

South Carolina Department of Insurance

Capital Center
1201 Main Street, Suite 1000
Columbia, South Carolina 29201


NIKKI R. HALEY
Governor

DAVID BLACK
Director of Insurance

Mailing Address:
P.O. Box 100105, Columbia, S.C. 29202-3105
Telephone: (803) 737-6160

BULLETIN NUMBER 2011-03

TO: All Insurers Licensed to Transact Accident and Health Insurance Business within the State of South Carolina and All South Carolina Licensed Health Maintenance Organizations.

FROM: David Black 
Director

SUBJECT: New Rate Filing Procedures to Comply with 45 C.F.R. Part 154 as Promulgated by the Center for Consumer Information and Insurance Oversight and Centers for Medicare & Medicaid Services (CMS) of the United States Department of Health and Human Services (HHS)

DATE: June 29, 2011

I. PURPOSE

On May 23, 2011, 45 C.F.R Part 154, titled as the HEALTH INSURANCE ISSUER RATE INCREASES: DISCLOSURE AND REVIEW REQUIREMENTS rule, was published in the Federal Register. The rule establishes the requirements for health insurance issuers offering health insurance coverage in the small group or individual markets, , to report information on rate increases that are above a specific threshold and designated as subject to review. The rule establishes the process by which such increases are reviewed to determine whether they are unreasonable. For purposes of this Bulletin, the terms “health insurance issuers,” “health insurance coverage,” “small group market” and “individual market” shall have the meaning set forth in the Affordable Care Act (“ACA”).

The purpose of this bulletin is to inform South Carolina health insurance issuers of the new rate filing procedures that the Department is adopting to comply with 45 C.F.R. Part 154 and the related additional reporting requirements that must be met when submitting rate filings to the Department. The Department is requiring this additional information in accordance with the Director’s authority under §38-71-310(B) and 38-71-970(C).

II. APPLICABILITY AND SCOPE

Bulletins are the method by which the Director of Insurance formally communicates with persons and entities regulated by the Department. Bulletins are Departmental interpretations of South Carolina insurance laws and regulations and provide guidance on the Department’s enforcement approach. Bulletins do not provide legal advice. Readers should consult applicable statutes and regulations or contact an attorney for legal advice or for additional information on the impact of that legislation on their specific situation.

As stated in 45 C.F.R. §154.103:

- (a) In general. The requirements of this part apply to health insurance issuers offering health insurance coverage in the individual market and small group market.
- (b) Exceptions. The requirements of this part do not apply to grandfathered health plan coverage as defined in 45 C.F.R. §147.140, or to excepted benefits as described in section 2791(c) of the PHS Act.

45 C.F.R. Part 154 requires certain information to be reported for rate increases that are above a specific threshold ("additional reporting requirements"). Because South Carolina law does not recognize rate thresholds, the Department is requiring submission of the additional reporting requirements for ALL rate increases for health insurance coverage in the South Carolina individual and small group markets. Grandfathered plans are not required to submit the additional information. *All* plans must continue to comply with existing filing requirements which may be found on the Department's website, www.doi.sc.gov. This additional information will enhance the Director's or his designee's ability to determine whether a health insurance rate is unreasonable in accordance with the requirements of §38-71-310 and §38-71-920 through §38-71-970.

III. ADDITIONAL REPORTING REQUIREMENTS

With each submission of a rate increase to the Department, in addition to the current filing requirements, all health insurance issuers shall submit the following information:

- (1) Rate Increase Summary (Part I), as described in 45 C.F.R §154.215 (e). The rate increase summary should be submitted in the standard excel format as provided by HHS.
- (2) Written Explanation of the Rate Increase (Part II), as set forth in 45 C.F.R. §154.215 (f).
- (3) Rate Filing Documentation (Part III), as set forth in 45 C.F.R. §154.215 (g).

The Department will use this information to evaluate the proposed rate increase and to make a determination as to whether the rate increase is unreasonable in accordance with the standards set forth in §38-71-310(B) for the individual market and §38-71-970 for the small group market. The evaluation will include, but will not be limited to, an examination of the following:

- (1) The reasonableness of the assumptions used by the health insurance issuer to develop the proposed rate increase and the validity of the historical data underlying the assumptions; and

Bulletins are the method by which the Director of Insurance formally communicates with persons and entities regulated by the Department. Bulletins are Departmental interpretations of South Carolina insurance laws and regulations and provide guidance on the Department's enforcement approach. Bulletins do not provide legal advice. Readers should consult applicable statutes and regulations or contact an attorney for legal advice or for additional information on the impact of that legislation on their specific situation.

(2) The health insurance issuer's data related to past projections and actual experience.

This examination will take into consideration the following twelve factors to the extent applicable to the filing under review, namely:

- The impact of medical trend changes by major service categories
- The impact of utilization changes by major service categories
- The impact of cost-sharing changes by major service categories
- The impact of benefit changes
- The impact of changes in enrollment risk profile
- The impact of any overestimate or underestimate of medical trend for prior year periods related to the rate increase
- The impact of changes in reserve needs
- The impact of changes in administrative costs related to programs that improve health care quality
- The impact of changes in other administrative costs
- The impact of changes in applicable taxes, licensing or regulatory fees
- Medical loss ratio
- The health insurance issuer's capital and surplus

Insurers must submit any additional information required by the Department in conducting these reviews.

All filings and other submissions must be filed through the SERFF system.

The Department will provide a link on its website to the information contained in Parts I and II of the Preliminary Justifications for proposed rate increases that CMS makes available to the public on its website. Further, the Department will establish a dedicated electronic mailbox as a mechanism for receiving public comments on those proposed rate increases.

IV. FILING INFORMATION

To assist insurers with the filing requirements set forth in this bulletin, the Department shall make available on its website (www.doi.sc.gov) the HHS Rate Increase Summary excel spreadsheet as well as the instructions from HHS for its completion.

V. EFFECTIVE DATE

The additional reporting requirements apply to any rate increase filed in South Carolina on or after September 1, 2011. To allow the Department sufficient time for review, all filers should submit this information at least 90 days in advance of the anticipated rate increase effective date.

Bulletins are the method by which the Director of Insurance formally communicates with persons and entities regulated by the Department. Bulletins are Departmental interpretations of South Carolina insurance laws and regulations and provide guidance on the Department's enforcement approach. Bulletins do not provide legal advice. Readers should consult applicable statutes and regulations or contact an attorney for legal advice or for additional information on the impact of that legislation on their specific situation.

VI. QUESTIONS

Questions regarding this Bulletin should be addressed to:

Andrew M. Dvorine
Life Actuary
South Carolina Department of Insurance
145 King Street, Suite 228
Charleston, SC 29401
Phone: (843) 577-3417
advorine@doi.sc.gov

Bulletins are the method by which the Director of Insurance formally communicates with persons and entities regulated by the Department. Bulletins are Departmental interpretations of South Carolina insurance laws and regulations and provide guidance on the Department's enforcement approach. Bulletins do not provide legal advice. Readers should consult applicable statutes and regulations or contact an attorney for legal advice or for additional information on the impact of that legislation on their specific situation.