

§ 1385.06. Submission of filing; Contents; Contract with independent actuary or actuaries

(a) A filing submitted under this article shall be actuarially sound.

(b)(1) The plan shall contract with an independent actuary or actuaries consistent with this section.

(2) A filing submitted under this article shall include a certification by an independent actuary or actuarial firm that the rate increase is reasonable or unreasonable and, if unreasonable, that the justification for the increase is based on accurate and sound actuarial assumptions and methodologies. Unless PPACA requires a certification of actuarial soundness for each large group contract, a filing submitted under Section 1385.04 shall include a certification by an independent actuary, as described in this section, that the aggregate or average rate increase is based on accurate and sound actuarial assumptions and methodologies.

(3) The actuary or actuarial firm acting under paragraph (2) shall not be an affiliate or a subsidiary of, nor in any way owned or controlled by, a health care service plan or a trade association of health care service plans. A board member, director, officer, or employee of the actuary or actuarial firm shall not serve as a board member, director, or employee of a health care service plan. A board member, director, or officer of a health care service plan or a trade association of health care service plans shall not serve as a board member, director, officer, or employee of the actuary or actuarial firm.

(c) Nothing in this article shall be construed to permit the director to establish the rates charged subscribers and enrollees for covered health care services.

HISTORY:

Added Stats 2010 ch 661 § 4 (SB 1163), effective January 1, 2011.

§ 1385.07. Publication of information; Confidential information; Information to be included

(a) Notwithstanding Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, all information submitted under this article shall be made publicly available by the department except as provided in subdivision (b).

(b)(1) The contracted rates between a health care service plan and a provider shall be deemed confidential information that shall not be made public by the department and are exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The contracted rates between a health care service plan and a provider shall not be disclosed by a health care service plan to a large group purchaser that receives information pursuant to Section 1385.10.

(2) The contracted rates between a health care service plan, including those submitted to the department pursuant to Section 1385.046, and a

large group shall be deemed confidential information that shall not be made public by the department and are exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). Information provided to a large group purchaser pursuant to Section 1385.10 shall be deemed confidential information that shall not be made public by the department and shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(c) All information submitted to the department under this article shall be submitted electronically in order to facilitate review by the department and the public.

(d) In addition, the department and the health care service plan shall, at a minimum, make the following information readily available to the public on their internet websites in plain language and in a manner and format specified by the department, except as provided in subdivision (b). For individual and small group health care service plan contracts, the information shall be made public for 120 days prior to the implementation of the rate increase. For large group health care service plan contracts, the information shall be made public for 60 days prior to the implementation of the rate increase. The information shall include:

(1) Justifications for any unreasonable rate increases, including all information and supporting documentation as to why the rate increase is justified.

(2) A plan's overall annual medical trend factor assumptions in each rate filing for all benefits.

(3) A health care service plan's actual costs, by aggregate benefit category to include hospital inpatient, hospital outpatient, physician services, prescription drugs and other ancillary services, laboratory, and radiology.

(4) The amount of the projected trend attributable to the use of services, price inflation, or fees and risk for annual plan contract trends by aggregate benefit category, such as hospital inpatient, hospital outpatient, physician services, prescription drugs and other ancillary services, laboratory, and radiology.

HISTORY:

Added Stats 2010 ch 661 § 4 (SB 1163), effective January 1, 2011. Amended Stats 2014 ch 577 § 2 (SB 1182), effective January 1, 2015; Stats 2016 ch 498 § 3 (SB 908), effective January 1, 2017; Stats 2019 ch 247 § 3 (SB 343),

effective January 1, 2020; Stats 2019 ch 807 § 8 (AB 731), effective January 1, 2020 (ch 807 prevails); Stats 2021 ch 615 § 228 (AB 474), effective January 1, 2022, operative January 1, 2023.