



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB0815

by Rep. Bob Morgan

SYNOPSIS AS INTRODUCED:

New Act

Creates the Freedom from Aggressive Insurance Increases Review Act. Creates the independent, quasi-judicial Health Insurance Rate Review Board to ensure insurance rates are reasonable and justified. Sets forth duties and prohibited activities concerning the Board. Sets forth the procedures for appointment to the Board. Provides requirements and procedures for health carriers to file current and proposed rates and rate schedules with the Board. Provides that the Board shall review and approve or disapprove all rates and rate schedules filed or used by a health carrier. Sets forth provisions concerning rate standards, public notice, hearings, and the disapproval and approval of rates and rate schedules. Requires the Board to annually report to the General Assembly all rate and rate schedules approved, disapproved, and amended.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Freedom from Aggressive Insurance Increases Review Act.

6 Section 5. Definitions. For the purposes of this Act:

7 "Board" means the Health Insurance Rate Review Board.

8 "Director" means the Director of Insurance.

9 "Health benefit plan" means a policy, contract,
10 certificate, plan, or agreement offered or issued by a health
11 carrier to provide, deliver, arrange for, pay for, or reimburse
12 any of the costs of health care services.

13 "Health care services" means services for the diagnosis,
14 prevention, treatment, cure, or relief of a health condition,
15 illness, injury or disease.

16 "Health carrier" means an entity subject to the insurance
17 laws and regulations of this State, or subject to the
18 jurisdiction of the Director, that contracts or offers to
19 contract to provide, deliver, arrange for, pay for, or
20 reimburse any of the costs of health care services, including a
21 sickness and accident insurance company, a health maintenance
22 organization, or any other entity providing a plan of health
23 insurance, health benefits, or health care services. "Health

1 carrier" also includes a limited health service organization
2 and voluntary health service plan.

3 "Insured" means an individual who is enrolled in or
4 otherwise participating in a health benefit plan.

5 "Rate" means premium, deductible, co-payment, or any other
6 amount that the health carrier requires its policyholders to
7 pay.

8 "Supplementary rating information" means any manual,
9 rating schedule, plan of rules, rating rules, classification
10 systems, territory codes and descriptions, rating plans, and
11 other similar information used by the insurer or health
12 maintenance organization to determine the applicable rates for
13 an insured. "Supplementary rating information" includes
14 factors and relativities, including increased limits factors,
15 classification relativities, deductible relativities, premium
16 discount, and other similar factors and rating plans such as
17 experience, schedule, and retrospective rating.

18 Section 10. Health Insurance Rate Review Board.

19 (a) There is created the Health Insurance Rate Review Board
20 independent of the Department of Insurance to ensure insurance
21 rates are reasonable and justified. The Board shall be a
22 quasi-judicial body. The Board shall consist of 5 persons
23 appointed, with the advice and consent of the Senate, by the
24 Governor. The term of each member of the Board shall be 4
25 years.

1 (b) No member of the Board shall be involved in the
2 operation or management of, have a pecuniary interest or a
3 direct financial interest in, or be otherwise employed by a
4 health carrier or any other organization or entity regulated by
5 the Department of Insurance.

6 (c) No member of the Board or person employed by the Board
7 shall solicit or accept any gift, gratuity, emolument, or
8 employment from any person or corporation subject to the
9 supervision of the Board, or from any officer, agent, or
10 employee thereof; nor solicit, request from, or recommend,
11 directly or indirectly, to any such person or corporation, and
12 every officer, agent, or employee thereof, the appointment of
13 any persons to any place or position. If any Board member or
14 person employed by the Board violates any provision of this
15 subsection (c), then he or she shall be removed from the Board
16 or employment. Every person violating the provisions of this
17 subsection (c) shall be guilty of a Class A misdemeanor.

18 (d) No former member of the Board or person formerly
19 employed by the Board may represent any person before the Board
20 in any capacity with respect to any particular Board proceeding
21 in which he or she participated personally and substantially as
22 a member or employee of the Board.

23 (e) No former member of the Board may appear before the
24 Board in connection with any Board proceeding for a period of 2
25 years following the termination of service with the Board.

26 (f) No former member of the Board may accept any employment

1 for 2 years following the termination of services with the
2 Board with any entity subject to Board regulation or with any
3 industry trade association that (i) receives a majority of its
4 funding from entities regulated by the Board or (ii) has a
5 majority of members regulated by the Board.

6 (g) No entity subject to Board regulation or trade
7 association that (i) receives a majority of its funding from
8 entities regulated by the Board or (ii) has a majority of
9 members regulated by the Board shall offer a former member of
10 the Board employment for a period of 2 years following the
11 termination of member's services with the Board, or otherwise
12 hire such person as an agent, consultant, or attorney where
13 such employment or contractual relation would be in violation
14 of this Act.

15 (h) The Board shall employ employees as may be necessary to
16 carry out the provisions of this Act or to perform duties and
17 exercise the powers conferred by law upon the Board.

18 (i) The Board shall adopt rules that the Board considers
19 necessary to carry out the provisions of this Act or to perform
20 duties and exercise the powers conferred by law upon the Board.

21 (j) The Governor shall select 5 nominees, including the
22 chairperson, for appointment to the Health Insurance Rate
23 Review Board, to be confirmed by the Senate. The Governor shall
24 file the names of his or her appointments with the Senate and
25 the Secretary of State. The Secretary of State shall indicate
26 the date and time of filing.

1 The Governor shall have 30 days from the date he or she
2 files his or her list of nominees with the Secretary of State
3 to make appointments to be confirmed by the Senate.

4 Appointments by the Governor must be confirmed by the
5 Senate by two-thirds of its members by record vote. Any
6 appointment not acted upon within 30 calendar days after the
7 date of filing the names of appointments with the Secretary of
8 State shall be deemed to have received the advice and consent
9 of the Senate.

10 (k) When a vacancy occurs on the Health Insurance Rate
11 Review Board, the Governor shall accept applications and
12 nominations of candidates for 30 days from the date the vacancy
13 occurs. All candidates must fill out a written application and
14 submit to a background investigation to be eligible for
15 consideration. The written application must include a sworn
16 statement signed by the candidate disclosing communications
17 relating to the regulation of health insurance, managed care
18 plans, and health maintenance organizations that the applicant
19 engaged in within the last year with a constitutional officer,
20 a member of the General Assembly, an officer or other employee
21 of the executive branch of this State, or an employee of the
22 legislative branch of this State.

23 A person who provides false or misleading information on
24 the application or fails to disclose a communication required
25 to be disclosed in the sworn statement under this Section is
26 guilty of a Class 4 felony.

1 Once an application is submitted and until (i) the
2 candidate is rejected by the Governor, (ii) the candidate is
3 rejected by the Senate, or (iii) the candidate is confirmed by
4 the Senate, whichever is applicable, a candidate may not engage
5 in ex parte communications.

6 Section 15. Filing and approval of rates and rate
7 schedules.

8 (a) Notwithstanding any law to the contrary, a health
9 carrier may not deliver or issue for delivery any health
10 benefit plan after the effective date of this Act unless:

11 (1) the health carrier has filed with the Health
12 Insurance Rate Review Board:

13 (A) all current and proposed rates and rate
14 schedules of the health benefit plan; and

15 (B) if filing changes to a previously approved rate
16 or rate schedule:

17 (i) proposed changes to the rate or rate
18 schedule;

19 (ii) an explanation of the changes;

20 (iii) financial information describing the
21 basis for the proposed changes;

22 (iv) the rate of return anticipated if the rate
23 or rate schedule is approved;

24 (v) the average rate increase or decrease
25 anticipated per insured;

1 (vi) the medical loss ratio reserves and
2 surpluses anticipated if the rate or rate schedule
3 is approved;

4 (vii) a summary of the health carrier's
5 nonmedical expenses for the most recent fiscal
6 year;

7 (viii) supplementary rating information;

8 (ix) any other information required by the
9 Board by rule; and

10 (2) the Board has approved the rates and rate schedules
11 of the health benefit plan.

12 (b) The Board shall review and approve or disapprove all
13 rates and rate schedules filed or used by a health carrier or
14 filed by a rating or advisory organization on behalf of a
15 health carrier.

16 (c) Within 30 days after the date a rate or rate schedule
17 is filed with the Board, the Board shall:

18 (1) approve the rate or rate schedule if the Board
19 determines that the rate or rate schedule is not excessive,
20 inadequate, or unfairly discriminatory; or

21 (2) disapprove the rate or rate schedule if the Board
22 determines the rate or rate schedule is excessive,
23 inadequate, or unfairly discriminatory.

24 (d) Except as provided in subsection (e), if a rate or rate
25 schedule has not been approved or disapproved by the Board
26 before the expiration of the 30-day period, the rate or rate

1 schedule is considered approved and the rate or rate schedule
2 may be used.

3 (e) For good cause, the Board may, on expiration of the
4 30-day period, extend the period for approval or disapproval of
5 a rate or rate schedule for one additional 30-day period.

6 (f) If the Board determines that the information filed by a
7 health carrier under this Section is incomplete or otherwise
8 deficient, the Board may request additional information from
9 the health carrier. If the Board requests additional
10 information from the insurer during the 30-day period provided
11 in subsection (c) or under a second 30-day period provided
12 under subsection (e), then the time between the date that the
13 Board submits the request to the health carrier and the date
14 that the Board receives the information requested is not
15 included in the computation of the first 30-day period or the
16 second 30-day period, as applicable.

17 Section 20. Rate standards.

18 (a) A rate or rate schedule is excessive if the rate or
19 rate schedule is likely to produce a long-term profit that is
20 unreasonably high in relation to the insurance coverage
21 provided.

22 (b) A rate or rate schedule is inadequate if:

23 (1) the rate or rate schedule is insufficient to
24 sustain projected losses and expenses to which the rate
25 applies; and

- 1 (2) the continued use of the rate or rate schedule:
- 2 (A) endangers the solvency of an insurer using the
- 3 rate or rate schedule; or
- 4 (B) has the effect of substantially lessening
- 5 competition or creating a monopoly in a market.
- 6 (c) A rate or rate schedule is unfairly discriminatory if
- 7 the rate or rate schedule:
- 8 (1) is not based on sound actuarial principles;
- 9 (2) does not bear a reasonable relationship to the
- 10 expected loss and expense experience among risks; or
- 11 (3) is based wholly or partly on the race, creed,
- 12 color, ethnicity, or national origin of the policyholder or
- 13 an insured.

14 Section 25. Public notice of filing. The Board must issue a

15 notice to the public within 7 days after a filing for approval

16 of a rate or rate schedule is received by the Board. The notice

17 must include:

- 18 (1) the filing health carrier;
- 19 (2) the current rate or rate schedule;
- 20 (3) the proposed rate or rate schedule;
- 21 (4) notice that a consumer who is aggrieved by the rate
- 22 change may request a hearing on the proposed change within
- 23 30 days after the proposed change has been filed; and
- 24 (5) address and contact information of the Board.

1 Section 30. Hearings on proposed changes.

2 (a) Within 30 days after the proposed change to a rate or
3 rate schedule has been filed, the Board may request a hearing
4 on the filing to hear testimony on the filing.

5 (b) Within 30 days after the proposed change has been
6 filed, any person who is aggrieved with respect to any filing
7 under this Act, the Director, or any public official charged
8 with protecting insurance consumers may submit a request in
9 writing to the Board for a hearing on the filing. The request
10 must specify the grounds for the requester's grievance.

11 (c) The Board must hold a hearing as requested under
12 subsection (b) not later than 30 days after the date the Board
13 receives the request for hearing if the Board determines that:

14 (1) the request is made in good faith;

15 (2) the requester would be aggrieved as alleged if the
16 grounds specified in request were established; and

17 (3) the grounds specified in the request otherwise
18 justify holding the hearing.

19 (d) The Board must provide written notice of a hearing to
20 the requester, if any, and each affected health carrier not
21 later than 10 days before the date of the hearing. The Board
22 shall also provide public notice of the hearing not later than
23 10 days before the date of the hearing.

24 (e) If, after the hearing, the Board disapproves of the
25 filing, the Board shall issue an order:

26 (1) specifying in what respects the filing fails to

1 meet those requirements; and

2 (2) stating the date on which the filing is no longer
3 in effect, which must be within a reasonable period after
4 the order date.

5 The Board must send copies of the order to the requester,
6 if any, and each affected health carrier.

7 Section 35. Hearings on filings in effect.

8 (a) The Board may disapprove a rate or rate schedule that
9 is in effect only after a hearing. The Board must provide the
10 filer at least 20 days written notice of the hearing.

11 The Board must issue an order disapproving a rate or rate
12 schedule under this subsection (a) within 15 days after the
13 close of the hearing. The order must:

14 (1) specify in what respects the filing fails to meet
15 those requirements; and

16 (2) state the date on which further use of the rate or
17 rate schedule is prohibited.

18 (b) Any person who is aggrieved with respect to any filing
19 under this Act that is in effect, the Director, or any public
20 official charged with protecting insurance consumers may apply
21 to the Board in writing for a hearing on the filing. The
22 request must specify the grounds for the requester's grievance.

23 (c) The Board must hold a hearing as requested under
24 subsection (b) not later than 30 days after the date the Board
25 receives the request for hearing if the Board determines that:

1 (1) the request is made in good faith;

2 (2) the requester would be aggrieved as alleged if the
3 grounds specified in request were established; and

4 (3) the grounds specified in the request otherwise
5 justify holding the hearing.

6 (d) The Board must provide written notice of a hearing to
7 the requester, if any, and each affected health carrier not
8 later than 10 days before the date of the hearing. The Board
9 shall also provide public notice of the hearing not later than
10 10 days before the date of the hearing.

11 (e) If, after the hearing, the Board disapproves of the
12 filing, the Board shall issue an order:

13 (1) specifying in what respects the filing fails to
14 meet those requirements; and

15 (2) stating the date on which the filing is no longer
16 in effect, which must be within a reasonable period after
17 the order date.

18 The Board must send copies of the order to the requester,
19 if any, and each affected health carrier.

20 Section 40. Disapproval of rate or rate schedule.

21 (a) If the Board disapproves a filing under this Act, then
22 the Board shall issue an order specifying in what respects the
23 filing fails to meet the requirements of this Act.

24 (b) The aggrieved filer is entitled to a hearing on written
25 request made to the Board within 30 days after the date the

1 order disapproving the rate or rate schedule filing takes
2 effect.

3 Section 45. Approval of rate or rate schedule; use of the
4 approved rate or rate schedule. If the Board approves a rate or
5 rate schedule filing under this Act, the Board shall provide
6 the health carrier with a written or electronic notification of
7 the approval. The health carrier may use the rate or rate
8 schedule on receipt of the approval notice. The Board shall
9 provide public notice of its approval or disapproval of all
10 filings.

11 Section 50. Annual report to the General Assembly. By
12 January 15, 2021 and annually thereafter, the Board shall
13 submit a report to the General Assembly that includes all rate
14 and rate schedules approved, disapproved, and amended from the
15 previous year.