



Health Insurance Market Rules, Rate Review



*U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES (HHS)*

*CENTERS for MEDICARE &
MEDICAID SERVICES (CMS)*

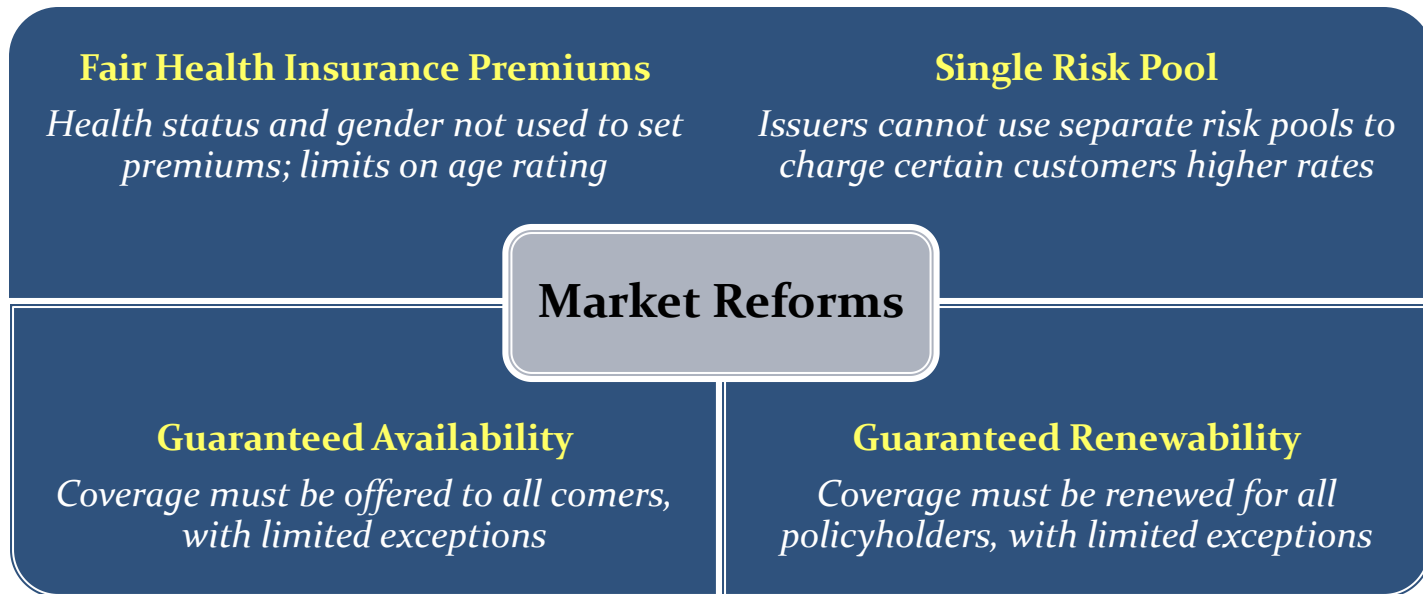
*Center for Consumer
Information and Insurance
Oversight (CCIIO)*

Agenda

1. Health Insurance Market Reforms
2. Catastrophic plans
3. Enforcement by the States and CMS
4. Rate Review

Market Reforms: Overview

The market rules collectively ensure that individuals and employers will have a minimum set of protections with respect to access to health insurance coverage and greater premium stability in all States, both inside and outside Exchanges



Covered Markets and Effective Date

The market rules apply to non-grandfathered health insurance coverage starting in policy years (individual) or plan years (group) beginning on or after 1/1/14

	Individual	Small Group	Large Group
Modified Community Rating	Yes	Yes	No, unless a State allows large groups to buy in Exchange (2017+)
Single Risk Pool	Yes	Yes	No
Guaranteed Issue	Yes	Yes	Yes
Renewability	Yes	Yes	Yes

The market rules do NOT apply to grandfathered health insurance coverage, self-funded plans, excepted benefits, or individual short-term limited duration coverage.

Fair Health Insurance Premiums

- **Allowed factors:**
 - Age (3:1 for adults (21+) and actuarially justified for children; uniform age bands and age curves)
 - Family (generally per-member build-up; 3-person cap under age 21)
 - Tobacco use (1.5:1; wellness program requirements for small groups)
 - Geography (actuarially justified; generally no more than 7 areas using MSAs/non-MSAs, counties, or 3-digit zip codes)
- Age, tobacco use and geography factors are multiplicative.
- **Prohibited factors:** Anything not explicitly identified; e.g., health status, claims experience, gender, industry classification, small group size, etc.

Age Rating

- Rates can vary within a ratio of 3:1
- States can establish age curves or can default to federal age curve
- Proposed age bands: 0-20; one-year bands between 21-63; 64 and older

Tobacco Rating

- Rates can vary within 1.5:1 ratio
- Can vary based on age (e.g., 1.2:1 for those under 35)
- For small employers, individuals must be able to avoid the tobacco surcharge by participating in a wellness program that complies with section 2705(j) of the PHS Act

Geography

- States would establish rating areas within 30 days of publication of the final rule
- Proposed geographic standards:
 - One rating area for the entire state; or
 - No more than 7 rating areas based on counties, zip codes or metropolitan statistical areas (MSAs)
- Default would be either one area for entire State or CMS would establish areas on the above bases

Family Size

- PHS Act §2701(a)(4) requires that rating variation permitted for age and tobacco use can only be applied based on the portion of premium attributed to the individual family member
- Per-member rating would be required except States with pure community rating could elect to establish family tiers
- Cap of 3 for family members under the age of 21 that are rated

Rating in the Small Group Market

- Per-member rating is proposed
- Per-member rating supports the accuracy of risk adjustments
- Employers and States could still elect to require composite/average premiums for employer groups

State reporting to CMS

States would provide the following information to CMS within 30 days of publication of the final rule:

- Standard age curve, if established
- Age rating, if less than 3:1
- Tobacco rating, if less than 1.5:1
- Geographic rating areas, if established
- Family tiers, if any in community rated States
- Use of average employee premiums in the small group market
- Merger of individual and small group market risk pools, if required

Fair Health Insurance Premiums (cont'd)

Comments are requested on numerous issues given the complexity of the rating rules. E.g.,

- Appropriate age bands
- Minimum categories of family members rated together (if any)
- Ways to parallel small group tobacco cessation discount in the individual market
- State rating area standards, including CMS defaults

Single Risk Pool

- One risk pool in the individual market and one in the small group market
- A State may require that the individual and small group market pools be merged
- A State cannot require that grandfathered and non-grandfathered pools be merged
- Separate State-based pools must be maintained by each licensed entity (i.e., not holding company)

Single Risk Pool (cont'd)

- Pricing for a product based on an index rate with adjustments for:
 - Risk adjustment and stabilization payments
 - Product's benefit and cost-sharing structure
 - Network and delivery system characteristics including utilization management practices
 - With respect to catastrophic plans, the expected impact of the specific eligibility categories for those plans
- Considering additional flexibility in product pricing in 2016 after issuers have accumulated sufficient claims data

Guaranteed Availability

- Issuers would guarantee issue year-round to employers
 - Comments requested whether to limit small employers so that they must meet minimum contribution/participation rates
- Issuers would guarantee issue in the individual market during annual enrollment periods consistent with Exchanges
- Guaranteed availability exceptions if: (1) enrollees do not reside or work in service area; and (2) issuer has limited network capacity or limited financial capacity
- New special enrollment events based on certain losses of coverage (this mainly affects non-Exchange individual market)

Guaranteed Renewability

- Coverage must be renewed at the option of the plan sponsor or the individual
- Exceptions for: (1) nonpayment, (2) fraud, (3) violation of participation/contribution rates (group market only), (4) movement outside service area, and (5) loss of association membership
- Issuers may make uniform modifications of coverage at renewal
- Issuers may terminate products, but must offer their other products to plan sponsors or individuals

Application to Special Plan Types

- Student health insurance coverage
 - Guaranteed issue and renewability exceptions so plans can be limited to students and their dependents
 - Comments sought re: rating and pooling
- Health insurance coverage through bona fide associations (BFAs)
 - Renewability exception so coverage can be cancelled if BFA membership ends
 - ACA did not include guaranteed availability exception. But possible that network capacity exception could work for BFAs
 - No legal flexibility for rating and pooling exceptions

Catastrophic Plans

- Individual market only
- Key features:
 - Does not provide a bronze, silver, gold, or platinum level of coverage
 - Lower premium
 - Protect against high out-of-pocket costs
 - Cover recommended preventive services without cost sharing
- Individuals eligible to enroll:
 - Young adults (< 30)
 - People who may otherwise find coverage unaffordable

Enforcement by the States and CMS

- States have primary enforcement authority
- CMS only enforces if a State notifies CMS it is not enforcing or CMS determines the State is failing to substantially enforce the requirements
- The proposed rule clarifies that CMS uses the HIPAA process to enforce ACA requirements against issuers and non-federal government group health plans

Rate Review

The proposed regulation would:

- Ensure rate increases and other rating requirements are consistently monitored inside and outside of an Exchange.
- Add a 0% *reporting* threshold for any increase above zero percent and maintains a 10% *review* threshold to evaluate the reasonableness of the proposed increase.
- Direct issuers to use of a new unified rate review template that can be used by states and multiple groups within CCIIO for rate review, monitoring new rating reforms, and market-wide financial management.
- Update the requirements to have an Effective Rate Review Program to include reviewing the rate impact of federal reinsurance, risk adjustment, and other market reforms.

Unified Rate Review Template

The Unified Rate Review template has three components:

- **Part I:**
 - Collects data needed to review rate increases, impact of a single risk pool, reinsurance, risk-adjustment, and other market-wide rating-related reforms
 - Identical copies will be submitted to states and CMS
 - Required for every rate increase submission
- **Part II:**
 - Describes the reasoning for a rate increase in consumer-friendly terms
 - Only required for issuers submitting a rate increase above the review threshold
- **Part III:**
 - Provides actuarial reasoning and assumptions to support the data submitted in Part I and actuarial attestation
 - Required for every rate increase submission

Next Steps

- NPRM can be found at 77 FR 70584 (November 26, 2012)
- All comments are due by 11:59 pm ET, December 26, 2012
- Submit electronically at www.regulations.gov or through regular mail at:
 - Centers for Medicare & Medicaid Services, DHHS
 - Attention: CMS-9972-P
 - P.O. Box 8012
 - Baltimore, MD 21244-1850