

**State of California
Office of Administrative Law**

In re:

Department of Insurance

Regulatory Action:

Title 10, California Code of Regulations

Adopt sections:

Amend sections: 2222.12

Repeal sections:

NOTICE OF APPROVAL OF CERTIFICATE OF
COMPLIANCE

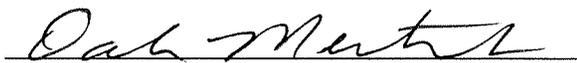
Government Code Section 11349.1 and
11349.6(d)

OAL File No. 2011-1230-02 C

This rulemaking action amends section 2222.12 of Title 10 of the California Code of Regulations to add, as a factor in determining the reasonableness, in relation to premiums, of hospital, medical or surgical policy benefits, the insurer's projected medical loss ratios in the individual market calculated using the method described in the federal interim final rule implementing the federal Patient Protection and Affordable Care Act.

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

Date: 2/8/2012


Dale P. Mentink
Senior Staff Counsel

For: DEBRA M. CORNEZ
Assistant Chief Counsel/
Acting Director

Original: Dave Jones
Copy: Bruce Hinze

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

| | | | |
|---|---|--|------------------|
| OAL FILE NUMBERS | NOTICE FILE NUMBER Z-2011-0712-05 | REGULATORY ACTION NUMBER 2011-1230-02C | EMERGENCY NUMBER |
| For use by Office of Administrative Law (OAL) only | | | |
| NOTICE | | REGULATIONS | |
| AGENCY WITH RULEMAKING AUTHORITY Department of Insurance | | | |

2012 JAN 13 PM 4:23
OFFICE OF ADMINISTRATIVE LAW

ENDORSED - FILED
in the office of the Secretary of State
of the State of California
FEB 8 2012 2:57pm AS
DEBRA BOWEN
Secretary of State

AGENCY FILE NUMBER (if any)
REG-2011-00005

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

| | | | | |
|--|--|--------------------------|------------------------|-------------------------------|
| 1. SUBJECT OF NOTICE | | TITLE(S) | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE |
| 3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other | | 4. AGENCY CONTACT PERSON | TELEPHONE NUMBER | FAX NUMBER (Optional) |
| OAL USE ONLY | ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn | | NOTICE REGISTER NUMBER | PUBLICATION DATE |

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

| | |
|---|---|
| 1a. SUBJECT OF REGULATION(S) Loss Ratios for Individual Health Insurance | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2011-0112-01 E, 2011-0714-01EE, 2011-1014-01 EE |
|---|---|

| |
|---|
| 2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related) |
| SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.) |
| ADOPT |
| AMEND 2222.12 |
| REPEAL |
| TITLE(S) |

3. TYPE OF FILING

| | | | |
|--|--|---|---|
| <input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) | <input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. | <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) | <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) |
| <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4) | <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) | <input type="checkbox"/> File & Print | <input type="checkbox"/> Print Only |
| <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) | | <input type="checkbox"/> Other (Specify) _____ | |

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
Initial period: 7/21/2011 to 9/13/2011 Second period (availability of material added to file) 10/7/2011 to 10/24/2011

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

| | | | |
|--|---|---|--|
| <input type="checkbox"/> Effective 30th day after filing with Secretary of State | <input checked="" type="checkbox"/> Effective on filing with Secretary of State | <input type="checkbox"/> §100 Changes Without Regulatory Effect | <input type="checkbox"/> Effective other (Specify) _____ |
|--|---|---|--|

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

| | | |
|--|--|---|
| <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) | <input type="checkbox"/> Fair Political Practices Commission | <input type="checkbox"/> State Fire Marshal |
| <input type="checkbox"/> Other (Specify) _____ | | |

| | | | |
|--|---|-----------------------|---|
| 7. CONTACT PERSON Bruce H. Hinze | TELEPHONE NUMBER (415) 538-4392 | FAX NUMBER (Optional) | E-MAIL ADDRESS (Optional) hinzeb@insurance.ca.gov |
|--|---|-----------------------|---|

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

| | |
|---|------------------------|
| SIGNATURE OF AGENCY HEAD OR DESIGNEE | DATE 1/11/12 |
| TYPED NAME AND TITLE OF SIGNATORY Adam M. Cole, General Counsel | |

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED
FEB 08 2012
Office of Administrative Law

REGULAR

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

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|------------------|---|--|------------------|
| OAL FILE NUMBERS | NOTICE FILE NUMBER Z-2011-0712-05 | REGULATORY ACTION NUMBER 2011-1230-025 | EMERGENCY NUMBER |
|------------------|---|--|------------------|

For use by Office of Administrative Law (OAL) only

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| NOTICE | <div style="text-align: center;"> <p>2011 DEC 30 PM 1:05</p> <p>OFFICE OF ADMINISTRATIVE LAW</p> </div> <p style="text-align: center;">REGULATIONS</p> |
|--------|--|

AGENCY WITH RULEMAKING AUTHORITY
Department of Insurance

AGENCY FILE NUMBER (if any)
REG-2011-00005

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

| | | | |
|--|---------------------------|--|--|
| 1. SUBJECT OF NOTICE | TITLE(S) | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE July 22, 2011 |
| 3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other | 4. AGENCY CONTACT PERSON | TELEPHONE NUMBER | FAX NUMBER (Optional) |
| OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn | ACTION ON PROPOSED NOTICE | NOTICE REGISTER NUMBER 2011, 292 | PUBLICATION DATE 7-22-2011 |

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

| | |
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| 1a. SUBJECT OF REGULATION(S) Loss Ratios for Individual Health Insurance | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2011-0112-01 E, 2011-0714-01EE |
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| | |
|--|------------------|
| 2. AGENCY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related) | ADOPT |
| ACTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.) | AMEND 2222.12 |
| | REPEAL |
| | TITLE(S) 10 |

3. TYPE OF FILING

| | | | |
|---|---|---|---|
| <input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) | <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. | <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) | <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) |
| <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) | <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) | <input type="checkbox"/> File & Print | <input type="checkbox"/> Print Only |
| <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) | <input type="checkbox"/> Other (Specify) _____ | | |

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5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

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|---|--|---|--|

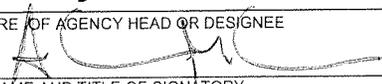
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

| | | |
|--|--|---|
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| <input type="checkbox"/> Other (Specify) _____ | | |

| | | | |
|----------------------------------|------------------------------------|-----------------------|--|
| 7. CONTACT PERSON Bruce Hinze | TELEPHONE NUMBER (415) 538-4392 | FAX NUMBER (Optional) | E-MAIL ADDRESS (Optional) HinzeB@insurance.ca.gov |
|----------------------------------|------------------------------------|-----------------------|--|

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

For use by Office of Administrative Law (OAL) only

| | |
|---|---------------------------|
| SIGNATURE OF AGENCY HEAD OR DESIGNEE  | DATE December 28, 2011 |
| TYPED NAME AND TITLE OF SIGNATORY Adam M. Cole, General counsel | |

TEXT OF PROPOSED AMENDMENT TO REGULATION

Title 10. Investment

Chapter 5. Insurance Commissioner

Subchapter 2. Policy Forms and Other Documents

Article 1.9. Standards for Determining Whether Benefits of an Individual Hospital, Medical or Surgical Policy Are Unreasonable in Relation to the Premium Charged Pursuant to Subdivision (C) of Section 10293

Amend Title 10, Section 2222.12 to read:

§ 2222.12. Standards of Reasonability.

The authority of the commissioner under Insurance Code Section 10293 being to withdraw approval of policy forms the benefits of which are not reasonable in relation to the premium charged, whether the approval of any form of an insurer should be withdrawn pursuant to said section shall be determined by an analysis of actual loss experience, giving due consideration to all factors relevant to the determination of how the past loss experience may be used to reasonably indicate the average loss experience which should develop. Some of such factors which will be considered by the commissioner are hereinafter in this article set forth, but their listing does not preclude an insurer from urging any other factors which it considers relevant to the issue involved.

(a) Benefits provided by a hospital, medical or surgical policy shall be deemed to be reasonable in relation to premiums if both of the criteria in subdivisions (1) and (2), below, are satisfied:

(1) (A) the lifetime anticipated loss ratio is not less than 70%, and (B) in the case of a rate revision, the anticipated loss ratio over the future period for which the revised rates are computed to provide coverage is also not less than 70%, or, if the insurer chooses to include disease management expenses in determining compliance with these standards, (C) the sum of the lifetime anticipated loss ratio and the lifetime anticipated disease management ratio is not less than 70%, and (D) in the case of a rate revision, the sum of the anticipated loss ratio over the future period for which the revised rates are computed to provide coverage and the anticipated disease management ratio over the future period for which revised rates are computed to provide coverage is also not less than 70%,and;

(2) the insurer's projected medical loss ratios in the individual market, calculated using the method described in the interim final rule entitled "Health Insurance Issuers Implementing Medical Loss Ratio Requirements Under the Patient Protection and Affordable Care Act," (45 C.F.R. §§ 158.220-158.232, 75 Fed. Reg. 74927-74928, (December 1, 2010)) and incorporated herein by reference, are not less than 80%.

(b) Benefits provided by a hospital, medical, or surgical policy delivered or issued for delivery to any person in this State prior to July 1, 2007 and not subject to any rate

revision effective on or after July 1, 2007 shall be deemed to be reasonable in relation to premiums if the lifetime anticipated loss ratio is not less than 50%.

(c) Benefits provided by supplemental policies of individual health insurance that provide coverage for vision care expenses only, dental care expenses only, or short-term limited duration health insurance with coverage durations of 6 months or less shall be deemed to be reasonable in relation to premiums if the lifetime anticipated loss ratio is not less than 50%.

(d) Benefits provided by a hospital, medical or surgical policy designed to supplement Medicare, as defined in subdivision (l) of Insurance Code section 10192.4, must meet the loss ratio standards established in Subdivision (a)(1)(A) of Section 10192.14 of the Insurance Code.

NOTE: Authority cited: Insurance Code section 10293.

Reference: Insurance Code section 10112.25, 10293(a).