

**HOUSE . . . . . No. 4561**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Twelve**  
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An Act relative to the medical loss ratio.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 6 of chapter 176J of the General Laws, as appearing in the 2010  
2 Official Edition, is hereby amended by striking out subsections (c), (d) and (e), inclusive, and  
3 inserting in place thereof the following 5 subsections:

4           (c) Notwithstanding any general or special law to the contrary, the commissioner may  
5 require carriers offering small group health insurance plans, including carriers licensed under  
6 chapters 175, 176A, 176B or 176G, to file all changes to small group product base rates and to  
7 small group rating factors at least 90 days before their proposed effective date. The  
8 commissioner shall disapprove any proposed changes to base rates that are excessive, inadequate  
9 or unreasonable in relation to the benefits charged. The commissioner shall disapprove any  
10 change to small group rating factors that is discriminatory or not actuarially sound. Any rates of  
11 reimbursement or rating factors included in the rate filing materials submitted for review by the  
12 division shall be deemed confidential and exempt from the definition of public records in clause  
13 Twenty-sixth of section 7 of chapter 4. The commissioner shall adopt regulations to carry out  
14 this section.

15 (d) For base rate changes filed under this section, if a carrier files a base rate whose  
16 administrative expense loading component, not including taxes and assessments, increases by  
17 more than the most recent calendar year's percentage increase in the New England medical CPI  
18 or if a carrier's reported contribution to surplus exceeds 1.9 per cent or if the aggregate medical  
19 loss ratio for all plans offered under this chapter is less than the applicable percentage set forth in  
20 subsection (e) of this section, then such carrier's rate, in addition to being subject to all other  
21 provisions of this chapter, shall be presumptively disapproved as excessive by the commissioner  
22 as set forth in this subsection, with the exception of any carrier whose Risk Based Capital Ratio  
23 falls below 300% for the most recent four consecutive quarters. For such carriers the reported  
24 contribution to surplus may not exceed 2.5 per cent.

25 If, however, a carrier's base rates are presumptively disapproved for failure to meet only  
26 the aggregate medical loss ratio threshold of the applicable percentage set forth in subsection (e)  
27 of this section, then the carrier's base rates shall nevertheless not be presumptively disapproved  
28 as excessive by the commissioner if the carrier's aggregate medical loss ratio for all plans offered  
29 under this chapter is not less than 1 per cent greater than the carrier's equivalent medical loss  
30 ratio was 12-months prior to the carrier's present rate filing.

31 If the annual aggregate medical loss ratio for all plans offered under this chapter is less  
32 than the applicable percentage set forth in subsection (e) of this section, or less than the medical  
33 loss ratio that was not presumptively disapproved by the commissioner for being in excess of 1%  
34 of the carrier's prior year base rate, over the applicable 12-month period, the carrier shall refund  
35 the excess premium to its eligible individuals and eligible small groups. A carrier shall  
36 communicate within 30 days to all individuals and small groups that were covered under plans  
37 during the relevant 12-month period that such individuals and small groups qualify for a refund

38 to be issued under this paragraph, which may take the form of either a refund on the premium for  
39 the applicable 12-month period, or if the individual or groups are still covered by the carrier, a  
40 credit on the premium for the subsequent 12-month period. The total of all refunds issued shall  
41 equal the amount of a carrier's earned premium that exceeds that amount necessary to achieve a  
42 medical loss ratio of the applicable percentage set forth in subsection (e) of this section,  
43 calculated using data reported by the carrier as prescribed under regulations promulgated by the  
44 commissioner. The commissioner may authorize a waiver or adjustment of this requirement only  
45 if it is determined that issuing refunds would result in financial impairment for the carrier.

46 (e) The medical loss ratio set forth in subsection (d) of this section shall be 90 per cent for  
47 the period through December 31, 2013. The medical loss ratio set forth in subsection (d) of this  
48 section shall be 89 per cent for the period from January 1, 2014 through December 31, 2014.  
49 The medical loss ratio set forth in subsection (d) of this section shall be 88 per cent for the period  
50 from January 1, 2015 forward.

51 (f) If a proposed base rate change has been presumptively disapproved:

52 (1) A carrier shall communicate to all employers and individuals covered under a small  
53 group product that the proposed increase has been presumptively disapproved and is subject to a  
54 hearing at the division of insurance.

55 (2) The commissioner shall conduct a public hearing and shall advertise it in newspapers  
56 in the cities of Boston, Brockton, Fall River, Pittsfield, Springfield, Worcester, New Bedford and  
57 Lowell, or shall notify such newspapers of the hearing.

58 (3) The attorney general may intervene in a public hearing or other proceeding under this  
59 subsection and may require additional information as the attorney general considers necessary to  
60 ensure compliance with this subsection.

61 The commissioner shall adopt regulations to specify the scheduling of the hearings  
62 required pursuant to this section.

63 (g) If the commissioner disapproves the rate submitted by a carrier the commissioner  
64 shall notify the carrier in writing no later than 45 days prior to the proposed effective date of the  
65 carrier's rate. The carrier may submit a request for hearing to the division of insurance within 10  
66 days of such notice of disapproval. The division must schedule a hearing within 15 days of  
67 receipt. The commissioner shall issue a written decision within 30 days after the conclusion of  
68 the hearing. The carrier may not implement the disapproved rates, or changes at any time unless  
69 the commissioner reverses the disapproval after a hearing or unless a court vacates the  
70 commissioner's decision.

71 SECTION 2. Sections 175 and 176 of chapter 224 of the acts of 2012 are hereby  
72 repealed.

73 SECTION 3. Section 177 of chapter 224 of the Acts of 2012 is hereby amended in the  
74 third paragraph by striking out the figure "1988" and inserting in place thereof the following  
75 figure:- "1986".

76 SECTION 4. Sections 302 and 303 of chapter 224 of the acts of 2012 are hereby  
77 repealed.