



## **Proposed Rate Increases for Floridians Purchasing Their Coverage in 2016: Likely Moderate in Most Cases; Often Irrelevant to What Consumers Will Actually Pay**

### **Summary**

Rates for health plans sold by insurance companies on Florida's individual market (i.e., directly to individual policyholders), specifically including those sold through the federal Health Insurance Marketplace, are regulated by the Florida Office of Insurance Regulation (OIR). However, with the passage of the Affordable Care Act (ACA), these health insurance issuers are required to report all potentially unreasonable rate increases for health plans sold in the individual (and small group) markets to the federal Centers for Medicare and Medicaid Services (CMS) for review.

For 2016, seven issuers in Florida's individual market reported proposing such potentially unreasonable rate increases (i.e., 10 percent or more) to CMS. However, almost triple that number (19) have submitted rate filings to Florida OIR. It follows that the other 12 are proposing average rate increases of less than 10 percent. As a result, most Floridians who directly purchase their coverage will be enrolled in a plan proposing more moderate rate increases very much in line with pre-ACA levels.

Most importantly, under the ACA, plan rates and consumer premiums are often two entirely distinct concepts. Given that the majority of Florida's individual market is now comprised of consumers purchasing coverage in the federal Health Insurance Marketplace, and that 94 percent of Marketplace customers received financial assistance in the form of Advance Premium Tax Credits in 2015, it is reasonable to expect that consumers purchasing their own coverage will see at most a nominal increase in the premiums they pay. Furthermore, those that would face premium increases may find them reduced or eliminated by switching to a different but comparable plan during the upcoming 2016 Open Enrollment period.

*Individuals enrolled in plans for which a rate increase of 10 percent was requested appear to account for only a small share (between a quarter and a third) of Floridians with individually purchased coverage. Consequently, it is possible and even likely that the average rate increase for 2016 across the individual market will be substantially lower than 10 percent. By contrast, increases of 10 percent or more have been the norm in Florida for many years prior to the passage of the Affordable Care Act.*

## **Rate Review in Florida Under the Affordable Care Act**

The crux of the Affordable Care Act (ACA) is a three-pronged, inter-dependent mechanism that includes: 1) a requirement that most individuals maintain health coverage, 2) the assurance that individuals can obtain coverage despite pre-existing health conditions, and 3) access to subsidies that make coverage affordable. With this mechanism now in place, the ACA has already made significant progress toward the goal of ensuring that most Americans can get and keep real, quality, affordable health coverage.

As a complex legislative compromise, the ACA incorporated and balanced numerous elements drawn from across the spectrum of stakeholders, yet remained pragmatically grounded in the existing system of health care coverage. In particular, the ACA anticipated that those who were not either very low-income or eligible for Medicare would continue to access coverage administered by private sector companies<sup>1</sup>, either through an employer or through direct purchase in the individual market.

The ACA further assumes that states would continue to serve as the primary and front-line regulators of health insurance, even providing additional resources for states to accommodate the additional consumer protections under the new law. The fact that states continue to play this central role is especially apparent with the issue of rate review (i.e., the process of determining whether proposed rate increases are appropriate and justified).<sup>2</sup> In Florida, issuers are required to submit proposed rates for approval by the Florida Office of Insurance Regulation (OIR), under the oversight of the Insurance Commissioner.

ACA regulations require that the federal Centers for Medicare and Medicaid Services (CMS) review insurers' proposed rate increases of 10 percent or more<sup>3</sup> as potentially unreasonable. Such proposed rate increases and issuers' justifications of them are published on CMS' website.<sup>4</sup> However, Florida (through OIR) and the 45 other states that maintain a CMS-designated "effective rate review program" retain responsibility for approving or denying proposed rate increases.<sup>5</sup> In such states, CMS may deem a proposed rate increase unreasonable, but cannot reject the increase.

***Most importantly, in the federal Health Insurance Marketplace, rate increases have little or no bearing on the premiums that most consumers will actually pay. Of the 1.42 million Floridians who purchased coverage in the Marketplace for 2015, 1.32 million (94%) did so with the assistance of federal subsidies. For these consumers, the primary determinants of what they pay for coverage are their family income and the Federal Poverty Level. Thus, all other things being equal, most Marketplace consumers will in general only face premium increases on the order of a cost-of-living adjustment.***

Note: Between July 2013 and February 2015, the Florida Legislature effectively suspended OIR's rate review authority with regard to plans subject to ACA requirements. However, CMS did not suspend Florida's "effective rate review" designation during that period, and so no entity had the authority to approve or deny rate increases. Effective March 1, 2015, OIR's rate review authority was restored.<sup>6</sup>

Insurers proposing to sell plans in the federal Health Insurance Marketplace for 2016 were required to submit proposed rates by May 15.

### **2016 Rate Increase Data – The Available and the Unavailable**

Based on a review of the 2016 rate information filed with CMS, seven Florida issuers proposed rate increases for 2016 that exceeded the 10 percent threshold of potential unreasonableness (one additional insurer withdrew its proposal and did not subsequently resubmit.) The average of such proposed increases weighted by reported number of affected enrollees is 15.4 percent.

However, almost triple that number (19) submitted rate filings under review with OIR for 2016, which means that 12 others proposed average rate increases of less than 10 percent. Thus, for reasons explained below, although no direct verification of this is possible at present, **the only possible inference is that about a third of Florida insurers proposed rate increases of 10 percent or more for 2016.**

Unfortunately, although each OIR rate filing must be accompanied by a completed form<sup>7</sup> which, pursuant to state law and administrative rule, must include summary information about the nature and amount of the proposed rate increase.<sup>8</sup> However, for the second consecutive year, **most issuers have refused to publicly disclose even the most basic of statistics (i.e., the overall average percentage rate increase) in their rate filings, instead claiming that even this overall percentage is a protected trade secret and thus rendering the rule requiring such disclosure entirely moot.**

As a result, a public query using OIR's I-File Forms and Rates Search system<sup>9</sup> reveals that 19 issuers had submitted rate filings for 2016 (excluding one withdrawal), but only two smaller issuers disclosed their proposed rate changes - both *decreases*.

The state filings also omit numbers of current and projected enrollees, and so few inferences regarding any sort of statewide average rate increase are possible. However, the issuers seeking rate increases of 10 percent or more reported to CMS account for just over a half-million covered individuals.<sup>10</sup> By contrast, more than 1.4 million individuals were covered through plans purchased in the federal Marketplace during the 2015 Open Enrollment period.<sup>11</sup>

All of these individuals have coverage through the individual market, and this does not include the additional number who purchased "off-Exchange" plans (i.e., plans sold outside the federal Marketplace). Although OIR reported that 800,000 Floridians were covered through the individual market at the end of the 2013, some with inadequate and/or unaffordable plans shifted to coverage through the Marketplace starting in 2014.<sup>12</sup> Although no real frame of reference for a precise estimate exists, it is likely that between 1.5 and 2.0 million Floridians have coverage through the individual market in 2015. Thus, based on the data available, individuals enrolled in plans for which a rate increase of 10 percent was requested appear to account for a small share (between a quarter and a third) of Florida's individual market.

Consequently, after factoring in the remainder of the individual market, **it is possible and even likely that the average rate increase for 2016 across the individual market will be substantially lower than 10 percent.** By contrast, increases of 10 percent or more have been the norm in Florida for many years prior to the passage of the Affordable Care Act.<sup>13</sup>

A summary of publicly available information regarding proposed 2016 rate increases can be found in the table below:

<b>Average Proposed 2016 Rate Increases - Florida's Individual Market (Based on currently available information from CMS and OIR)</b>	
** = Average proposed rate increase not disclosed, but must be less than 10%	
<b>Issuer</b>	<b>Proposed Rate Increase (Company-wide)</b>
Aetna Health, Inc.	17.10%
Aetna Life Insurance Company	19.96%
AvMed, Inc.	**
Blue Cross & Blue Shield of Florida, Inc.	**
Celtic Insurance Company	**
Cigna Health and Life Insurance	12.82%
Coventry Health Care of Florida, Inc.	13.50%
Florida Health Care Plan <sup>14</sup>	-9.20%
Florida Health Solution HMO Company	-3.73%
Freedom Life Insurance Company of America	**
Health First Health Plans, Inc.	**
Health Options, Inc.	**
Human Health Insurance Company of Florida, Inc.	**
Humana Medical Plan, Inc.	**
Molina Healthcare of Florida, Inc.	**
Preferred Medical Plan, Inc. <sup>15</sup>	14.50%
Sunshine State Health Plan, Inc.	**
UnitedHealthcare Life Insurance Company	31.30%
UnitedHealthcare of Florida, Inc.	18.20%

### **Rates vs. Premiums: A Critical Distinction**

Most importantly, in the federal Health Insurance Marketplace (Marketplace), insurer rate increases have little or no bearing on the premiums that most consumers will actually pay. Of the 1.42 million Floridians who purchased coverage in the Marketplace for 2015, 1.32 million (93.5 percent) did so with the assistance of federal subsidies, namely Advance Premium Tax Credits (APTCs).<sup>16</sup> For consumers using APTCs, the primary determinants of what they pay for coverage are their family income and the Federal Poverty Level (FPL). More specifically, premium payments for the “benchmark plan” (on which APTC amounts are based) are calculated as a sliding-scale percentage of family incomes between 100 percent and 400 percent FPL.<sup>17</sup> Thus, all other things being equal, most Marketplace consumers will in general only face premium increases on the order of a cost-of-living adjustment.

Further, as many consumers learned during the previous open enrollment period, plan rates often vary significantly, as do increases in those rates, even when the comparison is narrowed to plans at the same metal (e.g., Silver) level. A consumer who would face a substantial rate increase in 2016 by remaining with his or her current plan could find that increase significantly reduced or even eliminated by switching to a different but comparable plan.

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With the 2016 Open Enrollment period set to begin in November, the full picture will emerge within the next few months. In the interim, the vacuum should not be filled by skewed interpretations such as those that are based on examining the minority of Florida issuers proposing increases of 10 percent or greater.

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## Endnotes

- <sup>1</sup> It should be noted that a high percentage of both Medicaid and Medicare recipients in Florida are also enrolled in managed care plans that are administered by companies in the private sector (through Statewide Medicaid Managed Care and Medicare Advantage, respectively.)
- <sup>2</sup> With regard to rate review in particular, 45 CFR §154.210 requires that the federal Centers for Medicare and Medicaid Services (CMS) adopt a state's determination of whether a rate increase is unreasonable if the state has an "effective rate review program." 45 states and the District of Columbia currently have effective rate review programs for their respective state individual markets. See <http://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Market-Reforms/Review-of-Insurance-Rates.html>
- <sup>3</sup> 45 CFR §154.200
- <sup>4</sup> Summaries of these rate filings are posted by CMS at <https://ratereview.healthcare.gov>
- <sup>5</sup> 45 CFR §154.210 and 45 CFR §154.301
- <sup>6</sup> Section 15, [Chapter 2013-101](#), Laws of Florida
- <sup>7</sup> Rates are filed with OIR using the Universal Standardized Data Letter, [Form OIR-B2-1507](#) (Rev. 8/12)
- <sup>8</sup> Rule 690-149.003(b)(2), Florida Administrative Code (F.A.C.)
- <sup>9</sup> Issuer must file all proposed forms and rates to OIR prior to use, and these documents are made available for public query via the [I-File system](#). However, information for which trade secret protection is claimed is redacted.
- <sup>10</sup> Based on information pertaining to rate filings submitted to CMS
- <sup>11</sup> CMS, [Effectuated Enrollment Snapshot –March 31, 2015](#), June 2015
- <sup>12</sup> Florida Office of Insurance Regulation (OIR), [CY 2013 Accident and Health Markets - Gross Annual Premium and Enrollment](#), November 2014
- <sup>13</sup> See, e.g., OIR, [Approved Accident and Health Rate Changes](#), 2003 - present
- <sup>14</sup> A current query of the I-File system does not reveal proposed rate changes for Florida Health Care Plan, presumably due to invoked claims of trade secret protection. However, those claims appear to have been invoked subsequent to the official filing date, as the log shows no other information – redacted or otherwise – has been filed since that date.
- <sup>15</sup> The status of Preferred Medical Plan is unclear as of this writing. The I-File system shows that Preferred withdrew its rate filing on July 2. However, Preferred continues to have an active filing posted on CMS' rate review site.
- <sup>16</sup> CMS, March 31, 2015 Effectuated Enrollment Snapshot
- <sup>17</sup> Internal Revenue Service, [Questions and Answers on the Premium Tax Credit](#), July 2015