STATE OF NEW YORK

1062

2021-2022 Regular Sessions

IN ASSEMBLY

January 7, 2021

Introduced by M. of A. CAHILL, STECK -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to rating of individual and small group health insurance policies

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subparagraph (A) of paragraph 1 of subsection (e) of section 3231 of the insurance law, as amended by chapter 107 of the laws of 2010 and as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

(A) An insurer desiring to increase or decrease premiums for any policy form subject to this section shall submit a rate filing or application to the superintendent.

An insurer shall send written notice of the proposed rate adjustment, [~~including the specific change requested,~~] to each policy holder and certificate holder affected by the adjustment on or before the date the rate filing or application is submitted to the superintendent. The notice shall prominently include mailing and website addresses for both the department of financial services and the insurer through which a person may, within thirty days from the date the rate filing or application is submitted to the superintendent, contact the department of financial services or insurer to receive additional information or to submit written comments to the department of financial services on the rate filing or application. The superintendent shall establish a process to post on the department's website, in a timely manner, all relevant written comments received pertaining to rate filings or applications. The insurer shall provide a copy of the notice to the superintendent with the rate filing or application. The superintendent shall immediately cause the notice to be posted on the department of financial services' website. The superintendent shall determine whether the filing or application shall become effective as filed, shall become effective

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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as modified, or shall be disapproved. The superintendent may modify or disapprove the rate filing or application if the superintendent finds that the premiums are unreasonable, excessive, inadequate, or unfairly discriminatory, and may consider the financial condition of the insurer when approving, modifying or disapproving any premium adjustment. [~~The~~] **Provided, however, any adjustment to a rate filing or application must be in accordance with generally accepted actuarial principles and practices, and must be appropriate for the population to be covered and services to be furnished under the policy. An initial** determination [~~of~~] **regarding the rate filing or application shall be made by** the superintendent [~~shall be supported by sound actuarial assumptions and methods, and shall be rendered in writing between~~] **no later than** thirty [~~and sixty~~] days from the date the rate filing or application is submitted to the superintendent. **The superintendent's initial determination shall be provided to an insurer in writing within the thirty day time period and shall describe in detail the actuarial assumptions and methods used in the superintendent's determination.** Should the superintendent require additional information from the insurer in order to make [~~a~~] **an initial** determination, the superintendent shall require the insurer to furnish such information, and in such event, the [~~sixty~~] **thirty** days shall be tolled and shall resume as of the date the insurer furnishes the information to the superintendent. [~~If the superintendent requests additional information less than ten days from the expiration of the sixty days (exclusive of tolling), the superintendent may extend the sixty day period an additional twenty days to make a determination. The~~] **Following the issuance of the initial determination, an insurer shall have fifteen days to appeal the determination in writing. If an initial rate determination is appealed, the superintendent shall have fifteen days to issue a revised determination. If the initial determination is not appealed by an insurer, it shall become final fifteen days after it is issued. All final rate determinations shall be certified by an actuary designated by the superintendent who meets the qualification standards established by the American academy of actuaries and follow the practice standards established by the actuarial standards board. Notwithstanding the foregoing, the** application or rate filing will be deemed approved if a determination is not rendered within the time allotted under this section. An insurer shall not implement a rate adjustment **that is approved by the superintendent** unless the insurer provides at least [~~sixty~~] **thirty** days advance [~~written~~] notice of the [~~premium rate adjustment approved by the superintendent~~] **adjustment, either through a posting on its website or by written notice** to each policy holder and certificate holder affected by the rate adjustment.

§ 2. Paragraph 2 of subsection (c) of section 4308 of the insurance law, as amended by chapter 107 of the laws of 2010 and as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

(2) A corporation desiring to increase or decrease premiums for any contract subject to this subsection shall submit a rate filing or application to the superintendent. A corporation shall send written notice of the proposed rate adjustment, [~~including the specific change requested,~~] to each contract holder and subscriber affected by the adjustment on or before the date the rate filing or application is submitted to the superintendent. The notice shall prominently include mailing and website addresses for both the department of financial services and the corporation through which a person may, within thirty days from the date the rate filing or application is submitted to the superintendent, contact

the department of financial services or corporation to receive additional information or to submit written comments to the department of financial services on the rate filing or application. The superintendent shall establish a process to post on the department's website, in a timely manner, all relevant written comments received pertaining to rate filings or applications. The corporation shall provide a copy of the notice to the superintendent with the rate filing or application. The superintendent shall immediately cause the notice to be posted on the department of financial services' website. The superintendent shall determine whether the filing or application shall become effective as filed, shall become effective as modified, or shall be disapproved. The superintendent may modify or disapprove the rate filing or application if the superintendent finds that the premiums are unreasonable, excessive, inadequate, or unfairly discriminatory, and may consider the financial condition of the corporation in approving, modifying or disapproving any premium adjustment[~~. The~~]; provided, however, any adjustment to a rate filing or application must be in accordance with generally accepted actuarial principles and practices, and must be appropriate for the population to be covered and services to be furnished under the contract. An initial determination [~~of~~] regarding the rate of filing or application shall be made by the superintendent [~~shall be supported by sound actuarial assumptions and methods, and shall be rendered in writing between~~] no later than thirty [~~and sixty~~] days from the date the rate filing or application is submitted to the superintendent. The superintendent's initial determination shall be provided to a corporation in writing within the thirty day time period and shall describe in detail the actuarial assumptions and methods used in the superintendent's determination. Should the superintendent require additional information from the corporation in order to make [~~a~~] an initial determination, the superintendent shall require the corporation to furnish such information, and in such event, the [~~sixty~~] thirty days shall be tolled and shall resume as of the date the corporation furnishes the information to the superintendent. [~~If the superintendent requests additional information less than ten days from the expiration of the sixty days (exclusive of tolling), the superintendent may extend the sixty day period an additional twenty days, to make a determination. The~~] Following the issuance of the initial determination, a corporation shall have fifteen days to appeal the determination in writing. If an initial rate determination is appealed, the superintendent shall have fifteen days to issue a revised determination. If the initial determination is not appealed by a corporation, it shall become final fifteen days after it is issued. All final rate determinations shall be certified by an actuary designated by the superintendent who meets the qualification standards established by the American academy of actuaries and follow the practice standards established by the actuarial standards board. Notwithstanding the foregoing, the application or rate filing will be deemed approved if a determination is not rendered within the time allotted under this section. A corporation shall not implement a rate adjustment that is approved by the superintendent unless the corporation provides at least [~~sixty~~] thirty days advance [~~written~~] notice of the [~~premium rate adjustment approved by the superintendent~~] adjustment, either through a posting on its website or by written notice to each contract holder and subscriber affected by the rate adjustment.

§ 3. This act shall take effect immediately.