

# Health Insurance Rate Review Grant Program Cycle I Quarterly Report Template

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**Submission Date:**

**State:**

California

**Project Title:**

Premium Review Program

**Project Quarter Reporting Period:**

Quarter 1 (08/09/2010-12/31/2010)

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**Grant Performance Period-Cycle I:** August 9, 2010, to September 30, 2011

**Reporting Period:**

Quarterly Report 1:	August 9, 2010, through December 31, 2010
Quarterly Report 2:	January 1, 2011, through March 31, 2011
Quarterly Report 3:	April 1, 2011, through June 30, 2011
Quarterly Report 4:	July 1, 2011, through September 30, 2011

**Timeframe for Delivery:**

Quarterly Report 1	January 31, 2011-February, 28, 2011
Quarterly Report 2:	April 30, 2011-TBD
Quarterly Report 3:	July 31, 2011-TBD
Quarterly Report 4:	October 31, 2011-TBD

## **PART I: NARRATIVE REPORT FORMAT**

### **Introduction:**

The regulation of health insurance in California is divided between two agencies, the Department of Managed Health Care (DMHC), which regulates HMOs and some PPOs that comprise approximately 61 percent of the California regulated insured market, and the Department of Insurance (CDI), regulating indemnity coverage and some PPOs, with approximately 39 percent of the California regulated insured market.

On August 16, 2010, the DMHC and the CDI (the Departments) were jointly awarded \$1 million in grant funds to support the rate review activities. These grant funds are being used to implement the National Association of Insurance Commissioners (NAIC) System for Electronic Rate and Form Filing (SERFF), to enhance the Departments' information technology (IT) capacity to support rate review, to enhance their Web sites to provide transparency of rate filing information and allow public comments on rate filings, and to obtain actuarial services. The Health Insurance Rate Review Grant Program will improve the premium rate data collection, analysis, and reporting capabilities for both Departments.

### **Program Implementation Status:**

1. *Accomplishments to Date:*

#### **IT Enhancements:**

The DMHC Office of Technology and Innovation has established the IT infrastructure for reviewing premium rate filings. A process has been developed for posting premium rate information on the DMHC public web site – one posting geared to consumers

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([http://dmhc.ca.gov/dmhc\\_consumer/hp/hp\\_premratereview.aspx](http://dmhc.ca.gov/dmhc_consumer/hp/hp_premratereview.aspx)) and one to health plans ([http://dmhc.ca.gov/healthplans/rep/rep\\_premiumrates.aspx](http://dmhc.ca.gov/healthplans/rep/rep_premiumrates.aspx)). All IT hardware and software for access to SERFF has been procured and installed, including five monitors and five copies of Adobe Acrobat Professional software for financial exam staff. The SERFF Licensing agreement was completed, and a database has been established to securely store SERFF data on the DMHC servers. The DMHC's staff and actuarial consultant participated in SERFF training provided by NAIC on January 4–6, 2011.

Both DMHC and CDI participated in the development process for the modifications to the SERFF system to accommodate new HHS reporting requirements. Rate Review Grant Program funds of \$18,808 were utilized for California's share of this SERFF modification.

While CDI had already been receiving and reviewing rates for individual policies, posting the rate submissions on its public website, and receiving public comments, it expanded its process capacity to receive and review rates for small group and large group policies, and expanded its rate comment system to include small and large group filings, and improved the comment system functionality to make it easier for the public to post and view comments.

### **Legislative Enhancements:**

California Senate Bill 1163 (SB 1163, Chapter 661, Statutes of 2010), effective January 1, 2011, was enacted to implement the rate review provisions of the ACA (See attached copy of SB 1163), providing the DMHC and the CDI with the authority to review health plan and insurer premium rate increases beginning January 1, 2011.

However, although SB 1163 expanded the rate review process, it did not give the two Departments the authority to deny or disapprove rate increases. Under SB 1163, the Departments cannot set rates.

Under SB 1163, the DMHC has a number of new requirements. Health plans are now required to submit to the DMHC rate filings, with the current emphasis on the individual and small group markets. These rate filings must include actuarial certification justifying the premium rate increases. Every individual and small group commercial rate filing must include a certification by an independent actuary that the proposed rate increase is based on accurate and sound actuarial assumptions and methodologies. Filings for large group rate increases (including actuarial certifications) are required only for unreasonable rate increases (as defined in the ACA).

SB 1163 expanded rate filing and rate review requirements for the DMHC; and also significantly expanded the CDI's rate review authority. Prior to SB 1163, the CDI received rate filings for individual and small employer health policies and rejected some individual rates as "unacceptable for filing." Under SB 1163, the CDI's rate review authority was expanded to include large group filings. The rate review for all product types under SB 1163 involves reviewing rate filings to identify unjustified rate increases, and CDI and DMHC are required to post a finding that a rate increase is unjustified on

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their respective Web sites.

In order to ensure that policyholders have at least 60 days notice before an increase becomes effective, both health plans and insurers must file proposed rate increases with the DMHC and the CDI at least 60 days in advance of their implementation.

### **Rate Review Program and Actuarial Services Enhancement:**

Prior to enactment of the ACA, the DMHC had extremely limited rate review authority. The only rates that were required to be filed, with very limited scope of review, were rates for small group, HIPAA-guaranteed issue and conversion products. Health plans were not required to file commercial rates for individual or large group products. As a result, the DMHC did not have a rate review department/program, nor did the DMHC employ actuaries. Instead, the DMHC contracted with the outside consulting firm of Oliver Wyman Actuarial Consulting, Inc. (OWAC) whenever actuarial review of any rate matter was necessary.

Under the ACA, the DMHC has budgeted \$455,000 from the grant funds for an actuarial contract with OWAC to not only provide actuarial services, but to help create a DMHC rate review program. As part of the program development process, the DMHC has been approved by the California Department of Finance to hire two associate life actuaries for the upcoming fiscal year, which begins July 1, 2011. However, there are ongoing state budgetary concerns, discussed in the Significant Activities section of this report, that may make recruiting, hiring, and retaining actuaries as civil service employees problematic at this time. Therefore, the DMHC is utilizing the grant funds to contract with OWAC to conduct actuarial review of rate filings and to start developing a DMHC rate review program prior to the hiring of in-house actuaries.

Pursuant to SB 1163, both Departments are posting rates received after January 1, 2011, for individual and group health insurance on their Web sites, with improved public comment functionality (including visibility of the public comments received). In addition to the rate filings themselves, a plain-language summary of each rate filing will also be posted on the Departments' Web sites.

The CDI has hired two credentialed health actuaries and has entered into a full-time contractor relationship with a third consulting actuary, effective January 1, 2011. This added staff increases the CDI's capacity to perform its rate review activities. The fees paid to the independent contractor will be paid by the grant program. The CDI now posts individual health insurance rate filings on its Web site, including both the filings and actuarial review notes. The filings and review notes can be viewed at [http://www.insurance.ca.gov/0250\\_insurers/IndHlthRateFilings/](http://www.insurance.ca.gov/0250_insurers/IndHlthRateFilings/) for insurers, with a parallel link at [http://www.insurance.ca.gov/0400\\_consumers/0420\\_health\\_related/](http://www.insurance.ca.gov/0400_consumers/0420_health_related/) for consumers.

The DMHC and CDI have entered into an interagency agreement and Memorandum of

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Understanding-Confidentiality Agreement to coordinate and establish “rate review guidance and process” on a consistent basis between the two regulators. The two Departments have been coordinating and communicating in an effort to provide and issue consistent SB 1163 implementation guidance to the health plans and insurers .

### 2. *Challenges and Responses:*

#### **SERFF and IT Implementation:**

Because the DMHC and some of the health plans regulated by the DMHC have never before used SERFF, it has been challenging to complete all the necessary steps for SERFF implementation. The DMHC has drafted general filing instructions and supporting documents for its SERFF rate filings. The DMHC’s IT department worked closely with SERFF to ensure that the DMHC’s electronic filing system can communicate/coordinate with the SERFF system. CDI has been utilizing SERFF for rate and form filings for a number of years. Both Departments continue to make enhancements to their IT systems to ensure compliance with the rate filings and reporting requirements of the grant.

#### **Implementation of Rate Review:**

SB 1163 authorizes the Departments to issue guidance to the health plans/insurers outside of the Administrative Procedure Act until July 2012. There are several controversial issues related to the implementation of SB 1163 that have required increased communication and coordination between the Departments to ensure that the guidance issued is consistent.

#### **Shortage of Actuarial Resources:**

The DMHC does not currently employ actuaries, and although plans are to hire two in the upcoming fiscal year (after July 1, 2011), hiring actuaries to work for the state may be challenging. Actuarial salaries in the private sector are generally 40-50 percent higher than the state is able to pay for civil service employees. Additionally, there may be a shortage of health care actuaries, because many have already been hired due to the ACA and other new state laws, or are consulting for health plans/insurers or other regulatory agencies.

#### **Increased Reporting Requirements:**

SB 1163 requires the Departments to submit various reports to several agencies/entities, including the Departments’ Web sites, the California Legislature, and the California Health Benefit Exchange.<sup>1</sup> These reporting requirements impose additional workload on the Departments’ staff and resources at a time when resources are very limited due to

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<sup>1</sup> The California Health Benefit Exchange was established by California Senate Bill 900 and Assembly Bill 1602

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state budget matters and work furloughs.

### **Significant Activities: Undertaken and Planned**

#### **State Budget Impasse:**

Along with many other states, California is in the midst of a budget crisis affecting all areas of government, including the activities of the DMHC and the CDI. As part of the budget crisis, California experienced a significant delay in approving a budget, which compromised the Departments' spending authority for associated project tasks. Additionally, the DMHC's staff resources have been negatively impacted due to a hiring freeze and mandated staff furloughs.

#### **SERFF System:**

Much of the reporting to HHS regarding premium rates will be reported through the NAIC's SERFF system. Prior to the premium grant, the DMHC did not utilize SERFF. Although delayed by the budget impasse, the DMHC contracted with the NAIC to utilize SERFF, DMHC staff and actuarial consultant have been trained on its use, and it is being implemented for premium rate filings.

CDI has been utilizing SERFF for rate submission and reviews for a number of years. CDI participated in NAIC meetings regarding enhancements to the SERFF system for reporting of data to HHS as required by this grant, and to develop an NAIC model rate reporting form.

#### **Premium Rate Review Program Development:**

The DMHC is currently creating and developing its rate review program. This development was delayed by budgetary issues, which impacted the DMHC's ability to contract with the OWAC. Since any premium rate review process is dependent on actuarial services, the actuarial consultants at OWAC are necessary for program development. With the contract with OWAC in place, the DMHC's rate review program is being developed. Additionally, the DMHC requested budget approval to hire its own actuaries in the next fiscal year (July 2011).

Consistent with CDI's broadened rate review authority under recently-enacted state law (SB 1163), CDI has hired two credentialed health actuaries and has entered into a full-time contractor relationship with a second consulting actuary, effective January 1, 2011, to review large group, small employer group, and individual premium rate filings to assure compliance with the ACA and state law, expand detailed examination of actuarial assumptions, actuarial formulations, and underlying calculation accuracy and data integrity of the health insurance rate filings, provide reporting to HHS, and, on an ongoing basis, evaluate the rate review program and make necessary modifications, including recommending regulatory or statutory changes.

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### **Operational/Policy Developments/Issues**

#### **Spending Authority:**

A significant constraint for the DMHC was obtaining spending authority for the federal grant funds. This process required a 30-day notification to the legislature, following passage of California's budget. Because California's budget was not signed by the Governor until October 8, 2010, approval for expenditure of these funds was not received until late November 2010. Until these approvals were obtained, the DMHC was prohibited from spending any funds.

As federal grant funds are new to the DMHC, fiscal controls had to be established for drawing down funds with the State Treasurer's and Controller's Offices. These processes were finalized in late December 2010.

#### **Legislative Activity:**

As previously mentioned, SB 1163 gives the DMHC and the CDI the authority to review health plan and insurer premium rate increases beginning January 1, 2011. (See "Legislative Enhancements" at pp. 3-4.)

### **Public Access Activities**

The DMHC and CDI are developing their respective Web sites so as to display required health plan-specific information in plain/understandable language. Such proposed rate increase information includes justification for any unreasonable rate increase, overall medical trend factor assumptions, actual claim costs by aggregate benefit category, and the amount of projected trend attributable to use of services, price inflation, or fees/risk by aggregate benefit category. This information must also be posted on the health plan's Web site. The DMHC and CDI Web sites will also provide the public with the ability to view rate filings and to submit public comments on the health plans' rate increases.

### **Collaborative Efforts**

The DMHC and CDI engage in weekly teleconferences to coordinate implementation of SB 1163 for rate review.

The CDI has participated with the NAIC in developing improvements to the SERFF system, and analyzing and reporting premium rate trends and other ACA required data to DHHS. The SERFF has committed to providing an enhanced public file search option to states in the first quarter of calendar 2011, utilizing a link to SERFF through the state Web site. Once this functionality becomes available, it is anticipated that the CDI will utilize grant funds to undertake a substantial revamp of its Web site.

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### **Lessons Learned:**

The DMHC and CDI recognize the value of lessons learned, sharing, and communication. Because the Departments' programs are still early in the implementation stage, lessons learned are premature at this time.

### **Updated Budget:**

The DMHC expenditures are consistent with the attached revised line item budget (a copy of the Grant Revised Budget is attached). The DMHC was not able to obtain the actuarial services through civil service classifications, and therefore had to contract for these services. The revised budget reflects the transfer of personnel costs for the actuaries to the consultant line item.

Expenditures to date include:

SERFF Enhancement	\$18,808
Computer equipment	1,022
Computer software	<u>1,233</u>
Total	\$21,053

While these invoices were received in December 2010, they will not be reflected in the federal financial reports until the second quarter due to delays in establishing the fiscal accounts with the State Treasurer's and State Controller's Offices.

### **Updated Work Plan and Timeline**

The DMHC's rate review grant objective is to develop a program for reviewing premium rate increases to assure compliance with ACA. However, this process can be impacted by the Department's ability to obtain actuarial services or the promulgation of regulations defining the term "unreasonable increase in premiums."

The following associated activities with this objective are still under development.

- 1. Developing and enhancing California's rate review program. (Time Period End 12/31/2011)*

The DMHC is developing its rate review program. This development has been delayed by the California budget impasse, which impacted the DMHC's ability to contract with the actuarial consultants at OWAC. Since any premium rate review process is dependent on actuarial services, the actuarial consultants at OWAC are essential for developing the rate review program. Now that the contract with OWAC is completed, the program is moving forward.

Meanwhile, the DMHC is reviewing premium rate filings with OWAC to assure compliance with the recently enacted SB 1163 legislation and will review filings to



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assure consistency with federal health care reform requirements.

This work plan activity is projected to be developing during the Quarterly Report 2 time period.

2. *Developing a program to address health plan non-compliance, including potential enforcement action and posting of identified unreasonable rates to the Departments' Web sites. (Time Period End 12/31/2011)*

This activity parallels the first activity listed above and the work plan and timeline will be associated with the above narrative. The Departments continue to develop their rate review programs. Although SB 1163 gives the Departments the authority to review and post on their Web sites specified rate information, the Departments do not have the authority to deny rate increases.

### **Enclosures/Attachments**

- California Senate Bill No. 1163 (Chapter 661, Statutes of 2010) including the Legislative Counsel's Digest and the Act as signed by the Governor.
- Consumer Assistance Grant Revised Budget 12-31-10

### **PART II: HEALTH INSURANCE RATE DATA COLLECTION**

The summary data for Table A (provided below) is from the DMHC and CDI. The data for Tables B-D is from the DMHC internal electronic filing system and not available through the SERFF system.

**Table A. Rate Review Volume**

State	Quarter 1	Quarter 2	Quarter 3	Quarter 4	
Number of submitted rate filings	45				
Number of policy rate filings requesting increase in premiums	34				
Number of filings reviewed for approval/denial, etc.	35				
Number of filings approved <sup>1</sup>	29				
Number of filings denied	0				
Number of filings deferred	10				

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Note 1: “Approved” denotes files for which review has been completed without disapproval or a finding of an unjustified unreasonable rate increase.

**Table B. Number and Percentage of Rate Filings Reviewed – Individual Group**

State	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Annual Total
Product Type (PPO, HMO, etc.)	<b>HMO-1 PPO/HMO-1</b>				
Number of Policy Holders	<b>Not Available</b>				
Number of covered lives affected	<b>Not Available</b>				

**Table C. Number and Percentage of Rate Filings Reviewed – Small Group**

State	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Annual Total
Product Type (PPO, HMO, etc.)	<b>PPO-2 HMO-10 PPO/HMO-4</b>				
Number of Policy Holders	<b>Not Available</b>				
Number of covered lives affected	<b>Not Available</b>				

**Table D. Number and Percentage of Rate Filings Reviewed – Large Group**

State	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Annual Total
Product Type (PPO, HMO, etc.)	<b>Not Applicable</b>				
Number of Policy Holders	<b>Not Applicable</b>				
Number of covered lives affected	<b>Not Applicable</b>				