

*State of Idaho*  
**DEPARTMENT OF INSURANCE**

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Director

**BULLETIN NO. 12-05**

**DATE:** July 18, 2012  
**TO:** Disability / Health Insurance Carriers  
**FROM:** William W. Deal, Director  
**SUBJECT:** Submission and Rate Review Requirements for Small Employer  
Association Health Benefit Plans in Idaho - Effective Rate Review  
Commencing August 1, 2012

Background and Introduction

The Idaho Department of Insurance (Department), having first secured a waiver from Idaho Governor Butch Otter, modified its premium rate filing and review process pursuant to Idaho law for small employer and individual health coverage to also provide rate review pursuant to Section 2794 of the Public Health Service Act (PHSA), added by Section 1003 of the federal Patient Protection and Affordable Care Act (PPACA), Pub. L. 111-148. The Department of Health and Human Services (HHS) issued the final federal rule entitled "Rate Increase Disclosure and Review," codified at 45 CFR Part 154, implementing Section 2794 of the PHSA on May 23, 2011. The federal statute and rule supplement Idaho's existing rate review process, pursuant to Idaho Code title 41, chapters 47 and 52, and IDAPA 18.01.69 and IDAPA 18.01.72. On September 2, 2011, the Department issued [Bulletin No. 11-07](#), which provided health disability insurers with information required to meet these requirements by clarifying rate filing procedures in the small employer and individual health insurance markets.

On September 6, 2011, the Department of Health and Human Services issued a final rule amending 45 CFR Part 154. The final rule amended the definitions of "individual market" and "small group market" that apply for rate review purposes to include coverage sold to individuals and small groups through associations even if the state does not include such coverage in its definitions of the individual and small group insurance markets.

In the past, Department staff and a consulting actuary have reviewed small employer association rate filings when filed with the Department for consistency with Idaho law. Based on discussions with the Department, the Center for Consumer Information and Insurance Oversight (CCIIO) within the Centers for Medicare and Medicaid Services (CMS) office of HHS was unsure whether Idaho could meet the criteria for an effective rate review program pursuant to PPACA and the regulations promulgated thereunder as

to any association product type in either the individual or small group markets and temporarily assumed responsibility for review of association products in both the individual and small group market while the Department further examined its authority under State law to conduct these reviews. Upon review of the amended federal rule, the Department has concluded that Idaho Code, title 41, chapter 47 is consistent with the effective rate review of small employer association coverage.<sup>1</sup> The Department requested that CCIIO reevaluate Idaho's designation to review small employer association rate filings based on Idaho Code, title 41, chapter 47.

After completing its review, CCIIO agrees that the Department meets the criteria for effective rate review of small employer association coverage delivered or issued for delivery in Idaho and acknowledges that the Department has an effective rate review program for small employer association coverage.

### Small Employer Association Rate Review

Effective August 1, 2012, the Department will conduct effective rate review for small employer (but not individual) association coverage to be delivered or issued for delivery in Idaho as if it had not been issued through an association, in the same manner that small employer coverage rates are reviewed as more particularly described in Bulletin No. 11-07.

Any questions concerning these new rate filing procedures should be directed to Donna Daniel at [donna.daniel@doi.idaho.gov](mailto:donna.daniel@doi.idaho.gov).

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<sup>1</sup> The Department concluded that based on Idaho Code §§ 41-2202(2) and 41-5204 that it did not have the ability to require rate review in accordance with title 41, chapter 52, Idaho Code for association coverage for individuals, which is considered as a large group, and thus would not be in a position to conduct simultaneous effective rate review pursuant to section 2794 of the PHSA. Effective rate review of rates for individual association coverage (filed as group coverage under title 41, chapter 22, Idaho Code) will continue to be reviewed by HHS for the foreseeable future.