

111TH CONGRESS
2D SESSION

S. 3078

To provide for the establishment of a Health Insurance Rate Authority to establish limits on premium rating, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 4, 2010

Mrs. FEINSTEIN (for herself, Mrs. BOXER, Mr. WHITEHOUSE, Mr. REED, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide for the establishment of a Health Insurance Rate Authority to establish limits on premium rating, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Health Insurance Rate
5 Authority Act of 2010”.

1 **SEC. 2. ENSURING THAT CONSUMERS GET VALUE FOR**
 2 **THEIR DOLLARS.**

3 (a) IN GENERAL.—Part C of title XXVII of the Pub-
 4 lic Health Service Act (42 U.S.C. 300gg–91 et seq.) is
 5 amended by adding at the end the following:

6 **“SEC. 2793. ENSURING THAT CONSUMERS GET VALUE FOR**
 7 **THEIR DOLLARS.**

8 “(a) INITIAL RATE REVIEW PROCESS.—

9 “(1) IN GENERAL.—

10 “(A) ESTABLISHMENT.—The Secretary, in
 11 conjunction with States, shall establish a uni-
 12 form process for the review, beginning with the
 13 2011 plan year, of potentially unreasonable in-
 14 creases in rates for health insurance coverage,
 15 which shall include premiums.

16 “(B) ELECTRONIC REPORTING.—The proc-
 17 ess established under subparagraph (A) shall
 18 include an electronic reporting system estab-
 19 lished by the Secretary through which health in-
 20 surance issuers shall—

21 “(i) report to the Secretary and State
 22 insurance commissioners the information
 23 requested by the Secretary pursuant to
 24 this subsection; and

1 “(ii) submit data to the uniform data
2 collection system in accordance with para-
3 graph (6)(A).

4 “(C) AUTHORITY OF STATES.—Nothing in
5 subparagraph (A) or (B) shall be construed to
6 prohibit a State from imposing additional re-
7 quirements on health insurance issuers with re-
8 spect to increases in rates for health insurance
9 coverage, including with respect to reporting in-
10 formation to a State.

11 “(2) JUSTIFICATION AND DISCLOSURE.—The
12 process established under paragraph (1) shall re-
13 quire health insurance issuers to submit to the Sec-
14 retary and the relevant State a justification for a po-
15 tentially unreasonable rate increase prior to the im-
16 plementation of the increase. Such issuers shall
17 prominently post such information on their Internet
18 websites. The Secretary shall ensure the public dis-
19 closure of information on such increases and jus-
20 tifications for all health insurance issuers.

21 “(3) HEALTH INSURANCE RATE AUTHORITY.—

22 “(A) IN GENERAL.—The Secretary shall
23 establish a Health Insurance Rate Authority
24 (referred to in this paragraph as the ‘Author-

1 ity’) to be composed of 7 members to be ap-
2 pointed by the Secretary, of which—

3 “(i) at least 2 members shall be a
4 consumer advocate with expertise in the in-
5 surance industry;

6 “(ii) at least 1 member shall be an in-
7 dividual who is a medical professional;

8 “(iii) at least 1 member shall be a
9 representative of health insurance issuers;
10 and

11 “(iv) such remaining members shall
12 be individuals who are recognized for their
13 expertise in health finance and economics,
14 actuarial science, health facility manage-
15 ment, health plans and integrated delivery
16 systems, reimbursement of health facilities,
17 and other related fields, who provide broad
18 geographic representation and a balance
19 between urban and rural members.

20 “(B) ROLE.—In addition to the other du-
21 ties of the Authority set forth in this sub-
22 section, the Authority shall advise and make
23 recommendations to the Secretary concerning
24 the Secretary’s duties under this subsection.

1 “(4) CORRECTIVE ACTION FOR UNREASONABLE
2 RATE INCREASES.—

3 “(A) IN GENERAL.—Pursuant to the pro-
4 cedures set forth in this paragraph, the Sec-
5 retary or the relevant State insurance commis-
6 sioner shall—

7 “(i) in accordance with the process es-
8 tablished under paragraph (1), review po-
9 tentially unreasonable increases in rates
10 and determine whether such increases are
11 unreasonable; and

12 “(ii) take action to ensure that any
13 rate increase found to be unreasonable
14 under clause (i) is corrected, through
15 mechanisms including—

16 “(I) denial of the rate increase;

17 “(II) modification of the rate in-
18 crease;

19 “(III) ordering rebates to con-
20 sumers; or

21 “(IV) any other actions that cor-
22 rect for the unreasonable increase.

23 “(B) REQUIRED REPORT; DEFINITION.—

24 The Secretary shall ensure that, not later than
25 6 months after the date of enactment of this

1 section, the National Association of Insurance
2 Commissioners (referred to in this section as
3 the ‘Association’), in conjunction with States, or
4 other appropriate body, will provide to the Sec-
5 retary and the Authority—

6 “(i) a report on—

7 “(I) State authority to review
8 rates and take corrective action in
9 each insurance market, and meth-
10 odologies used in such reviews;

11 “(II) rating requests received by
12 the State in the previous 12 months
13 and subsequent actions taken by
14 States to approve, deny, or modify
15 such requests; and

16 “(III) justifications by insurance
17 issuers for rate requests; and

18 “(ii)(I) a recommended definition of
19 unreasonable rate increase, which shall
20 consider a lack of actuarial justification for
21 such increase; and

22 “(II) other recommended definitions
23 for the purposes of carrying out this sub-
24 section.

1 “(C) DETERMINATION OF WHO CONDUCTS
2 REVIEWS FOR EACH STATE.—Using the report
3 submitted pursuant to subparagraph (B), the
4 Secretary shall determine not later than 1 year
5 after the date of enactment of this section and
6 periodically thereafter—

7 “(i) for which States the State insur-
8 ance commissioner shall undertake the ac-
9 tions described in subparagraph (A)—

10 “(I) based on the Secretary’s de-
11 termination that the State has suffi-
12 cient authority and capability to deny
13 rates, modify rates, provide rebates,
14 or take other corrective actions; and

15 “(II) as a condition of receiving a
16 grant under subsection (c)(1); and

17 “(ii) for which States the Secretary
18 shall undertake the actions described in
19 subparagraph (A), in consultation with the
20 relevant State insurance commissioner,
21 based on the Secretary’s determination
22 that such States lack the authority and ca-
23 pability described in clause (i).

24 “(D) TRANSITION PERIOD.—Until the Sec-
25 retary makes the determinations described in

1 subparagraph (C), the relevant State insurance
2 commissioner shall, as a condition of receiving
3 a grant under subsection (c)(1), carry out the
4 actions described in subparagraph (A) to the
5 extent permissible under State law.

6 “(5) PRIORITIZING POTENTIALLY UNREASON-
7 ABLE RATE INCREASES FOR REVIEW.—The Sec-
8 retary or the relevant State insurance commissioner
9 may prioritize—

10 “(A) rate increases that will impact large
11 numbers of consumers;

12 “(B) rate reviews requested from States, if
13 applicable; and

14 “(C) rate reviews in the individual and
15 small group markets.

16 “(6) ANNUAL REPORT.—

17 “(A) UNIFORM DATA COLLECTION SYS-
18 TEM.—The Secretary, in consultation with the
19 Association and the Authority, shall develop,
20 and may contract with the Association to oper-
21 ate, a uniform data collection system for new
22 and increased rate information, which shall in-
23 clude information on rates, medical loss ratios,
24 consumer complaints, solvency, reserves, and
25 any other relevant factors of market conduct.

1 “(B) PREPARATION OF ANNUAL RE-
2 PORT.—Using the data obtained in accordance
3 with subparagraph (A), the Authority shall an-
4 nually produce a single, aggregate report on in-
5 surance market behavior, which includes at
6 least State-by-State information on rate in-
7 creases from one year to the next, including by
8 health insurance issuer and by market and in-
9 cluding medical trends, benefit changes, and
10 relevant demographic changes.

11 “(C) DISTRIBUTION.—The Authority shall
12 share the annual report described in subpara-
13 graph (B) with States, and include such report
14 in the information disclosed to the public.

15 “(b) CONTINUING RATE REVIEW PROCESS.—As a
16 condition of receiving a grant under subsection (c)(1), a
17 State, through the applicable State insurance commis-
18 sioner, shall provide the Secretary with information about
19 trends in rate increases in health insurance coverage in
20 premium rating areas in the State, in accordance with the
21 uniform data collection system established under sub-
22 section (a)(6)(A).

23 “(c) GRANTS IN SUPPORT OF PROCESS.—

24 “(1) RATE REVIEW GRANTS.—The Secretary
25 shall carry out a program to award grants to States

1 beginning with fiscal year 2010 to assist such States
2 in carrying out subsection (a), including—

3 “(A) in reviewing and, if appropriate under
4 State law, approving or taking corrective action
5 with respect to rate increases for health insur-
6 ance coverage; and

7 “(B) in providing information to the Sec-
8 retary under subsection (b).

9 “(2) FUNDING.—

10 “(A) IN GENERAL.—There is authorized to
11 be appropriated to the Secretary \$250,000,000,
12 to be available for expenditure for grants under
13 paragraph (1).

14 “(B) ALLOCATION.—The Secretary shall
15 establish a formula for determining the amount
16 of any grant to a State under this subsection.
17 Under such formula—

18 “(i) the Secretary shall consider the
19 number of plans of health insurance cov-
20 erage offered in each State and the popu-
21 lation of the State; and

22 “(ii) no State qualifying for a grant
23 under paragraph (1) shall receive more
24 than \$5,000,000 for a grant year.

1 “(d) AUTHORIZATION OF APPROPRIATIONS.—In ad-
 2 dition to the amount authorized under subsection (c)(2),
 3 there are authorized to be appropriated to carry out this
 4 section \$5,000,000 for fiscal year 2010 and such sums
 5 as may be necessary for each subsequent fiscal year.”.

6 (b) ENFORCEMENT.—Title XXVII of the Public
 7 Health Service Act (42 U.S.C. 300gg et seq.) is amend-
 8 ed—

9 (1) in section 2722—

10 (A) in subsection (a)—

11 (i) in paragraph (1), by inserting
 12 “and section 2793” after “this part”; and

13 (ii) in paragraph (2), by inserting “or
 14 section 2793” after “this part”; and

15 (B) in subsection (b)—

16 (i) in paragraph (1), by inserting
 17 “and section 2793” after “this part”; and

18 (ii) in paragraph (2), by inserting “or
 19 section 2793” after “this part” each place
 20 such term appears; and

21 (2) in section 2761—

22 (A) in subsection (a)—

23 (i) in paragraph (1), by inserting
 24 “and section 2793” after “this part”; and

25 (ii) in paragraph (2)—

1 (I) by inserting “or section
2 2793” after “set forth in this part”;
3 and

4 (II) by inserting “and section
5 2793” after “the requirements of this
6 part”; and

7 (B) in subsection (b)—

8 (i) by inserting “and section 2793”
9 after “this part”; and

10 (ii) by inserting “and section 2793”
11 after “part A”.

12 (c) EFFECTIVE DATE.—The amendment made by
13 this section shall take effect on the date of enactment of
14 this Act.

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