

HOUSE BILL No. 4935

May 13, 2009, Introduced by Reps. Coulouris, Ball, Corriveau, Johnson, Simpson, Melton, Haugh, Young, Lipton, Marleau, Mayes, Gregory, Roy Schmidt, Hansen, LeBlanc, Scripps, Meadows, Moore and Green and referred to the Committee on Health Policy.

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," by amending sections 401e, 402b, 608, 609, 610, 612, and 613 (MCL 550.1401e, 550.1402b, 550.1608, 550.1609, 550.1610, 550.1612, and 550.1613), section 401e as added by 1996 PA 516, section 402b as amended by 1999 PA 7, section 608 as amended by 1991 PA 73, and section 609 as amended by 2003 PA 59, and by adding sections 220 and 613a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 220. A NONPROFIT HEALTH CARE CORPORATION IS SUBJECT TO**
2 **CHAPTER 37A OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL**
3 **500.3751 TO 500.3781.**

4 ~~Sec. 401e. (1) Except as provided in this section, a health~~
5 ~~care corporation that has issued a nongroup certificate shall renew~~

1 ~~or continue in force the certificate at the option of the~~
2 ~~individual.~~

3 (1) ~~(2)~~—Except as provided in this section, a health care
4 corporation that has issued a group certificate shall renew or
5 continue in force the certificate at the option of the sponsor of
6 the plan.

7 (2) ~~(3)~~—Guaranteed renewal is not required in cases of fraud,
8 intentional misrepresentation of material fact, lack of payment, if
9 the health care corporation no longer offers that particular type
10 of coverage in the market, or if the individual or group moves
11 outside the service area.

12 Sec. 402b. ~~(1)~~ ~~For an individual covered under a nongroup~~
13 ~~certificate or under a certificate not covered under subsection~~
14 ~~(2), a health care corporation may exclude or limit coverage for a~~
15 ~~condition only if the exclusion or limitation relates to a~~
16 ~~condition for which medical advice, diagnosis, care, or treatment~~
17 ~~was recommended or received within 6 months before enrollment and~~
18 ~~the exclusion or limitation does not extend for more than 6 months~~
19 ~~after the effective date of the certificate.~~

20 ———(2)—A health care corporation shall not exclude or limit
21 coverage for a preexisting condition for an individual covered
22 under a group certificate.

23 ———(3) ~~Notwithstanding subsection (1), a health care corporation~~
24 ~~shall not issue a certificate to a person eligible for nongroup~~
25 ~~coverage or eligible for a certificate not covered under subsection~~
26 ~~(2) that excludes or limits coverage for a preexisting condition or~~
27 ~~provides a waiting period if all of the following apply:~~

1 ~~—— (a) The person's most recent health coverage prior to applying~~
2 ~~for coverage with the health care corporation was under a group~~
3 ~~health plan.~~

4 ~~—— (b) The person was continuously covered prior to the~~
5 ~~application for coverage with the health care corporation under 1~~
6 ~~or more health plans for an aggregate of at least 18 months with no~~
7 ~~break in coverage that exceeded 62 days.~~

8 ~~—— (c) The person is no longer eligible for group coverage and is~~
9 ~~not eligible for medicare or medicaid.~~

10 ~~—— (d) The person did not lose eligibility for coverage for~~
11 ~~failure to pay any required contribution or for an act to defraud a~~
12 ~~health care corporation, a health insurer, or a health maintenance~~
13 ~~organization.~~

14 ~~—— (e) If the person was eligible for continuation of health~~
15 ~~coverage from that group health plan pursuant to the consolidated~~
16 ~~omnibus budget reconciliation act of 1985, Public Law 99-272, 100~~
17 ~~Stat. 82, he or she has elected and exhausted that coverage.~~

18 ~~—— (4) As used in this section, "group" means a group of 2 or~~
19 ~~more subscribers.~~

20 Sec. 608. (1) The rates charged to nongroup subscribers for
21 each certificate shall be filed **WITH THE COMMISSIONER AND THE**
22 **ATTORNEY GENERAL** in accordance with section 610. ~~and shall be~~
23 ~~subject to the prior approval of the commissioner. Annually, the~~
24 ~~commissioner shall approve, disapprove, or modify and approve the~~
25 ~~proposed or existing rates for each certificate subject to the~~
26 ~~standard that the rates must be determined to be equitable,~~
27 ~~adequate, and not excessive, as defined in section 609. The burden~~

1 ~~of proof that rates to be charged meet these standards shall be~~
2 ~~upon the health care corporation proposing to use the rates. THE~~
3 RATE FILING SHALL INCLUDE AN ACTUARIAL CERTIFICATION THAT THE RATES
4 ARE REASONABLE IN RELATION TO THE BENEFITS PROVIDED, ARE ADEQUATE,
5 EQUITABLE, AND NOT EXCESSIVE, AND PROMOTE THE HEALTH CARE
6 CORPORATION'S CHARITABLE AND SOCIAL MISSION OBLIGATIONS. THE RATE
7 FILING SHALL SHOW THE ANTICIPATED LOSS RATIO. IF SURPLUS EXCEEDS
8 THE MAXIMUM SURPLUS PERMITTED UNDER SECTION 204A(5), A CONTRIBUTION
9 FROM SURPLUS MAY BE CONSIDERED IN THE DETERMINATION OF WHETHER
10 RATES ARE REASONABLE IN RELATION TO THE BENEFITS PROVIDED, ARE
11 ADEQUATE, EQUITABLE, AND NOT EXCESSIVE, AND PROMOTE THE HEALTH CARE
12 CORPORATION'S CHARITABLE AND SOCIAL MISSION OBLIGATIONS. A RATE FOR
13 A NONGROUP OR GROUP CONVERSION CERTIFICATE SHALL BE PRESUMED
14 REASONABLE IN RELATION TO THE BENEFITS PROVIDED, IS ADEQUATE,
15 EQUITABLE, AND NOT EXCESSIVE, AND PROMOTES THE HEALTH CARE
16 CORPORATION'S CHARITABLE AND SOCIAL MISSION OBLIGATIONS IF THE
17 ANTICIPATED LOSS RATIO EQUALS OR EXCEEDS 80%. ANTICIPATED LOSS
18 RATIOS FOR NONGROUP CERTIFICATES SHALL BE CALCULATED SEPARATELY
19 FROM ANTICIPATED LOSS RATIOS FOR GROUP CONVERSION CERTIFICATES. A
20 MEDICARE SUPPLEMENT RATE SHALL BE PRESUMED REASONABLE IN RELATION
21 TO THE BENEFITS PROVIDED, IS ADEQUATE, EQUITABLE, AND NOT
22 EXCESSIVE, AND PROMOTES THE HEALTH CARE CORPORATION'S CHARITABLE
23 AND SOCIAL MISSION OBLIGATIONS IF THE ANTICIPATED LOSS RATIO EQUALS
24 OR EXCEEDS 90%. SECTIONS 3759 TO 3763 OF THE INSURANCE CODE OF
25 1956, 1956 PA 218, MCL 500.3759 TO 500.3763, APPLY TO ADJUSTING
26 PREMIUMS FOR EACH CERTIFICATE. FOR CERTIFICATES INTRODUCED ON OR
27 AFTER JANUARY 1, 2010, ANY PREMIUM DIFFERENCES AMONG THE

1 CERTIFICATES SHALL REFLECT THE ACTUARIAL VALUE OF THE CERTIFICATE
2 DIFFERENCES AND NOT THE UNDERLYING EXPERIENCE OF THE CERTIFICATES.

3 (2) The methodology and definitions of each rating system,
4 formula, component, and factor used to calculate rates for group
5 subscribers for each certificate, including the methodology and
6 definitions used to calculate administrative costs for
7 administrative services only and cost-plus arrangements, shall be
8 filed in accordance with section 610 and ~~shall be~~ **ARE** subject to
9 the prior approval of the commissioner. The definition of a group,
10 including any clustering principles applied to nongroup subscribers
11 or small group subscribers for the purpose of group formation,
12 ~~shall be~~ **ARE** subject to the prior approval of the commissioner.
13 However, if a Michigan caring program is created under section 436,
14 that program shall be defined as a group program for the purpose of
15 establishing rates. The commissioner shall approve, disapprove, or
16 modify and approve the methodology and definitions of each rating
17 system, formula, component, and factor for each certificate subject
18 to the standard that the resulting rates for group subscribers must
19 be determined to be equitable, adequate, and not excessive, as
20 defined in section 609. In addition, the commissioner may from time
21 to time review the records of the corporation to determine proper
22 application of a rating system, formula, component, or factor with
23 respect to any group. The corporation shall refile for approval
24 under this subsection, every 3 years, the methodology and
25 definitions of each rating system, formula, component, and factor
26 used to calculate rates for group subscribers, including the
27 methodology and definitions used to calculate administrative costs

1 for administrative services only and cost-plus arrangements. IF
2 SURPLUS EXCEEDS THE MAXIMUM SURPLUS PERMITTED UNDER SECTION
3 204A(5), A CONTRIBUTION FROM SURPLUS MAY BE CONSIDERED IN THE
4 DETERMINATION OF WHETHER RATES ARE REASONABLE IN RELATION TO THE
5 BENEFITS PROVIDED, ARE ADEQUATE, EQUITABLE, AND NOT EXCESSIVE, AND
6 PROMOTE THE HEALTH CARE CORPORATION'S CHARITABLE AND SOCIAL MISSION
7 OBLIGATIONS. The burden of proof that the resulting rates to be
8 charged meet these standards shall be upon the health care
9 corporation proposing to use the rating system, formula, component,
10 or factor.

11 (3) A proposed rate shall not take effect until a filing has
12 been made with the commissioner and approved under section 607 or
13 this section, as applicable, except as provided in subsections (4)
14 and (5).

15 (4) Upon request by a health care corporation, the
16 commissioner may allow rate adjustments to become effective prior
17 to approval, for federal or state mandated benefit changes.
18 However, a filing for these adjustments shall be submitted before
19 the effective date of the mandated benefit changes. If the
20 commissioner disapproves or modifies and approves the rates, an
21 adjustment shall be made retroactive to the effective date of the
22 mandated benefit changes or additions.

23 (5) Implementation prior to approval may be allowed if the
24 health care corporation is participating with 1 or more health care
25 corporations to underwrite a group whose employees are located in
26 several states. Upon request from the commissioner, the corporation
27 shall file with the commissioner, and the commissioner shall

1 examine, the financial arrangement, formulae, and factors. If any
2 are determined to be unacceptable, the commissioner shall take
3 appropriate action.

4 (6) FOR RATES SUBMITTED UNDER SUBSECTION (1), NO LATER THAN 4
5 MONTHS AFTER THE END OF A 12-MONTH RATING PERIOD, THE HEALTH CARE
6 CORPORATION SHALL SUBMIT INFORMATION TO THE COMMISSIONER AND THE
7 ATTORNEY GENERAL THAT SHOWS THE ACTUAL LOSS RATIO FOR THE RATING
8 PERIOD FOR ALL CERTIFICATES SUBJECT TO THAT 12-MONTH RATING PERIOD,
9 INCLUDING CERTIFICATES THAT HAVE BEEN OR WILL BE CLOSED TO NEW
10 APPLICANTS. IF THE ACTUAL LOSS RATIO FOR THOSE CERTIFICATES DOES
11 NOT EQUAL OR EXCEED THE APPLICABLE ANTICIPATED LOSS RATIO UNDER
12 SUBSECTION (1), THE COMMISSIONER SHALL ORDER THE CORPORATION TO
13 ISSUE RATE CREDITS OR REFUNDS TO INDIVIDUALS CURRENTLY COVERED
14 UNDER A CERTIFICATE IN THAT LINE OF BUSINESS IN AN AMOUNT THAT WILL
15 RESULT IN A MINIMUM LOSS RATIO FOR THE RATING PERIOD EQUAL TO THE
16 APPLICABLE ANTICIPATED LOSS RATIO FOR THE LINE OF BUSINESS. THE
17 CORPORATION SHALL NOT BE ORDERED TO ISSUE A REFUND IN AN AMOUNT
18 LESS THAN \$25.00 PER INDIVIDUAL APPLICANT. THE RATE CREDITS OR
19 REFUNDS SHALL BE ISSUED NO LATER THAN 90 DAYS AFTER THE
20 COMMISSIONER'S ORDER TO ISSUE RATE CREDITS OR REFUNDS. THE RATE
21 CREDITS OR REFUNDS SHALL INCLUDE INTEREST FROM THE BEGINNING OF THE
22 RATING PERIOD TO THE DATE OF THE CREDIT OR REFUND CALCULATED AT THE
23 AVERAGE RATE OF INTEREST FOR 13-WEEK UNITED STATES TREASURY NOTES,
24 AS DETERMINED BY THE COMMISSIONER. THE ATTORNEY GENERAL MAY BRING
25 AN ACTION OR APPLY TO THE CIRCUIT COURT FOR A COURT ORDER TO
26 ENFORCE AN ORDER OF THE COMMISSIONER UNDER THIS SECTION. AS USED IN
27 THIS SUBSECTION, EACH OF THE FOLLOWING CONSTITUTES A SEPARATE LINE

1 OF BUSINESS:

2 (A) ALL CERTIFICATES THAT ARE MEDICARE SUPPLEMENT
3 CERTIFICATES.

4 (B) ALL CERTIFICATES THAT ARE GROUP CONVERSION CERTIFICATES A
5 CORPORATION IS REQUIRED TO OFFER UNDER SECTION 410A.

6 (C) ALL NONGROUP CERTIFICATES THAT ARE NEITHER MEDICARE
7 SUPPLEMENT NOR GROUP CONVERSION CERTIFICATES.

8 (7) AS USED IN THIS SECTION:

9 (A) "ACTUAL LOSS RATIO" MEANS THE RATIO FOR A 12-MONTH RATING
10 PERIOD OF THE INCURRED CLAIMS TO PREMIUMS.

11 (B) "ANTICIPATED LOSS RATIO" MEANS THE RATIO AT THE TIME OF
12 THE RATE FILING, OR AT A TIME OF SUBSEQUENT RATE REVISIONS, OF THE
13 EXPECTED FUTURE INCURRED CLAIMS DURING THE RATING PERIOD DEFINED IN
14 THE RATE FILING TO THE FUTURE PREMIUMS, BASED ON A CREDIBLE PREMIUM
15 VOLUME OVER A REASONABLE PERIOD OF TIME WITH PROPER WEIGHT GIVEN TO
16 RATING TRENDS AND OTHER RELEVANT FACTORS. STATISTICAL DATA RELATING
17 TO EXPECTED FUTURE INCURRED CLAIMS SHALL BE PROVIDED TO THE
18 COMMISSIONER AND THE ATTORNEY GENERAL FOR CERTIFICATES SOLD OR TO
19 BE SOLD WHEN AVAILABLE.

20 Sec. 609. (1) A rate is not excessive if the rate is not
21 unreasonably high relative to the following elements, individually
22 or collectively; provision for anticipated benefit costs; provision
23 for administrative expense; provision for cost transfers, if any;
24 provision for a contribution to or from surplus that is consistent
25 with the attainment or maintenance of adequate and unimpaired
26 surplus as provided in section 204a; and provision for adjustments
27 due to prior experience of groups, as defined in the group rating

1 system. A determination as to whether a rate is excessive relative
2 to these elements, individually or collectively, shall be based on
3 the following: reasonable evaluations of recent claim experience;
4 projected trends in claim costs; the allocation of administrative
5 expense budgets; and the present and anticipated unimpaired surplus
6 of the health care corporation. To the extent that any of these
7 elements are considered excessive, the provision in the rates for
8 these elements shall be modified accordingly.

9 (2) The administrative expense budget must be reasonable, as
10 determined by the commissioner after examination of material and
11 substantial administrative and acquisition expense items.

12 (3) A rate is equitable if the rate can be compared to any
13 other rate offered by the health care corporation to its
14 subscribers, and the observed rate differences can be supported by
15 differences in anticipated benefit costs, administrative expense
16 cost, differences in risk, or any identified cost transfer
17 provisions.

18 (4) A rate is adequate if the rate is not unreasonably low
19 relative to the elements prescribed in subsection (1), individually
20 or collectively, based on reasonable evaluations of recent claim
21 experience, projected trends in claim costs, the allocation of
22 administrative expense budgets, and the present and anticipated
23 unimpaired surplus of the health care corporation.

24 (5) Except for identified cost transfers, each line of
25 business, over time, shall be self-sustaining. However, there may
26 be cost transfers for the benefit of senior citizens **WHO ARE**
27 **RESIDENTS OF THIS STATE** and group conversion subscribers. Cost

1 transfers for the benefit of senior citizens, in the aggregate,
2 annually shall not exceed 1% of the earned subscription income of
3 the health care corporation as reported in the most recent annual
4 statement of the corporation. Group conversion subscribers are
5 those who have maintained coverage with the health care corporation
6 on an individual basis after leaving a subscriber group. **COST**
7 **TRANSFERS FOR THE BENEFIT OF SENIOR CITIZENS SHALL BE EXPENDED IN**
8 **THE FOLLOWING ORDER OF PRIORITY:**

9 (A) TO PROVIDE A SUBSIDY FOR SENIORS WITH A HOUSEHOLD INCOME
10 OF NOT MORE THAN 300% OF THE FEDERAL POVERTY LEVEL AS DEFINED IN
11 THE POVERTY GUIDELINES PUBLISHED ANNUALLY IN THE FEDERAL REGISTER
12 BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER
13 ITS AUTHORITY TO REVISE THE POVERTY LINE UNDER SECTION 673(2) OF
14 SUBTITLE B OF TITLE VI OF THE OMNIBUS BUDGET RECONCILIATION ACT OF
15 1981, PUBLIC LAW 97-35, 42 USC 9902.

16 (B) TO PROVIDE A SUBSIDY FOR SENIORS WITH A HOUSEHOLD INCOME
17 OF MORE THAN 300% OF THE FEDERAL POVERTY LEVEL AS DEFINED IN THE
18 POVERTY GUIDELINES PUBLISHED ANNUALLY IN THE FEDERAL REGISTER BY
19 THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER ITS
20 AUTHORITY TO REVISE THE POVERTY LINE UNDER SECTION 673(2) OF
21 SUBTITLE B OF TITLE VI OF THE OMNIBUS BUDGET RECONCILIATION ACT OF
22 1981, PUBLIC LAW 97-35, 42 USC 9902.

23 (6) SUBSECTIONS (1) TO (4) APPLY ONLY TO RATE FILINGS
24 SUBMITTED PURSUANT TO SECTION 608(2).

25 Sec. 610. (1) Except as provided under section 608(4) or (5),
26 a filing of information and materials relative to a proposed rate
27 **UNDER SECTION 608(1) OR (2)** shall be made not less than ~~120~~60 days

1 before the proposed effective date of the proposed rate. A filing
2 shall not be considered to have been received until there has been
3 substantial and material compliance with the requirements
4 prescribed in ~~subsections (6) and (8)~~ **THIS SECTION**.

5 (2) Within ~~30~~ **15** days after a filing is made of information
6 and materials relative to a proposed rate, the commissioner shall
7 do either of the following:

8 (a) ~~Give~~ **FOR A RATE FILING UNDER SECTION 608(2), GIVE** written
9 notice to the corporation, and to each person described under
10 section 612(1), that the filing is in material and substantial
11 compliance with ~~subsections (6) and (8)~~ **THIS SECTION** and that the
12 filing is complete. The commissioner shall then proceed to approve,
13 approve with modifications, or disapprove the rate filing 60 days
14 after receipt of the filing, based upon whether the filing meets
15 the requirements of this act. However, if a hearing has been
16 requested under section 613, the commissioner shall not approve,
17 approve with modifications, or disapprove a filing until the
18 hearing has been completed and an order issued.

19 (b) Give written notice to the corporation that the
20 corporation has not yet complied with ~~subsections (6) and (8)~~ **THIS**
21 **SECTION**. The notice shall state specifically in what respects the
22 filing fails to meet the requirements of ~~subsections (6) and (8)~~
23 **THIS SECTION**.

24 (3) Within ~~10~~ **8** days after the filing of notice pursuant to
25 subsection (2)(b), the corporation shall submit to the commissioner
26 such additional information and materials, as requested by the
27 commissioner. Within ~~10~~ **8** days after receipt of the additional

1 information and materials, the commissioner shall determine whether
2 the filing is in material and substantial compliance with
3 subsections ~~(6) and (8)~~ **THIS SECTION**. If the commissioner
4 determines that the filing does not yet materially and
5 substantially meet the requirements of subsections ~~(6) and (8)~~ **THIS**
6 **SECTION**, the commissioner shall give notice to the corporation
7 pursuant to subsection (2)(b) or use visitation of the
8 corporation's facilities and examination of the corporation's
9 records to obtain the necessary information described in the notice
10 issued pursuant to subsection (2)(b). The commissioner shall use
11 either procedure previously mentioned, or a combination of both
12 procedures, in order to obtain the necessary information as
13 expeditiously as possible. The per diem, traveling, reproduction,
14 and other necessary expenses in connection with visitation and
15 examination shall be paid by the corporation, and shall be credited
16 to the general fund of the state.

17 ~~—— (4) If a filing is approved, approved with modifications, or~~
18 ~~disapproved under subsection (2)(a), the commissioner shall issue a~~
19 ~~written order of the approval, approval with modifications, or~~
20 ~~disapproval. If the filing was approved with modifications or~~
21 ~~disapproved, the order shall state specifically in what respects~~
22 ~~the filing fails to meet the requirements of this act and, if~~
23 ~~applicable, what modifications are required for approval under this~~
24 ~~act. If the filing was approved with modifications, the order shall~~
25 ~~state that the filing shall take effect after the modifications are~~
26 ~~made and approved by the commissioner. If the filing was~~
27 ~~disapproved, the order shall state that the filing shall not take~~

1 effect.

2 ~~—— (5) The inability to approve 1 or more rating classes of~~
3 ~~business within a line of business because of a requirement to~~
4 ~~submit further data or because a request for a hearing under~~
5 ~~section 613 has been granted shall not delay the approval of rates~~
6 ~~by the commissioner which could otherwise be approved or the~~
7 ~~implementation of rates already approved, unless the approval or~~
8 ~~implementation would affect the consideration of the unapproved~~
9 ~~classes of business.~~

10 (4) THE COMMISSIONER SHALL DETERMINE WHETHER A RATE FILING
11 UNDER SECTION 608(1) IS IN MATERIAL AND SUBSTANTIAL COMPLIANCE WITH
12 THIS SECTION AND IS COMPLETE BY NOT LATER THAN 30 DAYS BEFORE THE
13 PROPOSED EFFECTIVE DATE OF THE PROPOSED RATE. A RATE FILING UNDER
14 SECTION 608(1) THAT IS IN MATERIAL AND SUBSTANTIAL COMPLIANCE WITH
15 THIS SECTION AND IS COMPLETE SHALL BE CONSIDERED APPROVED AND
16 BECOME EFFECTIVE 60 DAYS AFTER THE RATES ARE FILED WITH THE
17 COMMISSIONER.

18 (5) THE COMMISSIONER, THE ATTORNEY GENERAL, OR A PERSON WHO
19 HAS STANDING MAY REQUEST A HEARING UNDER SECTION 613A FOR A RATE
20 FILING APPROVED UNDER SUBSECTION (4) IF THE COMMISSIONER, THE
21 ATTORNEY GENERAL, OR THE PERSON WHO HAS STANDING HAS REASONABLE
22 CAUSE TO BELIEVE THE PROPOSED RATES DO NOT SATISFY THE STANDARDS IN
23 SECTION 608(1). RATES CONSIDERED APPROVED AND EFFECTIVE UNDER
24 SUBSECTION (4) SHALL REMAIN IN EFFECT DURING THE PENDENCY OF A
25 HEARING UNDER SECTION 613A.

26 (6) Information furnished under subsection (1) in support of a
27 nongroup rate filing shall include the following:

1 (a) Recent claim experience on the benefits or comparable
2 benefits for which the rate filing applies.

3 (b) Actual prior trend experience.

4 (c) Actual prior administrative expenses.

5 (d) Projected trend factors.

6 (e) Projected administrative expenses.

7 (f) Contributions for risk and ~~contingency reserve~~ **SURPLUS**
8 factors.

9 (g) Actual health care corporation ~~contingency reserve~~ **SURPLUS**
10 position.

11 (h) Projected health care corporation ~~contingency reserve~~
12 **SURPLUS** position.

13 (i) Other information ~~which~~ **THAT** the corporation considers
14 pertinent to evaluating the risks to be rated ~~,~~ or relevant to the
15 determination to be made under this section.

16 (j) Other information ~~which~~ **THAT** the commissioner considers
17 pertinent to evaluating the risks to be rated ~~,~~ or relevant to the
18 determination to be made under this section.

19 (7) A copy of the filing, and all supporting information,
20 except for the information which may not be disclosed under section
21 604, shall be open to public inspection as of the date filed with
22 the commissioner.

23 (8) The commissioner shall make available forms and
24 instructions for filing for proposed rates under sections 608(1)
25 and 608(2). The forms with instructions shall be available not less
26 than 180 days before the proposed effective date of the filing.

27 Sec. 612. (1) Upon receipt of a rate filing under section 610,

1 the commissioner immediately shall notify each person who has
2 requested in writing notice of those filings within the previous 2
3 years, specifying the nature and extent of the proposed rate
4 revision and identifying the location, time, and place where the
5 copy of the rate filing described in section 610(7) shall be open
6 to public inspection and copying. ~~The~~ **FOR A RATE FILING MADE UNDER**
7 **SECTION 608(2) ONLY, THE** notice shall also state that if the person
8 has standing, the person shall have, upon making a written request
9 for a hearing within 60 days after receiving notice of the rate
10 filing, an opportunity for an evidentiary hearing under section 613
11 to determine whether the proposed rates meet the requirements of
12 this act. The request shall identify the issues which the
13 requesting party asserts are involved, what portion of the rate
14 filing is requested to be heard, and how the party has standing.
15 The corporation shall place advertisements giving notice,
16 containing the information specified above, in at least 1 newspaper
17 which serves each geographic area in which significant numbers of
18 subscribers reside.

19 (2) The commissioner may charge a fee for providing, pursuant
20 to subsection (1), a copy of the rate filing described in section
21 610(7). The commissioner may charge a fee for providing a copy of
22 the entire filing to a person whose request for a hearing has been
23 granted by the commissioner pursuant to section 613 **OR 613A**. The
24 fee shall be limited to actual mailing costs and to the actual
25 incremental cost of duplication, including labor and the cost of
26 deletion and separation of information as provided in section 14 of
27 ~~Act No. 442 of the Public Acts of 1976, being section 15.244 of the~~

1 ~~Michigan Compiled Laws~~ **THE FREEDOM OF INFORMATION ACT, 1976 PA 442,**
2 **MCL 15.244.** Copies of the filing may be provided free of charge or
3 at a reduced charge if the commissioner determines that a waiver or
4 reduction of the fee is in the public interest because the
5 furnishing of a copy of the filing will primarily benefit the
6 general public. In calculating the costs under this subsection, the
7 commissioner shall not attribute more than the hourly wage of the
8 lowest paid, full-time clerical employee of the ~~insurance bureau~~
9 **OFFICE OF FINANCIAL AND INSURANCE REGULATION** to the cost of labor
10 incurred in duplication and mailing and to the cost of separation
11 and deletion. The commissioner shall use the most economical means
12 available to provide copies of a rate filing.

13 Sec. 613. (1) If the request for a hearing under this section
14 is with regard to a rate filing **UNDER SECTION 608(2)** not yet acted
15 upon under section 610(2)(a), no such action shall be taken by the
16 commissioner until after the hearing has been completed. However,
17 the commissioner shall proceed to act upon those portions of a rate
18 filing **UNDER SECTION 608(2)** upon which no hearing has been
19 requested. Within 15 days after receipt of a request for a hearing,
20 the commissioner shall determine if the person has standing. If the
21 commissioner determines that the person has standing, the person
22 may have access to the entire filing subject to the same
23 confidentiality requirements as the commissioner under section 604,
24 and shall be subject to the penalty provision of section 604(5).
25 Upon determining that the person has standing, the commissioner
26 shall immediately appoint an independent hearing officer before
27 whom the hearing shall be held. In appointing an independent

1 hearing officer, the commissioner shall select a person qualified
2 to conduct hearings, who has experience or education in the area of
3 health care corporation or insurance rate determination and
4 finance, and who is not otherwise associated financially with a
5 health care corporation or a health care provider. The person
6 selected shall not be currently or actively employed by this state.
7 For purposes of this subsection, an employee of an educational
8 institution shall not be considered to be employed by this state.
9 For purposes of this section, a person has "standing" if any of the
10 following circumstances exist:

11 (a) The person is, or there are reasonable grounds to believe
12 that the person could be, aggrieved by the proposed rate.

13 (b) The person is acting on behalf of 1 or more named persons
14 described in subdivision (a).

15 (c) The person is the commissioner, the attorney general, or
16 the health care corporation.

17 (2) Not more than 30 days after receipt of a request for a
18 hearing, and upon not less than 15 days' notice to all parties, the
19 hearing shall be commenced. Each party to the hearing shall be
20 given a reasonable opportunity for discovery before and throughout
21 the course of the hearing. However, the hearing officer may
22 terminate discovery at any time, for good cause shown. The hearing
23 officer shall conduct the hearing pursuant to the administrative
24 procedures act. The hearing shall be conducted in an expeditious
25 manner. At the hearing, the burden of proving compliance with this
26 act shall be upon the health care corporation.

27 (3) In rendering a proposal for a decision, the hearing

1 officer shall consider the factors prescribed in section 609.

2 (4) Within 30 days after receipt of the hearing officer's
3 proposal for decision, the commissioner shall by order render a
4 decision which shall include a statement of findings.

5 (5) The commissioner shall withdraw an order of approval or
6 approval with modifications if the commissioner finds that the
7 filing no longer meets the requirements of this act.

8 SEC. 613A. (1) BY NOT LATER THAN 30 DAYS AFTER RATES ARE
9 CONSIDERED APPROVED AND EFFECTIVE UNDER SECTION 610(4), THE
10 COMMISSIONER, THE ATTORNEY GENERAL, OR A PERSON WHO HAS STANDING
11 MAY REQUEST A HEARING IF THERE IS REASONABLE CAUSE TO BELIEVE THAT
12 THE PROPOSED RATES DO NOT SATISFY THE STANDARDS IN SECTION 608(1).

13 (2) UPON RECEIPT OF A REQUEST FOR A HEARING, THE COMMISSIONER
14 SHALL IMMEDIATELY APPOINT AN INDEPENDENT HEARING OFFICER BEFORE
15 WHOM THE HEARING SHALL BE HELD. IN APPOINTING AN INDEPENDENT
16 HEARING OFFICER, THE COMMISSIONER SHALL SELECT A PERSON QUALIFIED
17 TO CONDUCT HEARINGS, WHO HAS EXPERIENCE OR EDUCATION IN THE AREA OF
18 HEALTH CARE CORPORATION OR INSURANCE RATE DETERMINATION AND
19 FINANCE, AND WHO IS NOT OTHERWISE ASSOCIATED FINANCIALLY WITH A
20 HEALTH CARE CORPORATION OR A HEALTH CARE PROVIDER. THE PERSON
21 SELECTED SHALL NOT BE CURRENTLY OR ACTIVELY EMPLOYED BY THIS STATE.
22 FOR PURPOSES OF THIS SUBSECTION, AN EMPLOYEE OF AN EDUCATIONAL
23 INSTITUTION SHALL NOT BE CONSIDERED TO BE EMPLOYED BY THE STATE.

24 (3) NOT MORE THAN 30 DAYS AFTER RECEIPT OF A REQUEST FOR A
25 HEARING, AND UPON NOT LESS THAN 15 DAYS' NOTICE TO ALL PARTIES, THE
26 HEARING SHALL BE COMMENCED. EACH PARTY TO THE HEARING SHALL BE
27 GIVEN A REASONABLE OPPORTUNITY FOR DISCOVERY BEFORE AND THROUGHOUT

1 THE COURSE OF THE HEARING. HOWEVER, THE HEARING OFFICER MAY
2 TERMINATE DISCOVERY AT ANY TIME, FOR GOOD CAUSE SHOWN. THE HEARING
3 OFFICER SHALL CONDUCT THE HEARING PURSUANT TO THE ADMINISTRATIVE
4 PROCEDURES ACT. THE HEARING SHALL BE CONDUCTED IN AN EXPEDITIOUS
5 MANNER. AT THE HEARING, THE BURDEN OF PROVING COMPLIANCE WITH
6 SECTION 608(1) SHALL BE UPON THE HEALTH CARE CORPORATION.

7 (4) WITHIN 30 DAYS AFTER THE CONCLUSION OF THE HEARING, THE
8 HEARING OFFICER SHALL ISSUE A PROPOSAL FOR DECISION. IN RENDERING A
9 PROPOSAL FOR DECISION, THE HEARING OFFICER SHALL CONSIDER THE
10 FACTORS IN SECTION 608(1).

11 (5) WITHIN 30 DAYS AFTER RECEIPT OF THE HEARING OFFICER'S
12 PROPOSAL FOR DECISION, THE COMMISSIONER SHALL BY ORDER DETERMINE
13 WHETHER THE RATES SATISFY THE STANDARDS IN SECTION 608(1). THE
14 DECISION SHALL INCLUDE A STATEMENT OF FINDINGS.

15 (6) THE COMMISSIONER SHALL ISSUE AN ORDER OF DISAPPROVAL OR
16 APPROVAL WITH MODIFICATIONS IF THE COMMISSIONER FINDS THAT THE
17 FILING NO LONGER MEETS THE REQUIREMENTS OF SECTION 608(1).

18 (7) THE COMMISSIONER'S ORDER UNDER SUBSECTIONS (5) AND (6)
19 SHALL BE ISSUED NO LATER THAN 180 DAYS AFTER THE PROPOSED RATES ARE
20 FILED UNDER SECTION 608(1). IF THE COMMISSIONER DOES NOT ISSUE AN
21 ORDER WITHIN 180 DAYS OF FILING, THE RATES CONSIDERED APPROVED AND
22 EFFECTIVE UNDER SECTION 610(4) SHALL REMAIN IN EFFECT AND THE RATES
23 SHALL NOT BE SUBJECT TO FURTHER CHALLENGE BY THE COMMISSIONER, THE
24 ATTORNEY GENERAL, OR A PERSON WITH STANDING. THE 180-DAY PERIOD,
25 HOWEVER, SHALL BE TOLLED FOR ANY PERIOD OF TIME THE HEALTH CARE
26 CORPORATION TAKES TO SUBMIT ADDITIONAL INFORMATION UNDER SECTION
27 610(3) THAT IS BEYOND THE TIME THE HEALTH CARE CORPORATION IS

1 PERMITTED TO TAKE.

2 (8) IF THE COMMISSIONER'S ORDER UNDER SUBSECTION (6) RESULTS
3 IN APPROVAL OF A LOWER RATE, APPROPRIATE REFUNDS OR ADJUSTMENTS, AS
4 DETERMINED BY THE COMMISSIONER, SHALL BE MADE TO REFLECT PAYMENTS
5 IN EXCESS OF THE APPROVED RATE. THE REFUNDS OR ADJUSTMENTS SHALL
6 INCLUDE INTEREST FROM THE DATE THE RATES WERE CONSIDERED APPROVED
7 AND EFFECTIVE UNDER SECTION 610(4) TO THE DATE OF THE REFUND OR
8 ADJUSTMENT CALCULATED AT THE AVERAGE RATE OF INTEREST FOR 13-WEEK
9 UNITED STATES TREASURY NOTES AS DETERMINED BY THE COMMISSIONER.

10 Enacting section 1. Section 614 of the nonprofit health care
11 corporation reform act, 1980 PA 350, MCL 550.1614, is repealed.

12 Enacting section 2. This amendatory act takes effect October
13 1, 2009.

14 Enacting section 3. This amendatory act does not take effect
15 unless Senate Bill No. _____ or House Bill No. 4934 (request no.
16 00801'09) of the 95th Legislature is enacted into law.