



General Assembly

February Session, 2012

Raised Bill No. 5479

LCO No. 1816

01816_____HS_

Referred to Committee on Human Services

Introduced by:
(HS)

AN ACT CONCERNING ACCOUNTABILITY OF INSURERS TO CONSUMERS.

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

1 Section 1. Section 38a-481 of the 2012 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2012*):

4 (a) 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]
9 Insurance Commissioner. The commissioner shall adopt regulations, in
10 accordance with chapter 54, to establish a procedure for reviewing
11 such policies. The commissioner shall disapprove the use of such form
12 at any time if it does not comply with the requirements of law, or if it
13 contains a provision or provisions which are unfair or deceptive or
14 which encourage misrepresentation of the policy. The commissioner
15 shall notify, in writing, the insurer which has filed any such form of
16 the commissioner's disapproval, specifying the reasons for

17 disapproval, and ordering that no such insurer shall deliver or issue
18 for delivery to any person in this state a policy on or containing such
19 form. The provisions of section 38a-19 shall apply to such orders.

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

32 (c) No insurance company, fraternal benefit society, hospital service
33 corporation, medical service corporation, health care center or other
34 entity which delivers or issues for delivery in this state any Medicare
35 supplement policies or certificates shall incorporate in its rates or
36 determinations to grant coverage for Medicare supplement insurance
37 policies or certificates any factors or values based on the age, gender,
38 previous claims history or the medical condition of any person covered
39 by such policy or certificate.

40 (d) Rates on a particular policy form will not be deemed excessive if
41 the insurer has filed a loss ratio guarantee with the Insurance
42 Commissioner [which] that meets the requirements of subsection (e) of
43 this section provided (1) the form of such loss ratio guarantee has been
44 explicitly approved by the [Insurance Commissioner] commissioner,
45 and (2) the current expected lifetime loss ratio is not more than five per
46 cent less than the filed lifetime loss ratio as certified by an actuary. The
47 insurer shall withdraw the policy form if the commissioner determines
48 that the lifetime loss ratio will not be met. Rates also will not be

49 deemed excessive if the insurer complies with the terms of the loss
50 ratio guarantee. The [Insurance Commissioner] commissioner may
51 adopt regulations, in accordance with chapter 54, to assure that the use
52 of a loss ratio guarantee does not constitute an unfair practice.

53 (e) Premium rates shall be deemed approved upon filing with the
54 Insurance Commissioner if the filing is accompanied by a loss ratio
55 guarantee. The loss ratio guarantee shall be in writing, signed by an
56 officer of the insurer, in compliance with the accounting procedures set
57 forth by the recommendations of the National Association of Insurance
58 Commissioners for reporting of medical loss ratios and shall contain as
59 a minimum the following:

60 (1) A recitation of the anticipated lifetime and durational target loss
61 ratios contained in the original actuarial memorandum filed with the
62 policy form when it was originally approved;

63 (2) A guarantee that the actual Connecticut loss ratios for the
64 experience period in which the new rates take effect and for each
65 experience period thereafter until any new rates are filed will meet or
66 exceed the loss ratios referred to in subdivision (1) of this subsection,
67 but in no case shall be less than eighty-five per cent, unless, if the
68 entity is a nonprofit corporation, not-for-profit corporation, mutual
69 insurance corporation or federally qualified cooperative insurer, the
70 medical loss ratio shall conform with governing federal laws and
71 regulations. If the annual earned premium volume in Connecticut
72 under the particular policy form is less than one million dollars and
73 therefore not actuarially credible, the loss ratio guarantee will be based
74 on the actual nation-wide loss ratio for the policy form. If the aggregate
75 earned premium for all states is less than one million dollars, the
76 experience period will be extended until the end of the calendar year
77 in which one million dollars of earned premium is attained.
78 Administrative and medical expenses, for the purposes of calculating
79 the medical loss ratio, will be defined by the current recommendation
80 of the National Association of Insurance Commissioners, as used in the

81 Affordable Care Act, which encompasses the Patient Protection and
82 Affordable Care Act, Public Law 111-148, as amended by The Health
83 Care and Education Reconciliation Act of 2010, Public Law 111-152;

84 (3) A guarantee that the actual Connecticut or nation-wide loss ratio
85 results, as the case may be, for the experience period at issue will be
86 independently audited by a certified public accountant or a member of
87 the American Academy of Actuaries at the insurer's expense. The audit
88 shall be done in the second quarter of the year following the end of the
89 experience period and the audited results must be reported to the
90 [Insurance Commissioner] commissioner not later than June thirtieth
91 following the end of the experience period;

92 (4) A guarantee that affected Connecticut policyholders will be
93 issued a proportional refund, which will be based on the premiums
94 earned, of the amount necessary to bring the actual loss ratio up to the
95 anticipated loss ratio referred to in subdivision (1) of this subsection. If
96 nation-wide loss ratios are used, the total amount refunded in
97 Connecticut shall equal the dollar amount necessary to achieve the loss
98 ratio standards multiplied by the total premium earned from all
99 Connecticut policyholders who will receive refunds and divided by
100 the total premium earned in all states on the policy form. The refund
101 shall be made to all Connecticut policyholders who are insured under
102 the applicable policy form as of the last day of the experience period
103 and whose refund would equal two dollars or more. The refund shall
104 include interest, at six per cent, from the end of the experience period
105 until the date of payment. Payment shall be made during the third
106 quarter of the year following the experience period for which a refund
107 is determined to be due;

108 (5) A guarantee that refunds less than two dollars will be
109 aggregated by the insurer. The insurer shall deposit such amount in a
110 separate interest-bearing account in which all such amounts shall be
111 deposited. At the end of each calendar year each such insurer shall
112 donate such amount to The University of Connecticut Health Center;

113 (6) A guarantee that the insurer, if directed by the [Insurance
114 Commissioner] commissioner, shall withdraw the policy form and
115 cease the issuance of new policies under the form in this state if the
116 applicable loss ratio exceeds the durational target loss ratio for the
117 experience period by more than twenty per cent, provided the
118 calculations are based on at least two thousand policyholder-years of
119 experience either in Connecticut or nation-wide.

120 (f) The commissioner has the authority to perform an audit of any
121 insurer. If the audit shows that an insurer has violated any provision of
122 this section, the insurer shall be subject to penalties and fines up to and
123 exceeding one million dollars, depending on the severity of the
124 violation. An insurer aggrieved because of a penalty levied under this
125 subdivision may appeal therefrom in accordance with the provisions
126 of section 38a-19.

127 ~~[(f)]~~ (g) For the purposes of this section:

128 (1) "Loss ratio" means the ratio of incurred claims to earned
129 premiums by the number of years of policy duration for all combined
130 durations; and

131 (2) "Experience period" means the calendar year for which a loss
132 ratio guarantee is calculated.

133 ~~[(g)]~~ (h) Nothing in this chapter shall preclude the issuance of an
134 individual health insurance policy [which] that includes an optional
135 life insurance rider, provided the optional life insurance rider [must]
136 shall be filed with and approved by the [Insurance Commissioner]
137 commissioner pursuant to section 38a-430. Any company offering such
138 policies for sale in this state shall be licensed to sell life insurance in
139 this state pursuant to the provisions of section 38a-41.

140 ~~[(h)]~~ (i) No insurance company, fraternal benefit society, hospital
141 service corporation, medical service corporation, health care center or
142 other entity that delivers, issues for delivery, amends, renews or

143 continues an individual health insurance policy in this state shall: (1)
144 Move an insured individual from a standard underwriting
145 classification to a substandard underwriting classification after the
146 policy is issued; (2) increase premium rates due to the claim experience
147 or health status of an individual who is insured under the policy,
148 except that the entity may increase premium rates for all individuals in
149 an underwriting classification due to the claim experience or health
150 status of the underwriting classification as a whole; or (3) use an
151 individual's history of taking a prescription drug for anxiety for six
152 months or less as a factor in its underwriting unless such history arises
153 directly from a medical diagnosis of an underlying condition.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2012</i>	38a-481

Statement of Purpose:

To strengthen insurer accountability and enhance consumer protection.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]