Health Insurance Market Rules, Rate Review Final Rule

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

CENTERS for MEDICARE & MEDICAID SERVICES(CMS)

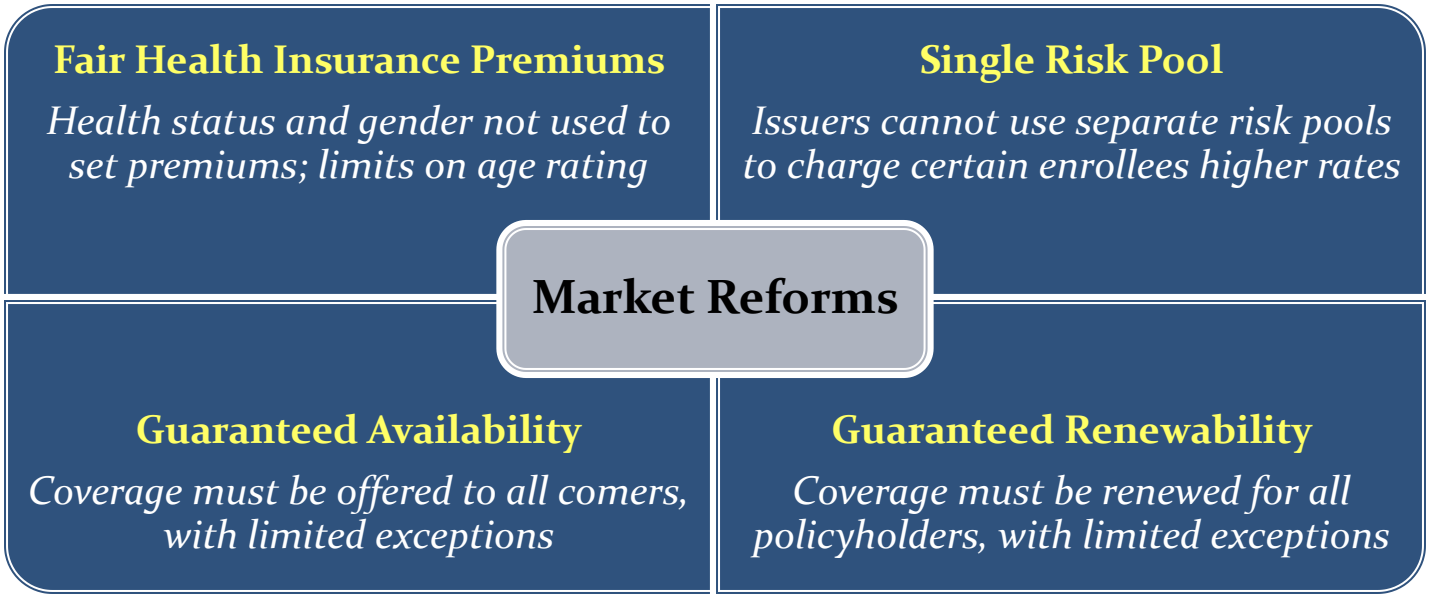
Center for Consumer Information and Insurance Oversight (CCIIO)

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 of the Marketplaces



Covered Markets and Effective Date

The market reforms apply to non-grandfathered health insurance coverage for plan years (group market) or policy years (individual market) beginning on or after January 1, 2014.

	Individual	Small Group	Large Group
Fair Health Insurance Premiums	Yes	Yes	If state allows issuers to sell large group coverage in Exchange (2017+)
Single Risk Pool	Yes	Yes	No
Guaranteed Availability	Yes	Yes	Yes
Guaranteed Renewability	Yes	Yes	Yes

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

Fair Health Insurance Premiums

- Only factors that may be used to vary premium rate are:
  - Family size
  - Geography
  - Age (within 3:1 for adults)
  - Tobacco use (within 1.5:1)
- Age, tobacco use, and geography factors are multiplicative
- All other factors prohibited (e.g., health status, claims experience, gender, industry classification, small group size)

Family Size

- The law requires any rating variation for age and tobacco use to be applied based on the portion of premium attributed to the individual family member
- Per-member rating is generally required
- Exception: community rated states (that prohibit rating for age and tobacco use) may establish uniform family tiers and corresponding multipliers
- 3-child cap: no more than 3 oldest covered children under age of 21 may be taken into account for family rating
- States and issuers may determine the types of family members covered on a family policy

Geography

- States to establish uniform rating areas for the entire state
- Rating area standards
  - Counties, 3-digit zip codes, or metropolitan statistical areas (MSAs)
  - Presumed adequate if:
    - State had established rating areas as of Jan. 1 2013; or
    - After Jan. 1 2013, state establishes a number of rating areas totaling no more than number of MSAs in the state plus one
  - States may seek approval from CMS of more rating areas than the number of MSAs plus one
- Default: one rating area for each MSA and one rating area for all non-MSAs in the state (if any)

Age Rating

- Rate may vary based on age within a ratio of 3:1 for adults, defined as individuals age 21 and older; actuarially justified under age 21
- Age determined at policy issuance/renewal
- States to establish uniform age curves or default to the HHS standard age curve set forth in guidance
- Uniform age bands:
  - Children: single age band for ages 0-20
  - Adults: one-year bands between ages 21-63
  - Older adults: single age band for ages 64 and older

Tobacco Rating

- Rates may vary within 1.5:1 ratio for legal use of tobacco
- Tobacco rating may vary by age (e.g., lower tobacco use factor for younger individuals)
- Coordination with wellness rules
  - In the small group market, individuals must be able to avoid the tobacco rating factor by participating in a wellness program that complies with section 2705(j) of the PHS Act
- Definition of tobacco use
  - Use of tobacco on average 4 or more times per week within no longer than the past 6 months, and in terms of time of last use
  - Exemption for religious or ceremonial use of tobacco (e.g., by Native Americans or Alaska Natives)
- States may be more consumer protective

Small Group Rating

- Per-member rating is generally required
- Advantages
  - Assures compliance with PHS Act section 2701(a)(4)
  - Enhances employee choice in the SHOP
  - Promotes accuracy of the risk adjustment methodology
- States (and employers) may require premiums to be based on average enrollee amounts

State Reporting

- For 2014, states must provide to CMS information about the following (as applicable) no later than March 29, 2013:
  - Narrower age rating ratio than 3:1
  - Narrower tobacco rating ratio than 1.5:1
  - State-established age curve
  - State-established or proposed geographic rating areas
  - In community rated states, uniform family tiers and multipliers
  - Use of average enrollee premiums in the small group market
  - Merger of individual and small group market risk pools
- Guidance provides additional details about the state reporting process

Single Risk Pool

- Issuer must use a single risk pool for each of the individual and small group markets when developing rates and premiums
- Single risk pools must be maintained by each licensed issuer in a state (not holding company)
- States can merge the individual and small group market pools (but cannot include grandfathered plans in a risk pool)

Single Risk Pool (cont'd)

- Market-wide index rate (average rate)
  - Based on EHB claims experience of all enrollees in all non-grandfathered health plans in the risk pool
  - Adjusted for risk adjustment/reinsurance payments and charges, and Exchange user fees
- Permitted plan-level adjustments:
  - Actuarial value and cost-sharing structure
  - Network and delivery system characteristics including utilization management practices
  - Plan benefits in addition to EHB
  - Administrative and distribution costs (excluding Exchange user fees)
  - With respect to catastrophic plans, the expected impact of the specific eligibility categories for those plans

Guaranteed Availability

- Must offer coverage to and accept any individual or employer that applies for coverage in the individual or group market
- Exceptions:
  - Employers with employees who do not live, work, or reside and individuals who do not live or reside in service area of a network plan
  - Limited network or financial capacity
- Open enrollment periods
  - Group market: year-round enrollment (except small employers that fail to meet participation/contribution rules may be limited to Nov 15 – Dec 15)
  - Individual market: annual enrollment periods consistent with Exchanges
- "Limited" open enrollment periods
  - Triggering events generally consistent with Exchange special enrollment periods
- Special enrollment periods
  - COBRA triggering events (mainly affects non-Exchange individual market)

Guaranteed Renewability

- Coverage must be renewed or continued in force at the option of the plan sponsor or the individual
- Exceptions:
  - Nonpayment of premiums
  - Fraud
  - Violation of participation/contribution rates (group market only)
  - Enrollees' movement outside service area
  - Loss of association membership
- Uniform modification of coverage permitted at renewal
- Issuers may terminate a product, but must offer their other products to plan sponsors or individuals
- Issuers may discontinue all coverage in the individual or group market (or both), in accordance with state law

Application to Special Plan Types

- Student health insurance coverage
  - Exemptions:
    - Guaranteed availability
    - Guaranteed renewability
    - Single risk pool
  - Premium rating rules apply, but the rate may be based on a school-specific group community rate if no age or tobacco rating is applied
  - Not currently subject to federal rate review through guidance

Application to Special Plan Types cont'd

- Bona fide associations
  - Exempt from guaranteed renewability; coverage can be cancelled if BFA membership ends
  - No exception from guaranteed availability. But exception for limited network capacity is possible
- State high risk pools
  - Generally not subject to the PHS Act or the Affordable Care Act
  - State discretion whether to continue state high risk pools

Catastrophic Plans

- Individual market only
- Does not meet the AV levels (bronze, silver, gold, or platinum levels of coverage)
- Provides coverage for:
  - EHB after reaching the out-of-pocket limit
  - 3 primary care visits per year before reaching the deductible
  - Preventive services without cost sharing consistent with PHS Act section 2713
- Individuals eligible to enroll:
  - Young adults (< 30)
  - Individuals with a certification of exemption based on hardship or inability to afford or obtain coverage

Enforcement by the States and CMS

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

Amendments to Rate Review

- Revise timeline for states seeking state-specific thresholds
- Extend the reporting requirement to all rate increases, ensuring rating reforms consistently monitored inside and outside the Exchange Marketplace
- Streamline data collection for issuers, states, Exchanges, and HHS using a standardized format (unified rate review template)
- Modify the criteria and factors for states to have an effective rate review program
  - Review rate impact of EHB, AV, reinsurance and risk adjustment, single risk pool, and other market reforms

Rating Filing Justification

- For every rate increase:
  - Part I (Unified rate review template):
    - Data needed to review rate increases, including impact of a single risk pool, reinsurance, risk-adjustment, and other rating reforms
    - Identical copies submitted to states and CMS
  - Part III (Actuarial memorandum)
    - Actuarial reasoning/assumptions to support Part I and actuarial attestation
- Only for rate increases subject to review:
  - Part II (Narrative): Consumer-friendly justification for a rate increase

Questions?

- Final rule published February 27, 2012 (78 FR 13406)
- Guidance published on CCIIO website: http://www.cciio.cms.gov/resources/regulations/index.html#hmr
- Proposed rule published November 26, 2012 (77 FR 70584)
- For additional questions, e-mail: marketreform@cms.hhs.gov