

RICHARD BLUMENTHAL  
ATTORNEY GENERAL



55 Elm Street  
P.O. Box 120  
Hartford, CT 06141-0120

Office of The Attorney General  
**State of Connecticut**

*TESTIMONY OF  
ATTORNEY GENERAL RICHARD BLUMENTHAL  
BEFORE THE INSURANCE AND REAL ESTATE COMMITTEE  
FEBRUARY 11, 2010*

I appreciate the opportunity to support Senate Bill 12, An Act Clarifying Postclaims Underwriting. This legislation clarifies the intent of legislation, jointly supported by the Healthcare Advocate and me, to provide fairness and equity for individuals who are insured through individual health insurance.

Specifically, Senate Bill 12 requires the Insurance Commissioner's approval on any rescission, cancellation or limitation of an individual health insurance policy. The Insurance Commissioner must review the proposed action by the insurer and grant approval only if (1) the Commissioner determines that the insured was fairly apprised of the specific information sought in the application for insurance and knowingly omitted material information or knowingly submitted false information and (2) the false or omitted information materially affects the risk or hazard assumed by the insurer in the contract.

In addition, if the reason for the insurer's proposed action is based on a preexisting medical condition, the insurer may only investigate issues that have a direct relationship to the insurance claim and may look back only to the period of time authorized by law for review of such preexisting condition.

Over the years, my office has received complaints from patients who have paid thousands of dollars in health insurance premiums only to have the insurer decline coverage for serious illnesses such as cancer. The insurer may cite a supposedly false statement on the application signed by the individual. In one example, the patient was tested prior to filing an insurance application for kidney disease and received a clean bill of health as a result of a negative and dispositive test result. Three months after enrollment the patient was hospitalized on an emergency basis and her insurance company retroactively terminated her policy, citing as its basis for doing so a statement she made to a question on the application which asked whether she had received consultation for kidney disease. The patient, who reasonably believed she had no kidney disease, answered "no." The health insurer's termination of her policy forced her to pay tens of thousands of dollars out of pocket for an unforeseen condition that she had every right to believe would be covered. There was clearly no intent to deceive the insurer.

These retrospective reviews happen all too frequently -- well into the policy period at a time when patients have good reason to believe they are protected by the coverage they have purchased. Many have suffered severe harm.

In 2007, the General Assembly approved a law designed to prevent these abuses. Since the law's effective date, the number of short-term individual health insurance rescissions has actually increased. The law's effectiveness and efficacy in protecting insureds has been undermined by insurers and the Insurance Department's interpretations of the law. Senate Bill 12 seeks to clarify the original intent of the law, restoring its true protections for insureds.

As more and more people are unemployed or taking lower paying jobs with access to employer health insurance, they will turn to individual health insurance. The legislature needs to provide this growing number of people with the protections from unfair and arbitrary actions by certain individual health insurers.

I urge the committee's favorable consideration of Senate Bill 12.