



American Cancer Society ☯ Children's Defense Fund/New York ☯ Community Service Society of New York ☯  
Make The Road New York ☯ Metro New York Health Care for All Campaign  
New Yorkers for Accessible Health Coverage ☯ New York Immigration Coalition  
Public Policy and Education Fund of New York/Citizen Action of New York ☯ Raising Women's Voices ☯  
Schuyler Center for Analysis and Advocacy

August 19, 2011

Benjamin M. Lawsky  
Superintendent of Financial Services  
One State Street  
New York, NY 10004

Mr. Charles Lovejoy  
Health Bureau  
New York State Insurance Department  
25 Beaver Street  
New York, NY 10004

RECEIVED  
AUG 22 2011  
HEALTH BUREAU  
N.Y.C. OFFICE

**Re: Requested Rate Changes – Aetna**

Dear Superintendent Lawsky and Mr. Lovejoy,

Health Care for All New York (“HCFANY”) seeks to object to the proposed rate increases of 8.9% to 53.6% posted for 2012 for Aetna Health Inc. (NY) (“Aetna”) on procedural and substantive grounds.<sup>1</sup> HCFANY is a coalition of over 100 consumer and health advocacy organizations dedicated to achieving affordable, comprehensive, and high-quality health care for all New York residents. We would like to thank you for the opportunity to comment both on the current prior approval process, and on the proposed rate increase in question.

On behalf of New York’s individual and small business consumers who use health insurance, we commend the Department for its efforts to reinstate the prior approval process. We believe that the prior approval process is a vital protection against the staggering health insurance rate increases—which routinely outpace inflation and wage growth in New York—faced by the individuals and small businesses whose interests we represent.

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<sup>1</sup> These rate increase applications correspond to state tracking number: 2011070177, 2011070178, and 2011070179.



## **Recommended Procedural Improvements to the Prior Approval Process**

We have procedural concerns about the timing, substantive content, and location of the Department's public posting in the prior approval process. We would like to work closely with the Department to improve the prior approval process for New York's consumers and small businesses. Our concerns are: (1) timing of public notice of rate increases; and (2) availability of public notices on SDOI's website.

First, under the Prior Approval statute, consumers have only have 30 days from receipt of their notice of a proposed rate increase to provide comments—an exceedingly short time period. To facilitate comments, state law requires the Department to publicly post on its website each proposed rate increase along with the corresponding notices sent to enrollees, narrative summaries explaining the rate increases, and any comments received. For the second year in a row, the Department has not posted all carrier notices and relevant correspondence in time to afford consumers a chance to file meaningful comments within the 30 day public comment period. This year, for example, most notices were posted with only a few days to spare.

Second, for many carriers, the substantive content of the prior approval posting is either deficient or non-existent. HCFANY's review of the website found, for example, that as of August 10, 2011, Aetna did not have any documents posted, even though the public comment period closes on August 21, 2011. For many proposed increases (e.g., Empire, HealthNow, HIP, MVP, Oxford, or United Healthcare) no narrative summaries were posted at all. Narrative summaries provide key information that consumers and small businesses need in order to provide informed commentary and/or objections about their rate increases. Similarly, the carrier's financial statements, another valuable source of information, are not posted on the Department's website.

Finally, prior to August 10, 2011, the documentation provided for requested rate increases was not accessible via the "Requested Rate Changes" webpage, nor was the associated comment period listed on that page. In order to find that information, a consumer would need to go to the "Additional Rate Change Details" page, the description of which says only that it includes comments already submitted. While we are pleased that this issue has been corrected and the "Requested Rate Changes" page now links each plan directly to the "Additional Rate Change Details" page, we feel that the correction was made too late for many consumers who may have visited the site seeking information on plan justification of rate increases and left unable to find anything. For Aetna specifically, navigating to the "Additional Rate Change Details" page and clicking to view the rate increase notices still today only reveals broken links.

While we understand that budget cuts have led to short staffing at the Department, and recognize that existing staff work incredibly hard to accomplish its work, we believe that the public



must be afforded adequate time and information, in a logical manner. In short, this process must be a top priority in order to enable the prior approval process to work for New York's consumers and small businesses. We hope that these procedural issues will not be a factor during future rate review periods.

### **Substantive Objection Related to Aetna's Proposed Increase**

We do not believe that Aetna's proposed rate increases of 8.9% to 53.6% are justifiable based on the information provided. As the Department is aware, HCFANY strongly believes that consumers and advocates must have access to complete rate filing applications, including actuarial memoranda, in order to participate effectively in this rate review process. Without access to the relevant documentation, HCFANY was forced to resort to a cumbersome and expensive undertaking of researching the limited information publically available from filings with the Securities and Exchange Commission and, for hundreds of dollars in fees, the National Association of Insurance Commissioners (NAIC). We reiterate that individual consumers and small businesses do not have the time or wherewithal to engage in similar investigations.

With the national rate of inflation at 3.6% and the New York medical trend at about 9%, and with no increases in the taxes imposed on health insurance carriers last year or in the near future, it is difficult to find a rationale for Aetna's proposed rate increases. Aetna does not provide any justification in the publically-available documents (even the notices are not available today on the SDOI website), so it is difficult to comment specifically. In case they intend to cite medical inflation, we would like to point out that PricewaterhouseCoopers LLP recently issued its annual Behind the Numbers report—based on interviews with insurance carriers—indicating that actual medical trends in 2010 and 2011 were 7.5% and 8% respectively, and estimating a medical trend of no more than 8.5% for 2012. CDPHP, another insurer in New York, notes in its narrative summaries that it expects increases in physician costs of 7.7% and increases in hospital costs of 5.0%. Medical inflation alone cannot justify rate increases of 8.9% to 53.6%.

HCFANY believes that Aetna's requested rate increases of 8.9% to 53.6% appear to be unfairly financing outlandish administrative costs with the premium dollars of hard-working New York consumers and small businesses. For example, the executive compensation of the top six executives of Aetna totaled more than \$49 million in 2010. Mr. Ronald A. Williams, their *retired* Chairman and CEO, himself earned more than \$20 million in 2010, after taking home more than \$18 million in each of 2008 and 2009. Their active CEO, Mr. Mark T. Bertolini, earned more than \$8 million in 2010 and more than \$12 million in 2009. **A typical New Yorker earning minimum wage would have to work full-time for an entire year to earn what Ms. Williams earned in about 66 minutes.** And, at the end of the day, that minimum wage worker would still not be able to afford to purchase coverage from Aetna, with or without the proposed rate increases. We urge



the Department to closely inspect all of Aetna's administrative costs and ensure that New York's consumers and small businesses are not underwriting inappropriate non-medical spending with their hard-earned premium dollars.

Our objections do not end there. A close inspection of Aetna's NAIC filings shows that Aetna has been potentially over-charging its customers, reaping enormous profits, and sending those profits out-of-state. For example, Aetna paid its parent company dividends of \$102 million in 2009 and \$61 million in 2010, and still ended 2010 with a total capital and surplus of more than \$175 million. Aetna's 2009 dividend comes to about \$100 per-member-per-month across all their lines of business, and the 2010 dividend comes to about \$50 per-member-per-month. Based on these earnings results, we find it hard to see why any rate increases are necessary.

Given its exorbitant executive compensation and profitability, we urge the Department to either reject Aetna's proposed 8.9% to 53.6% rate increase in their entirety or limit them to the rate of inflation.

Very truly yours,

Elisabeth R. Benjamin, MSPH, JD  
Health Care For All New York

cc: Troy Oechsner  
John Powell