



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott Walker, Governor
Theodore K. Nickel, Commissioner

Wisconsin.gov

125 South Webster Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
E-Mail: ociinformation@wisconsin.gov
Web Address: oci.wi.gov

May 7, 2012

Sally McCarty, Director of Rate Review
Center for Medicare and Medicaid Services
Center for Consumer Information and Insurance Oversight
Room 739H
200 Independent Avenue
Washington, DC 20201

ATTN: State-Specific Threshold Review

Dear Director McCarty: *Sally*

Pursuant to the Rate Increase Disclosure and Review Final Rule (45 CFR Part 154) ("the regulation"), the Wisconsin Office of the Commissioner of Insurance requests a state-specific rate review threshold for the twelve month period beginning September 1, 2012. We believe the proposed methodology contained in this request will better reflect factors impacting rate increases in our state, and will allow us to focus our limited resources on rate increases that fall outside of the norms for our state in any given year.

Wisconsin proposes establishing a state-specific threshold that will reflect rising health care costs specific to our state and will capture rate increases falling outside the state average. While all rate increases in the individual and small group markets are reviewed by OCI at some level, those rate increases falling outside the state-specific threshold will be subject to a higher level of scrutiny, as intended by the regulation. We expect that our methodology will lead to both higher and lower thresholds than the federal standard, depending on the year. For example, based on the average rate increases filed with our office, we would have expected to file a less than 9% threshold in 2010 but a more than 11% threshold in 2009. Indeed, if the administration's assumption that PPACA will lead to lower rates and lower rate increases is true, our methodology will lead to thresholds *lower* than the arbitrary ten percent standard as the "Affordable Care Act" moves to full implementation.

We propose that the Wisconsin state-specific threshold be calculated using a methodology that incorporates company-specific medical trend data and historical rate changes implemented in the individual and small group markets. We intend to collect the company-specific medical trend data by surveying the carriers in the fully-insured individual and small group markets that are actively writing business in Wisconsin to

obtain data that will allow us to calculate average medical trend reflective of that used by insurers in setting their rates over the past several years. To ensure an apples-to-apples comparison of data across insurers, we have defined medical trend to include the following: (1) medical price increases, (2) utilization changes, (3) medical cost shifting, (4) medical procedures and new technology. We are confident the proposed methodology incorporating state-specific medical trend and actual rate change history will result in a state-specific threshold that successfully targets potentially unreasonable rate increases and holds insurers accountable to realistic expectations based on factors present in Wisconsin.

Imposing a ten percent threshold ignores relevant state-specific factors such as state-specific trend and market competitiveness that have a significant influence on what is appropriate to the Wisconsin health insurance market. The arbitrary threshold may lead insurers to make pricing decisions with less consideration for their long-term financial needs and more consideration for what is minimally needed to stay viable today. Companies artificially capping rates may appear to be positive for consumers in the short term. However, the need for rate increases does not go away because carriers choose to forego them. Instead, necessary but foregone rate increases are likely to build up over a period of years and lead to very high rate increases in the long term. This could lead to rate increases that are not viable for the policyholder, and force them to switch insurance coverage in the middle of treatment.

The result could also jeopardize insurer solvency and the competitiveness of Wisconsin's health insurance market. A preliminary analysis of Wisconsin data shows evidence of insurers indicating they are able to legitimately support a rate increase over 10% but are choosing to file for an increase lower than 10%, presumably to avoid the additional administrative burden and public scrutiny associated with hitting the federal rate review threshold.

It is also important to note some of the unique features of the Wisconsin market. Wisconsin's health insurance market is highly competitive. The results of a 2011 market survey performed by our office show that there are 20 insurers actively writing in the Wisconsin fully-insured individual market and 31 insurers actively writing in the Wisconsin small group market. The competitive nature of Wisconsin's health insurance market supports the pricing of health insurance products at premium rates that generally reflect the medical costs, demographics and utilization patterns of health care delivery in our state. Further, our data indicates that a number of carriers in the last year have filed for health insurance rates that are lower than those that are actuarially justified. We believe this proves that a competitive market is the best regulator of insurance rates and that the competitive market will lead to lower rate increases if health care costs are controlled. We believe the competitiveness of the Wisconsin market needs to be protected.

We cannot put Wisconsin's competitive health insurance market at risk and subject our consumers to a rate increase roller coaster. Because the Wisconsin health insurance market is unique, rates filed in Wisconsin should not continue to be measured against a threshold borne out of national figures. Rather, we ask that you

Sally McCarty, Director

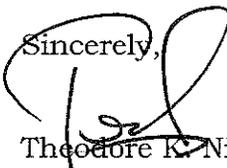
Page 3

May 7, 2012

recognize that insurers are forced to respond to state-specific factors to remain solvent and viable competitors. The preamble to the regulation states, "The 10 percent threshold is intended to be transitional and we [HHS] believe that this initial phase of the rate review program will enable CMS and the States to gather information that will be helpful in developing the state-specific thresholds." In keeping with this intention, we ask that you approve our proposed methodology and the threshold that results after state specific data is applied.

Thank you for your thoughtful consideration of our request.

Sincerely,



Theodore K. Nickel
Commissioner