



Rate review – What is it and why does it matter?

What is rate review?

Rate review helps protect people from insurance companies unjustly increasing rates on premiums. It enables state insurance departments to review premium increases charged by health insurance companies that sell plans in the state. Rate review requires insurers to openly explain how they determine the amount they charge for base health insurance premiums. Often, insurers also must justify proposed increases to these rates, documenting why an increase is both necessary and appropriate.

Why is rate review important?

Rate review helps control rapid increases in health insurance premiums. Without rate review, insurance companies can raise their rates without having to explain their actions to regulators or consumers. Premiums have doubled on average over the last 10 years – growing much faster than wages and inflation – putting insurance out of reach for too many individuals, families and small businesses.

Regulation of health insurance premiums varies dramatically from state to state, and even between different types of health plans within states. Premiums may differ for individuals with plans from the same insurance company. With so much variability, it is important to have mechanisms like rate review to encourage insurance companies to be accountable and transparent when it comes to pricing.

Some state insurance departments have the authority to reject premium rates and rate increases, while other state insurance departments may review rates but do not have the authority to reject an increase in premiums. Currently almost every state needs to increase the accountability and transparency of insurance premiums rates to make sure consumers are protected.

How does rate review protect consumers?

The goal of rate review is to slow rising health care costs for consumers. By requiring a thorough evaluation of proposed increases in the individual and small group markets, rate review ensures that insurance companies cannot raise premiums unreasonably and protects individuals, families, and small businesses. Rate review will help make sure that increases are based on reasonable estimates and accurate, current data. Public disclosure of proposed rate increases forces insurers to be accountable for the premiums they charge consumers.

What is the role of consumer advocates in rate review?

Public participation, either through a comment period, a public hearing, or formal appeals process, ensures consumers and consumer advocates can weigh in on proposed premium rate increases. While only a few states currently offer opportunities for public input, there may be ways to strengthen this process to ensure that insurance departments hear consumer input on premium increases.

How do I find out what my state requires for rate review?

Your state uses one among a few types of rate review. A common form is called **file and use**, in which premium rates automatically go into effect after a certain amount time without approval from an

insurance department. Under file and use, the state can reject the rates later if they are found to be unreasonable. This mechanism often relies on consumer complaints to indicate a problem with premiums before rates are examined. In another form of rate review, **prior approval**, the state insurance commissioner has the authority to approve, reject, or reduce proposed rate increases, usually through a negotiation with the insurer. Prior approval authority frequently has a deadline whereby if a rate is not disapproved or reduced, the rate goes into effect. Some states have no formal procedure to review premium rate increases. However, in these states the insurance commissioner may still negotiate with insurers over rate increases. Kaiser Family Foundation's State Health Facts lists states' authority in the [individual](#) and [small group](#) insurance markets.

How does the ACA strengthen rate review?

The Affordable Care Act (ACA) creates a joint federal-state process for the review and approval of health plans' premium increases. The ACA requires the U.S. Department of Health and Human Services (HHS) to work in collaboration with state insurance commissioners to conduct a review of **unreasonable** increases in premiums in the small group and individual insurance markets.

What does the ACA require?

- Insurers to submit justifications for any rate increases to the state and HHS;
- HHS to make those justifications publicly available on healthcare.gov;
- All health plans to use a standard form developed by HHS to justify unreasonable rate increases. This form helps ensure premium information is available to the public and allows apples-to-apples comparisons of insurers' requests to raise premiums;
- All rates pertaining to plans in Exchanges must be considered, and the justifications for rate increases will help determine if a plan should be offered through the Exchange.

If a rate is determined to be unreasonable, an insurer can still offer that plan, but the insurer must prominently post the finding of being 'unreasonable' on its website.

Unreasonable rates will be reviewed. What does unreasonable mean?

HHS regulations define a premium rate increase as unreasonable if it is unjustified, excessive, or unfairly discriminatory (see regulation [§154.205](#) for technical definitions). HHS defers to state departments of insurance to determine whether a rate increase is unreasonable, unless the state does not have an **effective rate review** process in place. If the state does not have an effective review process, HHS will conduct the review. As a floor, HHS requires all proposed rate increases of **ten percent or more** to submit a justification for the increase and undergo either a state or federal review, depending on the process in place in a state.

Many states will continue to review all rate increases, even if under the 10% threshold. However, HHS will only step in and conduct the review if a proposed rate increase is 10% or more *and* the state doesn't have an effective rate review program. If the state has an effective rate review program, HHS will accept the state's determination of "reasonableness."

In addition, new ACA regulations require insurers to submit data and documentation regarding *all* rate increases, not just those above the ten percent threshold, to HHS to post this documentation publicly on their website. But, the regulations fall short of requiring *review* of every rate increase. While the ACA may not strengthen rate review in every state, it provides greater transparency and accountability, and creates a baseline for review.

What happens if my state doesn't have the authority or resources to review rates?

While most states were found to have “[effective rate review](#)” by HHS, in states where there is limited authority, HHS serves in a backup role and reviews every increase in premium rates over ten percent. States without effective rate review are Alabama, Arizona, Louisiana, Missouri, Montana, Virginia and Wyoming.

What is my state supposed to be doing if it is deemed to have “effective rate review”?

A state with [effective](#) rate review must, in the small group and individual market:

- Request and receive adequate data from an insurer to examine whether rate increases are reasonable based on underlying cost assumptions, including medical loss ratio, capital and surplus, and the data used to determine cost increases due to ACA reforms;
- Conduct “effective and timely” reviews of premium rate increases;
- Post rate filings on a public website; and
- Provide a method for public comment. The ACA presents an opportunity to increase consumer input to regulators about insurer premiums.

If your state is not doing all of these tasks, it is not in compliance with HHS's definition of effective rate review. In that case, advocates should work with their state insurance commissioner to bring the state into compliance, and possibly alert CCIIO.

What if my state does not have strong rate review authority? How can that change?

If your state does not have strong authority to review rates before they go into effect, advocates should work with their insurance commissioner to determine what is needed. The commissioner may need or want greater legal authority, in which a legislative campaign can strengthen state standards for rate review. Some suggestions include:

- Creating authority for prior approval of rate increases before they are allowed to be sold in a state;
- Collecting greater data to take into account when making decisions on a rate increases;
- Strengthening the public comment procedures;
- Allowing the insurance department to reduce or deny premium increases when it finds that a rate request is unjustified.

Rate review grants to states

The ACA also provides states with a total of \$250 million in federal grants to strengthen their capacity to conduct rate review. [Forty-three states](#) and the District of Columbia (D.C.) have been awarded grants since 2010. Summaries of these grant proposals are available on [CCIIO's website](#), and it is important to ensure that your state department of insurance is meeting grant goals. Many states list strengthening consumer input in the rate review process as a grant priority. In addition, insurance departments often need to build technical capacity for rate review through actuaries and information technology, which are also important parts of most state grants.