

## **ASSEMBLY BILL 52 (FEUER) RATE REGULATION**

### **SUMMARY**

This bill would require a health care service plan or health insurer to receive approval prior to implementing any new rate or rate change for individual or group contracts or policies, beginning January 1, 2012. The bill would also prohibit the Department of Managed Health Care (DMHC) or the California Department of Insurance (CDOI) from approving any new rate or rate change that is found to be excessive, inadequate or unfairly discriminatory and would authorize the imposition of fees and civil penalties on health care service plans and health insurers for violating its provisions. The Department of Health Care Services (DHCS) and the Managed Risk Medical Insurance Board (MRMIB) would be exempt from provisions of this bill.

### **EXCHANGE STAFF COMMENTS/RECOMMENDATIONS**

The California Health Benefit Exchange was established as an active purchaser, with the ability to negotiate and selectively contract with insurers that offer a high-value product in exchange for a large volume of enrollees. This authority is similar to that given to DHCS and the MRMIB, whose programs rates are exempt from the provisions of this bill.

If AB 52 were enacted and applied to the Exchange, it could significantly delay final premium rate negotiations and Exchange implementation or plan renewals. This is especially true in a multiple insurer contracting arrangement such as the Exchange where it would be preferable that all rates be finalized at the same time for appropriate rate comparisons.

For these reasons, staff recommends that the Exchange work with the author's office to exempt the Exchange from provisions of this bill. Like DHCS and MRMIB, the Exchange will be a large purchaser of health care services with the ability to negotiate rates for customers. Requiring health plans to receive prior approval through DHMC or CDOI may delay final premium rate negotiations and Exchange implementation or plan renewals.

### **ANALYSIS**

Prohibits any health carrier rate from being approved or remaining in effect that is found to be excessive, inadequate, unfairly discriminatory, or otherwise in violation of the standards established by this bill. Defines "rate" as the charges assessed for a contract or policy or anything that affects the charges associated with such a contract or policy, including, but not limited to, premiums, base rates, underwriting relativities, discounts, copayments, coinsurance, deductibles, and any other out-of-pocket costs.

For rates effective on or after January 1, 2012, prohibits carriers from implementing a rate for a new product or changing the rate it charges, unless it submits an application and the application is approved by regulators.

Permits the Insurance Commissioner and DMHC Director to approve, deny, or modify any proposed rate for a new product or any rate change for an existing product, as specified. Specifies that the presence of competition in the market shall not be considered in determining whether a rate change is excessive, inadequate, or unfairly discriminatory.

Makes this bill's provisions applicable to contracts and policies offered in the individual or group market in California, but exempts specified plans and policies, including specialized health plan contracts, Medicare supplement contracts, and contracts offered in the Medi-Cal Program, the Healthy Families Program, the Access for Infants and Mothers Program, the California Major Risk Medical Insurance Program, the Federal Temporary High Risk Pool, health plan conversion contracts, or health plans offered to a federally eligible defined individual.

### **FISCAL IMPACT**

According to the Assembly Appropriations Committee analysis:

1. Annual fee-supported special fund costs of at least \$30 million to regulators combined, to process, review, approve, post, and monitor activities related to rate increase approvals. Workload to regulators includes data collection, actuarial analysis, consumer services, rate enforcement, legal analysis, administrative law hearings, and continued oversight. This estimate is subject to significant uncertainty, as workload would depend on plan behavior with respect to the timing and number of proposed rate increases.
2. A significant increase in fee-supported special funds may be required for several years and especially during major coverage expansions in several years per requirements of the Affordable Care Act (ACA). Actual costs may subside earlier, depending on patterns of health coverage expansions and related changes in insurance product pricing.
3. ACA includes some support for states to conduct general rate review and report to the federal government about in justified rates. California may receive as much as \$3 million grant each year for the next three years, and may be eligible for an additional \$2 million. This federal funding would offset any fee-supported special fund cost generated by this bill.

## **SUPPORT/OPPOSITION**

Support:

AARP  
AFSCME Retirees Chapter 36  
Alliance of Californians for Community Empowerment  
American Cancer Society, California Division  
American Diabetes Association  
American Indian Healing Center  
AnewAmerica Community Corporation  
Asian Business Association  
Association of California School Administrators  
Bay Area Black United Fund  
Bel Air Beverly Crest Neighborhood Council  
Black Business Association  
Black Economic Council  
Brain Injury Association of California  
Brightline Defense Project  
California Alliance for Retired Americans  
California Association of Professional Scientists  
California Black Chamber of Commerce  
California Chiropractic Association  
California Commission on Aging  
California Communities United Institute  
California Conference Board of the Amalgamated Transit Union  
California Conference of Machinists  
California Democratic Congressional Delegation  
California Family Resource Association  
California Federation of Teachers  
California Labor Federation  
California Mortgage Association  
California National Organization of Women  
California Nurses Association  
California Pan-Ethnic Health Network  
California Physical Therapy Association  
California Professional Firefighters  
California Psychological Association  
California Retired Teachers Association  
California Rural Legal Assistance Foundation  
California School Boards2- Association  
California School Employees Association  
California Senior Legislature  
California Teachers Association  
California Teamsters Public Affairs Council  
California Women Lawyers  
California Women's Agenda  
CALPIRG  
CDF Firefighters Local 2881  
Children Now  
Children's Defense Fund California  
City of Los Angeles  
City of Sacramento  
Coalition for Humane Immigrant Rights of Los Angeles  
Committee of Interns and Residents/SEIU Healthcare  
Community College League of California

Community Union  
Conference of California Bar Associations  
Congress of California Seniors  
Consortium of Physicians from Latin America  
Consumer Attorneys of California  
Consumer Federation of California  
Consumer Watchdog  
Consumers Union  
Council of American Business Associations  
Courage Campaign  
Democratic Party of Sacramento County  
Disability Rights California  
Disability Rights Legal Center  
Engineers and Scientists of California  
Fresno West Coalition for Economic Development  
Friends Committee on Legislation of California  
Glendale City Employees Association  
Greater Los Angeles African American Chamber of Commerce  
Having Our Say  
HCI  
Health Access California  
Health Care for All - California  
Hispanic Business, Education and Training  
Hmong American Political Association  
Inland Empire Latino Coalition  
International Longshore and Warehouse Union  
Korean American Democratic Committee  
Korean Center, Inc.  
Korean Churches for Community Development  
Korean Health Education Information & Research Center  
La Maestra Family Clinic  
Labor United for Universal Healthcare  
Laborers' Locals 777 & 792  
Latino Business Chamber of Greater Los Angeles  
Latino Coalition for a Healthy California  
Latino Health Alliance  
Marin County Board of Supervisors  
National Federation of Filipino American Associations, Region 8, Northern California  
National Multiple Sclerosis Society - California Action Network  
National Physicians Alliance - California  
National Union of Healthcare Workers  
North Valley Democratic Club  
Northern California District Council of the International Longshore and Warehouse Union  
Older Women's League of California  
Organization of SMUD Employees  
Our Weekly Los Angeles  
Peace Officers Research Association of California  
PICO California  
Planned Parenthood Advocacy Project of Los Angeles County  
Planned Parenthood Affiliates of California  
Planned Parenthood Mar Monte  
Planned Parenthood of Santa Barbara, Ventura and San Luis Obispo Counties, Inc.  
Planned Parenthood Pasadena and San Gabriel Valley  
Professional and Technical Engineers, Local 21  
Professional Engineers in California Government  
Sacramento Capitol Older Women's League

San Bernardino Public Employees Association  
San Francisco African American Chamber of Commerce  
San Gabriel Valley Economic Partnership (if amended)  
San Luis Obispo County Employees Association  
Santa Clarita Valley Fair Elections Committee  
Santa Cruz County Board of Supervisors  
Santa Rosa City Employees Association  
SEIU California  
Small Business Majority  
Teamsters Joint Council 42  
TELACU Millennium  
The Children's Partnership  
The Domar Group  
The Greenlining Institute  
Unitarian Universalist Legislative Ministry Action Network-California  
UNITE HERE!  
United Food and Commercial Workers - Western States Conference  
Utility Workers Union of America, Local 132  
Vietnamese-American Chamber of Commerce of Orange County  
Ward Economic Development Corporation  
Westchester Democratic Club  
Yolo County Democratic Central Committee  
Barbara Boxer, United States Senator  
Dave Jones, Insurance Commissioner  
Dianne Feinstein, United States Senator  
Sheila Jordan, Alameda County Superintendent of Schools

Oppose:

Altamed Health Services  
America's Health Insurance Plans  
Anthem Blue Cross  
Association of California Life and Health Insurance Companies  
Barbara McClaskey Insurance Services  
Blue Shield of California  
Brea Chamber of Commerce  
California Association of Health Plans  
California Association of Health Underwriters  
California Association of Joint Powers Authorities  
California Association of Physician Groups  
California Chamber of Commerce  
California Hospital Association  
California Manufacturers and Technology Association  
California Medical Association  
California Taxpayers Association  
Catholic Healthcare West  
Civil Justice Association of California  
Community College League of California  
CSAC Excess Insurance Authority  
Folsom Chamber of Commerce  
Fullerton Chamber of Commerce  
Golden Empire Managed Care  
Greater Bakersfield Chamber of Commerce  
Greater Corona Valley Chamber of Commerce  
Greater Fresno Area Chamber of Commerce  
Greater Stockton Chamber of Commerce

Hayward Chamber of Commerce  
Health Net  
Hospital Corporation of America  
Howard Jarvis Taxpayers Association  
Irvine Chamber of Commerce  
Kaiser Permanente  
Kern County Taxpayers Association  
Livermore Chamber of Commerce  
Los Angeles County Medical Association  
MemorialCare Medical Foundation  
Modesto Chamber of Commerce  
Monarch Healthcare  
Montebello Chamber of Commerce  
Nico Insurance  
North American Medical Management California, Inc.  
North Orange County Legislative Alliance  
Orange County Business Council  
Orange County Taxpayers Association  
Oxnard Chamber of Commerce  
Palm Canyon Insurance Agency  
Pioneer Medical Group  
PrimeCare Medical Network, Inc.  
Regional Chamber of Commerce San Gabriel Valley  
San Diego County Taxpayers Association  
San Diego Regional Chamber of Commerce  
San Francisco Chamber of Commerce  
Silicon Valley Leadership Group  
Southwest California Legislative Council  
SynerMed  
UnitedHealth Group  
Valley Industry & Commerce Association