Councilmember David A. Catania

Councilmember Kenyan McDuffie

Councilmember Mary M. Cheh

AN AMENDMENT

 # 1

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To: "Better Prices, Better Quality, Better Choices for Health Coverage Emergency Amendment Act of 2013"

Version:		
	Introduced	X
	Committee Print	
	First Reading	
	Amended First Reading	
	Engrossed	
	Enrolled	
	Unidentified	

Section 2 is amended by adding new amendatory sections 10c and 10d to read as follows:

"Sec. 10c. Small group and individual health insurance market premium rate review and approval.

"(a) For premium rates relating to health benefit plan years beginning in 2014, the Commissioner, after conducting an actuarial review of the rate filing, may approve a proposed rate for a health benefit plan for small employers or for an individual health benefit plan, if, in the Commissioner's discretion, the proposed rate is:

"(1) Actuarially sound;

"(2) In the best interest of consumers and not excessive, inadequate, or unfairly discriminatory;

"(3) Based upon reasonable administrative expenses; and

"(4) Based upon non-excessive profitability, surplus, excess reserves, and investment savings.

"(b) For plan years beginning in 2015, if an insurer in the small group or individual market proposes a premium rate increase that exceeds the average annual health spending growth rate stated in the most recent national health expenditures projection published by the Centers for Medicare and Medicaid services of the United States Department of Health and Human Services ("average annual health spending growth rate"), before making a decision on the proposed premium rate increase, the Commissioner shall:

"(1) Hold a public hearing regarding proposed health benefit plan rate increases exceeding the average annual health spending growth rate; and

"(2) Open a 30-day public comment period on the premium rate filing that begins on the date the insurer's schedule or table of premium rates are made public.

"(c)(1) An insurer licensed by the Department of Insurance, Securities and Banking that proposes to increase a premium rate by more than the average annual health spending growth rate shall include in any premium rate filing relating to individual or small employer health benefit plans a statement of administrative expenses as set forth in paragraph (2) of this subsection in the form and manner prescribed by the Commissioner by rule.

"(2)(A) The statement shall include an explanation of the basis for the proposed premium rate increase, along with a delineation of administrative expenses related to:

"(A) Salaries, wages, employment taxes, and other benefits;

"(B) Commissions;

"(C) Cost depreciation;

"(D) Rent;

"(E) Marketing and advertising;

"(F) General office expenses;

"(G) Third-party administration expenses of fees or other group service expenses or fees;

"(H) Legal fees and expenses and other professional or consulting fees, including fees for lobbying and contributions toward efforts to affect the federal, state, or local political process;

"(I) Other taxes, licenses, and fees;

"(J) Lobbying expenses; and

"(K) Traveling expenses.

"(B) The Commissioner may, by rule, specify any other necessary information that an insurer shall submit as part of a premium rate filing pursuant to this section.

"(3) The Commissioner shall identify the information submitted that shall be exempt from disclosure under this section because the information relates to confidential patient information or provider contracts.

"(d)(1) An insurer shall bear the burden of proving that a proposed rate increase that exceeds the average annual health spending growth rate for an individual or small employer health benefit plan is:

"(A) Actuarially sound;

"(B) In the best interest of consumers and not excessive, inadequate, or unfairly discriminatory;

"(C) Based upon reasonable administrative expenses; and

"(D) Based upon non-excessive profitability, surplus, excess reserves, and investment savings.

"(2) After conducting an actuarial review of the rate filing, the Commissioner may approve the proposed rate increase that exceeds the average annual health spending growth rate; provided, that the Commissioner has determined that the requirement of paragraph (1) of this subsection has been satisfied.

"(e) For health benefit plans in the individual and small group market, in the case of premium rates submitted for plan year 2014 and premium rates submitted for plan years beginning in 2015 and thereafter that exceed the average annual health spending growth rate, to determine whether the proposed premium rate is in the best interest of consumers and not excessive, inadequate, or unfairly discriminatory, the Commissioner shall consider:

"(1) The financial position, including its profitability, surplus, reserves, and investment savings of the insurer and of the parent company of the insurer;

"(2) Whether the proposed rate is consistent with the insurer's obligation under section 6a of the Hospital and Medical Services Corporation Regulatory Act of 1996, effective March 25, 2009 (D.C. Law 17-369; D.C. Official Code § 31-3505.01), if applicable;

"(3) Historical and projected administrative costs and medical and hospital expenses;

"(4) The historical and projected loss ratio between the amounts spent on medical services and earned premiums;

"(5) Any anticipated changes in the number of enrollees if the proposed premium rate is approved;

"(6) Changes to covered benefits or the health benefit plan design;

"(7) Changes in the insurer's health care cost containment and quality improvement efforts since the insurer's last rate filing for the same category of health benefit plan;

"(8) Whether the proposed change in the premium rate is necessary to maintain the insurer's solvency or to maintain rate stability and prevent excessive rate increases in the future; and

"(9) Any public comments received pursuant to subsection (b) of this section.

"(f) For health benefit plans in the individual and small group market, in the case of rates submitted for plan years beginning in 2015 that exceed the average annual health spending growth rate, the Commissioner shall give written notice to the insurer approving, disapproving or, with the written consent of the insurer, modifying a rate filing subject to this section no later than 10 business days after the close of the public comment period required by subsection (b)(2) of this section.

"(g) The Commissioner may, at any time, rescind a rate approved under this section pursuant to section 106 of the Reasonable Health Insurance Ratemaking and Health Care Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-360; D.C. Official Code § 31-3311.05) ("Reform Act").

"(h) Nothing in this section limits the Commissioner's authority under the Reform Act.

"Sec. 10d. Small group and individual health insurance market report.

"(a) The Commissioner shall prepare and submit to the District of Columbia Health Benefit Exchange Authority an annual market report relating to the health benefit plans offered in the District of Columbia Health Benefit Exchange Authority that shall include, at a minimum, the:

"(1) Health benefit plans participating in the individual and small group markets, including their market shares based on both premiums collected and lives covered;

"(2) Premium rates offered by health benefit plans in the individual and small group markets;

"(3) Average annual rate increase in the small group market;

"(4) Average annual rate increase by issuer in the small group market;

"(5) Average annual rate increase in the individual market;

"(6) Average annual rate increase by issuer in the individual market; and

"(7) Financial status of health insurers participating in the individual and small group markets in the District of Columbia."

"(b) The Commissioner shall submit the initial market report, to the extent that the information required by subsection (a) of this section is available, to the District Health Benefit Exchange Authority by January 10, 2014, and subsequent market reports by January 10 of each year thereafter.

"(c) In addition to the market report required by subsection (a) of this section, the Commissioner shall prepare an annual report for submission to the District of Columbia Health Benefit Exchange Authority that meets the requirements of subsection (a) of this section for small group and individual health benefit plans that continue to be offered outside the District of Columbia Health Benefit Exchange Authority ('non-exchange plans") during plan year 2014 and submit the report in accordance with subsection (b) for as long as any non-exchange plans continue to exist."

Rationale:

The purpose of this amendment is to strengthen existing law in the District of Columbia relating to the review of health insurance premium rates in the small group and individual health benefit plan markets by (1) requiring a public comment period and a hearing prior to DISB making a final decision on a proposed rate and (2) requiring DISB to consider specifically listed information when making a rate determination.

COUNCIL OF THE DISTRICT OF COLUMBIA
Office of the Budget Director

Jennifer Budoff
Budget Director

FISCAL IMPACT STATEMENT

TO: **The Honorable Phil Mendelson**
Chairman, Council of the District of Columbia

FROM: **Jennifer Budoff - Budget Director**

DATE: **June 3, 2013**

SHORT TITLE: **"Better Prices, Better Quality, Better Choices for Health Coverage Amendment Act of 2013"**

TYPE: **Amendment**

REQUESTED BY: **Councilmember David Catania**

Conclusion
This legislation will not have an adverse impact on the District's budget and financial plan because there is no cost associated with implementing this legislation.

The Office of the Chief Financial Officer issued a fiscal impact statement for the underlying bill on April 17, 2013, in which the CFO concluded that funds are sufficient to implement the legislation. Because the changes made within this amendment do not change the effect of the underlying measure, that conclusion still holds.

Background
This amendment would make several amendments to Bill 20-0240, the "Better Prices, Better Quality, Better Choices for Health Coverage Amendment Act of 2013", which clarifies rules and regulations for private health insurers that will operate under the Health Benefit Exchange. The proposed amendments strengthen the Department of Insurance, Securities, and Banking's (DISB) authority to review and approve proposed premium rate increases that would affect individual health benefit plans or health insurance plans for small employers. Specifically, these amendments:

- Clarify the Commissioner's duty and discretion to review and approve proposed rate increases;

- Require insurers that propose to increase premium rates by more than the average annual health spending growth rate to provide additional information on and documentation for the basis of the proposed increase;
- Require the Commissioner to hold a public hearing and open a 30-day public comment period on proposed health benefit plan increases that exceed the average annual health spending grown rate; and
- Require the Commissioner to prepare an annual report regarding the District's Health Benefit Exchange—this report shall include a list of all plans participating in individual and small group markets, the premium rates offered by these plans, the average annual rate increases of such plans, and the financial status of these health insurers.

Analysis of Impact on Spending

This legislation will not adversely impact spending.

Analysis of Impact on Revenue

This legislation will not adversely impact revenue.