



New York State Department of Financial Services

Impact to the Community Rated Health Insurance Market Of Allowing Small Group Public Entities to Purchase Experience Rated Health Insurance Policies

Chapter 494 of the Laws of 2009 requires the Insurance Department (the Department of Financial Services as of October 3, 2011) to conduct a study “of the impact to the community rated health insurance market of allowing a public entity, as defined in paragraph 51 of subsection (a) of section 107 of the Insurance law, with fifty or fewer employees to join with public entities with more than fifty employees to purchase health insurance coverage under experience rated policies.”

Background

Community Rating. Since 1992, New York has required certain health insurance policies to be “community rated.” Under this rating methodology, the premium for all persons and groups covered by the policy must be the same, regardless of age, sex, health status or occupation. For example, an insurer cannot charge some people a higher premium because they are sick or work in a more hazardous job.

All individual and small group health insurance policies must be community rated. (A “small group” is defined as a group of 50 or fewer members or employees, exclusive of spouses and dependents.) Community rating is also required for large group health maintenance organizations (HMOs) and for associations or multiple employer trusts where at least one employer or participating group of the association has 50 or fewer employees or members. For example, an association could be made up of ten different employers; if one of those employers has under 50 employees, New York law requires the entire association to be community rated even if the rest of the employers have over 50 employees.

New York’s new prior approval law (Chapter 107 of the Laws of 2010) applies to community rated policies. It gives the Department of Financial Services the authority to approve insurers’ requests to increase premiums for community rated policies before the premiums go into effect.

Experience Rating. In general, premiums for large group health insurance policies are rated using “experience rating.” Under this rating methodology, the premium for the large group is calculated based on the claims experience of the members of the group, using formulas approved by the Department. Unlike community rating, where all groups with the same contract have the same premium rate, experience rated groups with healthier lives and good claims experience have lower premium rates

than groups with poorer claims experience. Under New York law, large group HMOs are community rated while non-HMO large groups are experience rated.

Self-Insured Plans. The community rated policies and experience rated policies discussed above are those purchased by employers or individuals from insurers. Employers, if large enough, can also “self insure.” A self-insured employer basically sets aside a fund to pay the health insurance claims of its employees and typically hires a third party administrator to administer claims processing. The Department of Financial Services does not regulate non-governmental self-insured plans. The Department of Financial Services does regulate municipal health benefit cooperatives established under Article 47 of the Insurance Law, which is a form of self insurance for governmental entities (discussed below).

Municipalities and Health Insurance

Municipalities and other public entities have various options for purchasing health insurance, depending on their size. Municipalities with 50 or fewer employees could purchase community rated policies as a small group. If over 50 employees, a municipality may be able to purchase an experience rated policy from a private insurer.

Municipal Health Benefit Cooperative. In addition, municipalities and other public entities can join together to provide health insurance on a collective basis for their employees. Under Article 47 of the Insurance Law, public entities can establish a “municipal health benefit cooperative,” a self-funded plan to share, in whole or in part, the costs of self-funding employee health benefits plans. Municipal cooperative health benefits plans formed pursuant to Article 47 must be community rated. That is, even though such plans are essentially self-insured, the rating methodology by which the member employers of the cooperative plan are assessed must be based on the experience of the cooperative as a whole, without regard to age, sex, health status, or occupation of those covered by the plan (see Insurance Law §§4702 (a) and 4705 (d)(5)(B)).

Multi-Employer Trust. Insurance Law §4235 (c)(1) permits various forms of multiple employer group insurance arrangements. Unlike self-insured plans, where the group retains all or a portion of the risk, these plans involve risk transfer to an insurance company for which the group pays a fee or premium. Insurance Law §4235 (c)(1)(B) permits a group health policy to be issued to a trustee or trustees of a fund established, or participated in, by the employer members of a trade association. Insurance Law §4235 (c)(1)(D) permits a group health policy to be issued to a trustee or trustees of a fund established, or participated in, by two or more employers or by one or more labor unions, or by one or more employers and one or more labor unions. In these types of group arrangements, Insurance Law §§3231 (g) and 4317 (d) require that if the group includes one or more member employers which have fifty or fewer employees (exclusive of spouses and dependents), the entire group plan must be community rated.

Number of Municipalities in the Community Rated Market

The Department of Financial Services conducted a data call requesting information from health insurers in the small group market for calendar year 2009. The Department surveyed the 33 largest health insurers writing small group business in New York State as of December 31, 2009. The survey included a determination of the total number of small group policies, covered lives, earned premiums and incurred claims in relation to small group policies issued only to public entities.

The results of the data call varied among insurers.

- Eighteen of the insurers surveyed have no small group policies issued to public entities (six of those eighteen also had not issued any small group policies).
- Fifteen insurers issued small group policies to public entities.
- For seven of those fifteen insurers, the small group policies issued to public entities represent less than 1% of their overall small group business.
- For seven of those fifteen insurers, the small group policies issued to public entities represent between 1% and 3% of their overall small group business.
- For one of those fifteen insurers, the small group policies issued to public entities represent over 6% of their overall small group business.

The aggregate result of the data call indicates that public entities make up approximately 2% of the small group market in New York State. The results also indicate that earned premiums on small group policies issued to public entities represent only 1% of earned premiums in the overall small group market. Similarly, claims incurred by public entities in the small group market represent only 1% of the claims incurred in the overall small group market. Aggregate numbers are included in Table 1 below.

Table 1: New York Small Group Market (\$000)
(Source: NYSID data call)

Small Group policies in force	Public entity small group policies in force	No. covered lives (small groups)	No. covered lives (small group public entities)	Earned premiums all small groups	Earned premiums small group public entities	Claims incurred all small groups	Claims incurred small group public entities
518	9	1546	24	\$9,855,004	\$92,630	\$8,601,987	\$80,861
	2%		2%		1%		1%

Impact on Community Rating

Permitting small group public entities to leave the community rated pool will theoretically have a negative impact on those small employers remaining in the pool. This is because those small groups leaving to experience rate will presumably be those with comparatively good claims experience relative to the other small groups in the community pool.

Based on the information compiled, the Department concludes that excluding public entities with 50 or fewer employees from the community rated pool will have a 1% - 2% impact on the overall community rate of the small group market. For individual insurers, the impact may vary depending on portion of its small group business that is sold to municipalities. For instance, 6% of one insurer’s small group business is sold to municipalities.

The exact impact on premiums is difficult to predict because it will depend, in part, on the claims experience of the groups moving from community rated policies to experience rated policies. If public entities with good claims experience exit the community rated market, leaving public entities with the worst claims experience in the small group community pool, the premium impact would increase. But overall, even if only small group public entities with the worst claims experience were forced to remain in the small group market, the impact on the overall community rate for the small group market would be a relatively small percentage of the small group market. Also, public entities moving back and forth between community rated and experience rated policies within a short time could cause market disruption and premium volatility for those groups remaining in the existing groups.

Statutory amendments to Insurance Law §§3231 (g) and 4317 (d) would be required to allow public entities with 50 or fewer employees to participate in experience rated group arrangements.