who were previously uninsured and became insured in 2014 will have already received care which will alleviate pent-up demand for health care. Finally, increased enrollment in qualified health plans due to larger penalties for not having insurance, and greater public awareness of programs should have a positive impact for consumers on the 2015 rates.

### **Administrative Expenses**

Advocates can ask their DOI questions to challenge the administrative expenses accounted for in the rate filings. It is important to challenge the accuracy of administrative expenses.

- ***Did the insurer provide a breakdown of the anticipated Medical Loss Ratio (MLR) to demonstrate compliance with the federal requirement?***

The **MLR** requires insurers in the individual and small group market to spend at least 80% of consumers' premium dollars on health care services or activities that improve health care quality. Companies that do not meet the MLR must refund excess premium dollars that it collected to its enrollees (also known as an MLR rebate). At a minimum, DOIs should not approve any proposed rate in which an insurer projects that it will not meet its MLR, resulting in an MLR rebate.

- ***Do the rates account for administrative savings achieved through selling in the Marketplace?***

Selling insurance through the Marketplace should reduce certain expenses for the insurer, such as broker compensation. Also, administrative costs should decrease because of the elimination of underwriting, or determining rate differences based on consumers' health statuses.

- ***What administrative expenses has the insurer passed on to consumers?***

Advocates may argue that insurers should not be permitted to pass through particular types of expenses to consumers, for example: claims adjustment expenses, lobbying, or issue advertising campaigns.

## Savings and Surplus

The ACA includes several mechanisms to help insurers manage risk as they insure a new pool of previously-uninsured people. In light of these mechanisms, proposed rates should take these mechanisms into account and should not result in the insurer accumulating excessive surplus, for example.

- *Are savings from risk-adjustment, reinsurance, and risk corridors reflected in the rates?*

**Risk adjustment** allows an insurer that ends up with a disproportionately *less healthy* pool of consumers to receive payments from insurers with disproportionately *healthy* people.

**Reinsurance** provides payments to insurers with unexpected high cost claims to insulate them from excessive losses. And under the risk corridor program, if an insurer's claims are worse than predicted, the insurer is partially reimbursed for high cost claims by the government. These programs all significantly reduce an insurer's risk of losses, and should be considered in the rate filing process. Advocates should question any rate filing that includes uncertainty associated with risk as a justification for rate increases.

- *Does the insurer have excess reserves or surplus?*

Insurance companies hold various types of reserves for expected claims' expenses, which can build up over time, resulting in a significant pool of money for an insurance company. Reserve information is usually not disclosed in a rate filing, but it can be found in financial statements. Advocates can locate financial statements on the following websites: your state insurance department, the [NAIC](#), or the insurance company itself. If an insurer seeks to increase rates, advocates should ask their DOI about reserve amounts to ensure that insurers are actually using them to pay claims and stabilize rates.

While **reserves** include liabilities of the insurance company for both known and estimated amounts, **surplus** is the amount insurers hold over and above what they project they need in order to pay claims. Surplus protects the insurer in the event that actual costs exceed the established reserve amount. Consumer advocates can argue that premiums should not be set so high that an insurer will accumulate excessive surpluses.

Using this guide, advocates should feel equipped to question their commissioner about rate transparency and proposed rate increases. This is an important opportunity for advocates to challenge negative media coverage of the ACA, and ask questions about rates that will better educate consumers and the public at-large.

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