

Strengthen Health Insurance Rate Review

Cost Driver Targeted: Global spending

OVERVIEW

Rate review allows state regulators to evaluate, and in some cases, disapprove or modify, proposed health insurance rate increases that are deemed excessive. As such, rate review can be a helpful lever for states to bring down the cost of insurance in state-regulated health insurance markets.

Federal rate review regulation in the Affordable Care Act requires insurance carriers to file and publicly justify the reasonableness of proposed rate increases of 10 percent or more. To varying degrees, states have additional statutory and regulatory authority to regulate health insurance rates. [Past studies of states' rate review authority](#) found that about half of states had prior approval authority, which gives the state insurance commissioner the authority to approve, reject, or reduce proposed rate increases, usually through negotiation with the insurer. Under prior approval authority, carriers cannot use a rate until it is approved by the state's health insurance commissioner. There is usually a deadline after which the rate is deemed approved if the state takes no action. In contrast, under "file-and-use" regulations, premium rates automatically go into effect after a certain amount of time without approval from an insurance department, though states can take action later if the rates are found to be unreasonable.

States also vary in what criteria they can use when determining whether to approve or disapprove a proposed rate increase. Some states are able to disapprove "unreasonable" or "excessive" rate increases. Typically, states can look at carrier reserves, medical trends, rate history, and medical loss ratios (i.e., the proportion of an insurance carrier's premium revenues that it spends on medical expenses.) Some pioneering states, notably Rhode Island, have moved beyond traditional standards of financial solvency and consider affordability as a standard for rate review.



States also have demonstrated wide variation in how they wield their authority. For example, states vary in the percentage of rates they approve, and their staff capacity and historical practices may influence whether they maintain a culture of active review. Reviewing rates requires nuanced judgment calls, which can be challenging without sufficient capacity and expertise. The rigor and thoroughness that [states bring to rate review](#) can vary widely from state to state, depending on motivation, resources, and staff capacity.

KEY STEPS IN DESIGN AND IMPLEMENTATION

Assess statutory authority and consider legislation to establish prior approval authority and a mandate for affordability. Establishing prior approval authority may be an option for states that do not already have it. Another option is including broader authority for insurance commissioners to disapprove rates on the basis of affordability. For example, in approving, disapproving, or modifying an insurer's proposed rate, Vermont's [Green Mountain Care Board](#) must determine whether a rate is "affordable, promotes quality care, promotes access to health care, protects insurer solvency, and is not unjust, unfair, inequitable, misleading, or contrary to the laws of this State." Several states, including Oregon and Washington, have the ability to deny increases that are not "reasonable."

Rhode Island uses the rate review process to advance broader goals around insurance affordability. The [statute for rate review](#) requires plans to establish "that the rates proposed to be charged are consistent with the proper conduct of its business and with the interest of the public." To carry out that responsibility, Rhode Island has adopted a series of standards that define whether products are affordable to individuals and whether the insurer has implemented strategies to improve affordability. In this way, rate review expands from a strategy that is focused on reducing rates in the short term to one that can be used to align payer strategies for long-term cost mitigation.

Develop the analytic capacity to review rate filings. To effectively review rates, states' departments of insurance need sufficient staff capacity to review actuarial analyses, determine "reasonableness" of rates, and assess whether

carriers are meeting additional requirements, such as participation in strategies to improve health care affordability. Historically, lack of resources, coupled with short deadlines for prior approval, have limited departments' ability to meaningfully exercise their regulatory authority. Ensuring sufficient staffing can help states review filings within statutorily established deadlines; they also may wish to draw on application fees to support the cost of this review.

Educate consumers about and build public support for the rate review process. States can proactively design their rate review processes to allow for extensive public education and input. Connecticut's insurance department, for example, posts all health insurance filings on its website and makes them available to the public. During the rate review process, consumers may comment about the rates under review. They also can sign up for e-alerts so that they are notified when rate filings are posted. Individual policyholders also receive prior notification from their insurance company when a proposed rate increase is filed with the insurance department. Similarly, Oregon's rate review program posts carriers' justifications of rate increases on the [Oregon Insurance Division's website](#), and the public has opportunities for input through public comments and hearings.

EVIDENCE OF IMPACT

One [peer-reviewed study](#) found that states with stronger rate review policies had lower individual market premiums. From 2010 to 2013, adjusted premiums in the individual market in states that had prior-approval authority coupled with loss-ratio requirements were lower than premiums in states with no rate review authority or that had only file-and-use regulations (\$3,489 compared with \$3,617; this study period preceded federal loss-ratio requirements that took effect in 2014). Additionally, adjusted premiums declined modestly (from \$3,526 in 2010 to \$3,452 in 2013) in prior-approval states with loss-ratio requirements, while premiums increased (from \$3,422 to \$3,683) in states with no rate review authority or file-and-use regulations only.

Vermont's Green Mountain Care Board [commissioned a study](#) that found that for rates effective from 2012 to 2016, the total premium adjustments made in the rate review

process saved Vermonters approximately \$66 million, or about 3 percent. Additional assessments by advocacy organizations also have documented savings related to rate review in [California](#) and [Oregon](#), but these results do not report savings as a percentage of total spending across the market.

IS THIS STRATEGY A GOOD CHOICE FOR YOUR STATE?

States with a wide range of political dispositions have worked to strengthen rate review authorities. To date, the states that have expanded standards for review to broadly encompass health insurance affordability have tended to be more progressive states that are comfortable using this regulatory approach.

For states to have more leverage in rate review negotiations, some degree of competition in the insurance marketplace is needed. In addition, states will likely be most successful if they have:

- statutory authority backed up with the analytic capacity to review rates and to negotiate with carriers
- ability to align their approach to rate review with related efforts to constrain provider prices or price increases, and/or advance payment and delivery system reforms.

EQUITY CONSIDERATIONS

Design, implementation, and oversight of rate review programs should take into consideration their impact on affordability and access to low-income and underserved populations. Specifically, there is a hypothetical risk of losing access to carriers (especially in rural areas or other areas where there are not many carriers to begin with) and to specific higher-cost providers in network. Monitoring trends in insurance availability, affordability, and coverage by income, race/ethnicity, geography, and other characteristics at the state level is beneficial. Connecticut's [affordability index](#) is an example of a tool that helps to define affordability and the impact of policymaking on health care affordability across the state. States that are expanding their rate review processes to address affordability could consider assessing equitable access to care within their review.

OTHER POTENTIAL UNINTENDED CONSEQUENCES OR LIMITATIONS

Rate review processes become a negotiation between the regulators and carriers and are predicated on a symbiotic relationship: the state needs carriers to offer plans to cover all regions of the state, and carriers want to offer these plans. For rate review to be effective, there needs to be sufficient competition in the market to create a healthy “push–pull” between regulators and carriers. States will need to monitor to ensure they continue to have robust competition and participation.

Regulators also need the independence to properly execute their oversight responsibilities. This independence can be threatened when regulated interests dominate the agencies that are meant to be overseeing them. Regulators also will need to be alert to gaming, where plans may submit higher rates knowing those rates will be negotiated downward.

Given the downward pressure on rates applied through rate review, plans could theoretically respond by decreasing access to care. To help avoid this, states can monitor indicators such as carrier networks, appeals and grievances, and quality performance.

RESOURCES

“[Resources: Using Rate Review to Address Healthcare Affordability](#),” Altarum Health Care Value Hub, n.d.

Pinar Karaca-Mandic et al., “[States with Stronger Health Insurance Rate Review Authority Experienced Lower Premiums in the Individual Market in 2010–2013](#),” *Health Affairs* 34, no. 8 (Aug. 2015): 1358–67.