

Rate Review Mandate

Increases Cost of Health Care for Insurers, Employers, Employees

Access to health care is a primary concern for everyone. Politicians have various ideas about how to ensure each person has access to health care, but all theories lead back to one main issue: affordability. With costs being the central issue, AB 731, a new law that establishes a rate review process for large group health care contracts will have an impact on affordable health care and bears consideration. The ramifications of this new law loom over large group health plans and ultimately employers, who will bear the burden of higher health care costs. A close look at the benefits of large group health plans and the effects of AB 731 is imperative before the Legislature considers any further cost increases in 2020.

LARGE GROUP HEALTH PLANS

Many California businesses have created large group health plans for their employees. Under these plans, businesses with more than 100 employees can bring their size into play and negotiate directly with insurance and health care providers on the types of plans they offer. Businesses can then personalize health plans for the specific needs of their employees. This allows for a variety of plans to be offered with coverage and pricing options.

RAMIFICATIONS OF AB 731

AB 731 (Kalra; D-San Jose; Chapter 807, Statutes of 2019) mandates rate review of large group contracts, such as those between health plans/insurers and large employers with 100 or more employees. It requires health plans and insurers to

potentially file more than 17,000 contracts with the Department of Managed Health Care (DMHC) or California Department of Insurance (CDI). These are contracts that have been thoroughly negotiated and accepted by both parties to the agreement—the plan and the employer.

Starting in 2020, DMHC and CDI now must review all of these contracts and filings to determine whether the policy rate is unreasonable or if all the required data was not provided. The departments do not have authority to deny a rate or guarantee a decrease in health care premiums. Under the new law, insurance companies are required to notify large employer or union trust funds when state regulators deem rate increases to be unreasonable or unjustified.

AB 731 will likely make health care coverage more expensive for employers by establishing an unnecessary and burdensome rate review process for large group health care contracts. The measure will burden health plans and insurers, as well as the DMHC and the CDI, with an increased workload—all without providing a substantial benefit for purchasers.

This bill guarantees that there will be increased administrative costs for health plans and insurers, as well as increased operating costs for the DMHC and CDI. DMHC's operating costs are funded by health plans, which means employers and employees will be hit twice: once by shouldering the increased premiums resulting from increased administrative costs to health plans directly, and again since the operating costs for DMHC are funded by health plans as well.

Achieving universal health coverage was the reason the Assembly Select Committee on Health Care Delivery Systems and Universal Coverage was formed in 2017. The goal was to understand California's current health care delivery systems and to identify the path toward universal health coverage. One of the several takeaways from the series of hearings in 2017 and 2018 was the need to reduce health plan administrative costs. The irony of AB 731 is that the law will significantly increase health plan administrative costs, even though a report following five hearings included a recommendation to reduce such costs.

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FEDERAL AND STATE LAW PROVIDE ADEQUATE PROTECTION

Current law in California already requires health plans and health insurers for the large group market to file detailed rate information with the DMHC and the CDI at least 60 days prior to making any rate change.

Additionally, AB 1163, which took effect in 2011, provides transparency and review for unreasonable rate increases in the individual and small group market, indirectly helping large employers negotiate better rates for themselves. Covered California actively negotiates with plans and insurers on behalf of individuals and small businesses, with the benefit of the information provided by AB 1163, and has significant leverage in rate negotiations. The rates provided on the exchange are yet another reference point for employers seeking to secure the best rates possible for themselves when negotiating with large group health plans. SB 546, which was signed into law in late 2015, requires significant disclosures by the large group health insurance market, DMHC or the CDI.

Furthermore, Congress purposefully did not require rate review for large group contracts when enacting the Affordable Care Act because employers generally have significant negotiating power and choice in the marketplace, allowing them to secure better rates than individuals can. Even during the regulation drafting process, the U.S. Department of Health and Human Services specifically stated that regulation for rate review would apply only to individual and small group markets because “purchasers in the large group market have greater leverage than those in the individual and small group markets, and therefore may be better able to avoid imposition of unreasonable rate increases.”

LARGE GROUP PREMIUM INCREASES LOWER THAN OTHER GROUPS

Large group contracts were highly sought after by health plans and insurers and fully negotiated by large employers. Those competitive pressures have kept premium increases in the large group market historically lower than the small group and individual market in California; large group market premium increases are less than half those of the individual market.

In fact, large group premium increases are significantly lower than small group and individual premium increases, which are currently subject to rate review, even though the large group market is not. For reporting years 2016 and 2017, the average premium increase for the individual and small group market was 10.6%, whereas the average premium increases for the top seven health insurers in the large group market was 4.8%.

CALCHAMBER POSITION

There is no disagreement that health care costs are rising and making it more difficult for employers and their employees to afford quality, accessible care. Maintaining a viable health insurance market that provides individuals with an opportunity to obtain health insurance is important.

The California Chamber of Commerce will continue to promote efforts to contain health care costs and improve access to high-quality health care by supporting a system that is affordable and improves the overall health of California citizens.



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