



General Assembly

Substitute Bill No. 194

February Session, 2010

* SB00194INS 031710 *

AN ACT CONCERNING RATE APPROVALS FOR CERTAIN HEALTH INSURANCE POLICIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (a) to (c), inclusive, of section 38a-481 of the
2 2010 supplement to the general statutes are repealed and the following
3 is substituted in lieu thereof (*Effective July 1, 2010*):

4 (a) (1) No individual health insurance policy shall be delivered or
5 issued for delivery to any person in this state, nor shall any
6 application, rider or endorsement be used in connection with such
7 policy, until a copy of the form thereof and of the classification of risks
8 and the premium rates have been filed with the commissioner. The
9 commissioner shall adopt regulations, in accordance with chapter 54,
10 to establish a procedure for reviewing such policies. The commissioner
11 shall disapprove the use of such form at any time if it does not comply
12 with the requirements of law, or if it contains a provision or provisions
13 [which] that are unfair or deceptive or [which] that encourage
14 misrepresentation of the policy. The commissioner or the
15 commissioner's designee shall notify, in writing, the insurer [which]
16 that has filed any such form of the commissioner's disapproval,
17 specifying the reasons for disapproval, and [ordering] communicating
18 that no such insurer shall deliver or issue for delivery to any person in
19 this state a policy on or containing such form. The provisions of section

20 38a-19 shall apply to such [orders] notifications of disapprovals.

21 (2) The commissioner may prescribe requirements for disclosure
22 notices, illustrations or other explanatory materials said commissioner
23 deems necessary to protect policyholders.

24 (b) No rate filed under the provisions of subsection (a) of this
25 section shall be effective [until the expiration of thirty days after it has
26 been filed or] unless [sooner] approved by the commissioner [in
27 accordance with regulations adopted pursuant to this subsection] as
28 set forth in section 2 of this act. The commissioner shall adopt
29 regulations, in accordance with chapter 54, to prescribe standards to
30 [insure] ensure that such rates shall not be excessive, inadequate or
31 unfairly discriminatory, as defined in section 2 of this act. [The
32 commissioner may disapprove such rate within thirty days after it has
33 been filed if it fails to comply with such standards, except that no rate
34 filed under the provisions of subsection (a) of this section for any
35 Medicare supplement policy shall be effective unless approved in
36 accordance with section 38a-474.]

37 (c) (1) No rate filed under the provisions of subsection (a) of this
38 section for a Medicare supplement policy shall be effective unless
39 approved in accordance with section 38a-474.

40 (2) No insurance company, fraternal benefit society, hospital service
41 corporation, medical service corporation, health care center or other
42 entity [which] that delivers or issues for delivery in this state any
43 Medicare supplement policies or certificates shall incorporate in its
44 rates or determinations to grant coverage for Medicare supplement
45 insurance policies or certificates any factors or values based on the age,
46 gender, previous claims history or the medical condition of any person
47 covered by such policy or certificate. [, except for plans "H" to "J",
48 inclusive, as provided in section 38a-495b. In plans "H" to "J", inclusive,
49 previous claims history and the medical condition of the applicant may
50 be used in determinations to grant coverage under Medicare
51 supplement policies and certificates issued prior to January 1, 2006.]

52 Sec. 2. (NEW) (*Effective July 1, 2010*) (a) (1) Any (A) rate filing made
53 pursuant to section 38a-481 of the general statutes, as amended by this
54 act, (B) schedule of amounts filed pursuant to section 38a-183 of the
55 general statutes, as amended by this act, (C) schedule of rates filed
56 pursuant to section 38a-208 of the general statutes, as amended by this
57 act, or (D) schedule of rates filed pursuant to section 38a-218 of the
58 general statutes, as amended by this act, on or after July 1, 2010, shall
59 be filed not later than one hundred twenty calendar days prior to the
60 proposed effective date of such rates or amounts.

61 (2) Each filer making a rate or amount filing pursuant to this
62 subsection shall:

63 (A) On the date the filer submits such rate or amount filing to the
64 Insurance Commissioner, clearly and conspicuously disclose to its
65 insureds or subscribers, in writing and in such form as the
66 commissioner may prescribe: (i) The proposed general rate or amount
67 increase and the dollar amount by which an insured's or subscriber's
68 policy or agreement will increase, including any increase because of
69 the insured's or subscriber's age or change in age rating classification
70 and the percentage increase or decrease of the proposed rate or
71 amount from the current rate or amount; (ii) a statement that the
72 proposed rate or amount is subject to Insurance Department review
73 and approval; and (iii) information on the insured's right to submit
74 public comment as set forth in this section; and

75 (B) Include with its rate or amount filing an actuarial memorandum,
76 certified by a qualified actuary, as defined in section 38a-78 of the
77 general statutes, that to the best of such actuary's knowledge, (i) such
78 rate or amount filing is in compliance with law, and (ii) the rate or
79 amount filing is not excessive, as defined in this section.

80 (3) (A) Notwithstanding section 38a-69a of the general statutes, the
81 Insurance Department shall post on its Internet web site all documents,
82 materials and other information provided to or requested by the
83 department in relation to a rate or amount filing made pursuant to this

84 subsection, including, but not limited to, financial reports, financial
85 statements, actuarial reports and actuarial memoranda. The rate or
86 amount filing and the documents, materials and other information
87 shall be posted not later than three business days after the department
88 receives such filing, and such posting shall be updated to include any
89 correspondence between the department and the filer.

90 (B) The department shall provide for a written public comment
91 period of thirty days following the posting of such filing. The
92 department shall include in such posting the date the public comment
93 period closes and instructions on how to submit comments to the
94 department.

95 (4) Except where a hearing is required under subsection (b) of this
96 section, the commissioner shall issue a written decision approving,
97 disapproving or modifying a rate or amount filing not later than forty-
98 five days after such filing was made. Such decision shall specify all
99 factors used to reach such decision and shall be posted on the Internet
100 web site of the Insurance Department not later than two business days
101 after the commissioner issues such decision.

102 (5) The commissioner shall not approve a rate or amount filing
103 made under this section if it is excessive, inadequate or unfairly
104 discriminatory.

105 (A) A rate or amount is excessive if it is unreasonably high for the
106 insurance provided in relation to the underlying risks and costs.

107 (B) A rate or amount is inadequate if it is unreasonably low for the
108 insurance provided in relation to the underlying risks and costs and
109 continued use of such rate or amount would endanger solvency of the
110 filer.

111 (C) A rate or amount is unfairly discriminatory if the premium
112 charged for any classification is not reasonably related to the
113 underlying risks and costs, such that different premiums result for
114 insureds with similar risks and costs.

115 (6) In reviewing a rate or amount filing to determine if such filing is
116 not excessive, inadequate or unfairly discriminatory and is therefore
117 reasonable, the commissioner shall:

118 (A) Conduct an actuarial review to determine if the methodology
119 and assumptions used to develop the rate or amount filing are
120 actuarially sound and in compliance with the Actuarial Standards of
121 Practice issued by the Actuarial Standards Board; and

122 (B) Give due consideration to (i) the experience of the filer, (ii) the
123 past and projected costs of the filer including amounts paid and to be
124 paid for commissions, (iii) any transfers of funds to the holding or
125 parent company, subsidiary or affiliate of the filer, (iv) the filer's rate of
126 return on assets or profitability, as compared to similar filers, (v) a
127 reasonable margin for profit and contingencies, (vi) any public
128 comments received on such filing, and (vii) other factors the
129 commissioner deems relevant.

130 (b) (1) If (A) a rate filing made pursuant to section 38a-481 of the
131 general statutes, as amended by this act, for health insurance that
132 provides coverage of the type specified in subdivisions (1), (2), (4), (11)
133 and (12) of section 38a-469 of the general statutes, (B) a schedule of
134 amounts filed pursuant to section 38a-183 of the general statutes, as
135 amended by this act, (C) a schedule of rates filed pursuant to section
136 38a-208 of the general statutes, as amended by this act, or (D) a
137 schedule of rates filed pursuant to section 38a-218 of the general
138 statutes, as amended by this act, is for more than a ten per cent
139 increase in such rate or amount and upon request of the Healthcare
140 Advocate or the Attorney General not later than five business days
141 after such rate or amount filing has been posted on the Internet web
142 site of the Insurance Department, the commissioner shall, not later
143 than five business days after the receipt of such request, set a hearing
144 date on such rate or amount filing and post the date, place and time of
145 the hearing in a conspicuous place on the Internet web site of the
146 department.

147 (2) Such hearing shall be (A) held not later than ninety calendar
148 days prior to the proposed effective date of such rate or amount, at a
149 place and time that is convenient to the public, and (B) conducted in
150 accordance with chapter 54 of the general statutes, this section and
151 section 3 of this act.

152 (3) Upon setting the date, place and time of the hearing on the
153 proposed rate or amount, the commissioner shall immediately notify
154 the filer of the date, place and time of the hearing.

155 (c) Not later than thirty calendar days after the hearing, the
156 commissioner shall issue a written decision approving, disapproving
157 or modifying the rate or amount filing. Such decision shall specify all
158 factors used to reach such decision and shall be posted on the Internet
159 web site of the Insurance Department not later than two business days
160 after the commissioner issues such decision.

161 (d) Each insurance company, health care center, hospital service
162 corporation or medical service corporation subject to the provisions of
163 this section shall disclose in writing to a prospective customer of a
164 policy or agreement that may be affected by a rate or amount filing
165 made pursuant to this section, (1) that the rate or amount of such
166 policy or agreement is under review by the Insurance Department, and
167 (2) the proposed increase or decrease in the rate or amount of such
168 policy or agreement.

169 (e) Each insurance company, health care center, hospital service
170 corporation or medical service corporation subject to the provisions of
171 this section shall retain records of all earned premiums and incurred
172 benefits per calendar year for each policy or agreement for which a
173 rate or amount filing is made pursuant to section 2 of this act. Such
174 records shall be retained for not less than seven years after the date
175 each such filing is made and shall include records for any rider or
176 endorsement used in connection with such policy or agreement.

177 Sec. 3. (NEW) (*Effective July 1, 2010*) (a) Notwithstanding sections 4-
178 176 and 4-177a of the general statutes, the Healthcare Advocate or the

179 Attorney General, or both, may be parties to any hearing held
180 pursuant to section 2 of this act.

181 (b) Subject to the provisions of section 4-181 of the general statutes,
182 (1) the Healthcare Advocate or the Attorney General, or both, shall
183 have access to the records of the Insurance Department regarding a
184 rate or amount filing made pursuant to section 2 of this act, and (2)
185 attorneys, actuaries, accountants and other experts who are part of the
186 Insurance Commissioner's staff and who review or assist in the
187 determination of such filing shall cooperate with the Healthcare
188 Advocate or Attorney General, or both, to carry out the provisions of
189 this section.

190 (c) The Healthcare Advocate or the Attorney General, or both, may
191 (1) summon and examine under oath, such witnesses as the Healthcare
192 Advocate or the Attorney General deems necessary to the review of a
193 rate or amount filing made pursuant to section 2 of this act, and (2)
194 require the filer or any holding or parent company or subsidiary of
195 such filer to produce books, vouchers, memoranda, papers, letters,
196 contracts and other documents, regardless of the format in which such
197 materials are stored. Such books, vouchers, memoranda, papers,
198 letters, contracts and other documents shall be limited to such
199 information or transactions between the filer and the holding or parent
200 company or subsidiary that are reasonably related to the subject matter
201 of the filing.

202 Sec. 4. (NEW) (*Effective July 1, 2010*) (a) If the Insurance
203 Commissioner issues a decision to approve or modify a rate or amount
204 filing made pursuant to section 2 of this act, the filer shall provide
205 written notice to each insured or subscriber by first class mail that
206 states (1) the approved rate or amount for the insured's or subscriber's
207 policy or agreement, (2) any increase in the rate or amount due to the
208 insured's or subscriber's age or change in age rating classification, and
209 (3) the percentage increase or decrease of the approved rate from the
210 current rate of the insured or subscriber.

211 (b) No such rate or amount shall be effective until thirty calendar
212 days after the notice has been sent by the filer as set forth in subsection
213 (a) of this section.

214 Sec. 5. Subsection (a) of section 38a-183 of the general statutes is
215 repealed and the following is substituted in lieu thereof (*Effective July*
216 *1, 2010*):

217 (a) A health care center governed by sections 38a-175 to 38a-192,
218 inclusive, shall not enter into any agreement with subscribers unless
219 and until it has filed with the commissioner a full schedule of the
220 amounts to be paid by the subscribers and has obtained the
221 commissioner's approval [thereof] as set forth in section 2 of this act.
222 [The commissioner may refuse such approval if he finds such amounts
223 to be excessive, inadequate or discriminatory.] Each such health care
224 center shall not enter into any agreement with subscribers unless and
225 until it has filed with the commissioner a copy of such agreement or
226 agreements, including all riders and endorsements thereon, and until
227 the commissioner's approval thereof has been obtained. [The
228 commissioner shall, within a reasonable time after the filing of any
229 request for an approval of the amounts to be paid, any agreement or
230 any form, notify the health care center of either his approval or
231 disapproval thereof.]

232 Sec. 6. Section 38a-208 of the general statutes is repealed and the
233 following is substituted in lieu thereof (*Effective July 1, 2010*):

234 No such corporation shall enter into any contract with subscribers
235 unless and until it has filed with the Insurance Commissioner a full
236 schedule of the rates to be paid by the subscribers and has obtained
237 said commissioner's approval [thereof] as set forth in section 2 of this
238 act. [The commissioner may refuse such approval if he finds such rates
239 to be excessive, inadequate or discriminatory.] No hospital service
240 corporation shall enter into any contract with subscribers unless and
241 until it has filed with the Insurance Commissioner a copy of such
242 contract, including all riders and endorsements thereof, and until said

243 commissioner's approval thereof has been obtained. [The Insurance
244 Commissioner shall, within a reasonable time after the filing of any
245 such form, notify such corporation either of his approval or
246 disapproval thereof.]

247 Sec. 7. Section 38a-218 of the general statutes is repealed and the
248 following is substituted in lieu thereof (*Effective July 1, 2010*):

249 No such medical service corporation shall enter into any contract
250 with subscribers unless and until it has filed with the Insurance
251 Commissioner a full schedule of the rates to be paid by the subscriber
252 and has obtained said commissioner's approval [thereof] as set forth in
253 section 2 of this act. [The commissioner may refuse such approval if he
254 finds such rates are excessive, inadequate or discriminatory.] No such
255 medical service corporation shall enter into any contract with
256 subscribers unless and until it has filed with the Insurance
257 Commissioner a copy of such contract, including all riders and
258 endorsements thereof, and until said commissioner's approval thereof
259 has been obtained. [The Insurance Commissioner shall, within a
260 reasonable time after the filing of any such form, notify such
261 corporation either of his approval or disapproval thereof.]

262 Sec. 8. Section 11-8a of the general statutes is repealed and the
263 following is substituted in lieu thereof (*Effective July 1, 2010*):

264 (a) The State Librarian shall, in the performance of his duties
265 pursuant to section 11-8, consult with the Attorney General, the
266 Probate Court Administrator and the chief executive officers of the
267 Connecticut Town Clerks Association and the Municipal Finance
268 Officers Association of Connecticut, or their duly appointed
269 representatives.

270 (b) The State Librarian may require each such state agency, or each
271 political subdivision of the state, including each probate district, to
272 inventory all books, records, papers and documents under its
273 jurisdiction and to submit to him for approval retention schedules for
274 all such books, records, papers and documents, or he may undertake

275 such inventories and establish such retention schedules, based on the
276 administrative need of retaining such books, records, papers and
277 documents within agency offices or in suitable records centers. Each
278 agency head, and each local official concerned, shall notify the State
279 Librarian of any changes in the administrative requirements for the
280 retention of any book, record, paper or document subsequent to the
281 approval of retention schedules by the State Librarian.

282 (c) If the Public Records Administrator and the State Archivist
283 determine that certain books, records, papers and documents which
284 have no further administrative, fiscal or legal usefulness are of
285 historical value to the state, the State Librarian shall direct that they be
286 transferred to the State Library. If the State Librarian determines that
287 such books, records, papers and documents are of no administrative,
288 fiscal, or legal value, and the Public Records Administrator and State
289 Archivist determine that they are of no historical value to the state, the
290 State Librarian shall approve their disposal, whereupon the head of the
291 state agency or political subdivision shall dispose of them as directed
292 by the State Librarian.

293 (d) The State Librarian may establish and carry out a program of
294 inventorying, repairing and microcopying for the security of those
295 records of political subdivisions of the state which he determines to
296 have permanent value; and he may provide safe storage for the
297 security of such microcopies of such records.

298 (e) The State Library Board may transfer any of the books, records,
299 documents, papers, files and reports turned over to the State Librarian
300 pursuant to the provisions of this section and section 11-4c. The State
301 Library Board shall have sole authority to authorize any such transfers.
302 The State Library Board shall adopt regulations pursuant to chapter 54
303 to carry out the provisions of this subsection.

304 (f) Each state agency shall cooperate with the State Librarian to
305 carry out the provisions of this section and shall designate an agency
306 employee to serve as the records management liaison officer for this

307 purpose.

308 (g) Notwithstanding subsections (b) and (c) of this section, the
 309 Insurance Department shall retain all records of any rate or amount
 310 filing made pursuant to section 2 of this act for not less than seven
 311 years after the date such filing was approved, disapproved or
 312 modified.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2010</i>	38a-481(a) to (c)
Sec. 2	<i>July 1, 2010</i>	New section
Sec. 3	<i>July 1, 2010</i>	New section
Sec. 4	<i>July 1, 2010</i>	New section
Sec. 5	<i>July 1, 2010</i>	38a-183(a)
Sec. 6	<i>July 1, 2010</i>	38a-208
Sec. 7	<i>July 1, 2010</i>	38a-218
Sec. 8	<i>July 1, 2010</i>	11-8a

Statement of Legislative Commissioners:

In section 2(a) (5)(C), "filers" was changed to "insureds" for accuracy.

INS *Joint Favorable Subst.*