



**American Hospital
Association**

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Submitted Electronically

February 22, 2011

The Honorable Kathleen Sebelius
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Room 445-G
Washington, D.C. 20201

Re: Proposed Rule for Rate Increase Disclosure and Review under the Patient Protection and Affordable Care Act: OCIIO -9999-P

Dear Secretary Sebelius:

On behalf of our more than 5,000 member hospitals, health systems and other health care organizations, and our 40,000 individual members, the American Hospital Association (AHA) appreciates the opportunity to comment on the Department of Health and Human Services' (HHS) proposed rule on the review of unreasonable premium increases by health insurance issuers (health plans). The disclosure and review of unreasonable premium increases was required by Section 2794 of the *Public Health Service Act (PHSA)*, as enacted in Section 1003 the *Patient Protection and Affordable Care Act (ACA)*. Section 2794 of the PHSA requires that the HHS Secretary, in conjunction with the states, establish a process by which premium rate increases are reviewed and justified.

The AHA applauds the Secretary for her overall approach in the proposed rule on premium increases in the individual and small group markets because:

- It relies on establishing greater transparency and clarity about how plans will be held publicly accountable for their premium increase decisions, which is likely to moderate large increases by establishing a sentinel effect, to the benefit of all stakeholders, especially consumers.
- It establishes an appropriate federal-state collaboration by relying on the states' review of premiums unless there is no effective state process, in which case the federal government would review the proposed rate increase



- It properly focuses review only on premium increases that exceed a threshold designed to cover the rate of increase in medical expenditures as well as an additional margin for increases in administrative and other costs.

Specific Comments

Federal-state collaboration. The rule sets out specific criteria that HHS will apply to determine whether a state has an effective rate review program in place. The AHA encourages HHS to perform ongoing oversight of each state's premium rate review process to ensure that it continues to be an effective program. We appreciate the careful balance that HHS wants to strike by not second guessing a state's determination of a health plan's rate increase, while reserving the right to step in to perform a federal review when a state's rate review program is no longer effective. Health plans that submit a rate filing to a state with a premium increase above the threshold must submit to both the state and the Secretary a "preliminary justification for a rate increase," providing both levels of government and the public with that justification.

Focused review. The proposed rule focuses review only where proposed premium increases exceed a threshold designed to cover the rate of increase in medical expenditures as well as an additional margin for increases in administrative and other costs. And where increases do exceed the threshold, there is a review of the plan's justification for the higher increase, based on an actuarial analysis of the plan's data regarding rates and methods. This approach discourages any sweeping or undocumented judgments about whether an individual plan's proposed increase is inappropriate based on comparisons with national or state averages or the general rate of inflation. At the same time, the proposal does not allow a plan to evade filing requirements on the basis of "trade secrets," thereby ensuring that the public will have access to all materials submitted to justify premium rates. This approach also avoids insurers' ability to blame extreme increases on specific sources in the absence of actual, independently verified data. We also note that an insurer's Medical Loss Ratio (MLR) is a criterion that will be used in determining whether a health plan's rate increase is unreasonable. That underscores the importance of ensuring that the MLR rule clearly defines which activities are classified as clinical services and which do and do not improve health care quality.

The AHA recognizes the hard work of the HHS and the NAIC in developing the rate review policy and the reporting and disclosure mechanisms for state rate review programs. We look forward to continuing to work with HHS to ensure that the goals of the ACA to achieve affordable and high quality health care coverage are met. If you have questions about our comments, please contact Ellen Pryga, policy director, at epryga@aha.org or (202) 626-2267, or Molly Collins Offner, policy director, at mcollins@aha.org or (202) 626-2326.

Sincerely,

/s/

Linda E. Fishman
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Public Policy Analysis and Development