November 20, 2012

Overview: Proposed Effective Rate Review Rule Changes for Health Insurance Market Reforms

The Centers for Medicare & Medicaid Services (CMS) is publishing a proposed rule to further implement section 2794 and implement section 1312(c) of the Affordable Care Act. These provisions apply to non-Grandfathered products and plans in the individual and small group markets in each state for rates effective on or after January 1, 2014 and submitted for review in 2013. The rate review and market rating reforms provide issuers and states with new rate review data, information requirements, and effective rate review requirements. Taken together, today's rule assures that consumers receive protections in all markets, both inside and outside of an Exchange, including: rate reviews, rate increase monitoring, a single risk pool, and other market rating reform requirements. These provisions will provide uniformity and consistency in markets.

The following is a summary of the rate review modifications and how they address effects from market rating reforms. The proposed rule can be found at: http://cciio.cms.gov/resources/regulations/index.html.

1. Issuer Reporting Threshold

The Effective Rate Review Program currently requires issuers to submit proposed rate increases of 10 percent or more for review. However, beginning with rates effective in 2014 and submitted for review in 2013, section 2794 of the PHS Act as added by the Affordable Care Act requires that the Secretary, in conjunction with states, "monitor premium increases of health insurance coverage offered through an Exchange and outside of an Exchange." To assist the Secretary in carrying out this new monitoring function, the proposed regulation modifies the Effective Rate Review program by adding a *reporting* threshold for any rate increase above zero percent. The 10 percent review threshold would continue to be the required threshold for reviewing rates for reasonableness, while increases of less than 10 percent would be reported to CMS and to the states, but not reviewed for reasonableness.

a. Modifying the Rate Review Part I, Unified Rate Review template

The proposed regulation proposes the use of a new unified rate review template. The purpose of this unified template is to create a single data collection template that can be used by states and multiple groups within CMS for review of proposed rate increases, new market rating reforms, and market wide financial management reforms. This template will collect information needed to effectively review the impact of a single risk pool, reinsurance, risk-adjustment and other market-wide rating reforms and how issuers' price proposed rate increases. This new template will allow CMS and states to identify trends in rate increases across markets and evaluate the impact these trends have on consumers as required by the monitoring requirement. Finally, this new template will increase consistency and limit redundancies in issuer reporting and will be required to be submitted identically to both CMS and states.

i) In order to determine the index rate of the single risk pool is appropriately being calculated and applied across the market within a state, all products with enrollment or projecting enrollment must be included in the Part I, Unified Rate Review template, to support ACA Section 1312(c). This includes products with rate decreases or static rates, which are not proposed to change.
ii) Through collection of all product and plan combinations within the risk pool, effective rate review will also be able to adequately evaluate the implications of reinsurance and risk adjustment on the risk pool as a whole.

b. Modifying the Rate Review Part III, Actuarial Memorandum

The proposed regulation proposes the submission of a standardized Part III, Actuarial Memorandum. Currently, the Part III of a Rate Justification Submission is only submitted when CMS is conducting the effective rate review. This proposed regulation modifies the Part III to be an Actuarial Memorandum that is submitted every time a Part I, Unified Rate Review template is submitted. The purpose of the Actuarial Memorandum is to provide the reasoning and assumptions that support the data submitted in Part I, as well as to provide actuarial attestation.

c. Part II, Consumer Narrative Justification

The proposed regulation makes no changes to the Part II, Consumer Narrative Justification portion of the rate increase submission. Part II will continue to only be required from an issuer when they have proposed increases which are subject to the review threshold, and not when they have increases subject only to the reporting threshold.

2. Modifications to Requirements have an Effective Rate Review Program

The proposed regulation modifies the requirements to have an Effective Rate Review program. This allows review of the rate impact of the federal reinsurance and risk adjustment programs and requirements related to the single risk pool, essential health benefits, actuarial values and other market rating reforms as required by the ACA. Each of these requirements is market-wide. CMS and the states are charged with reviewing rates for reasonableness and ensuring the appropriate pricing of products, both inside and outside the Exchange, as well as adequately monitoring all rate increases.