

**Health Insurance Rate Review Grant Program  
Cycle I Final Report: Alabama Department of Insurance**

**Part I: Narrative Report**

**Submission Date: December 19, 2011**

**State: Alabama**

**Project Title: Grants to States for Health Insurance Premium Review-Cycle 1**

**Project Reporting Period: Final Report (08/09/2010-09/30/2011)**

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**Introduction:**

This final report will summarize grant activity and accomplishments for the project reporting period of 08/09/2010-09/30/2011.

**Final Progress Summary:**

- Total Funds Expended: \$224,075.04
- Total Staff Hired: 0
- Total Contracts in Place: 0
- Introduced Legislation: Yes
- Enhanced IT for Rate Review: No
- Submitted Rate Filing Data to HHS: Yes
- Enhanced Consumer Protections: Yes
  - Consumer-Friendly Website: Yes
  - Rate Filings on Website: No

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**Program Implementation Status:**

1. *Accomplishments of Cycle I: Original Goals and Objectives*
  - A. Establish Rate Review Authority
    - a. Develop laws, regulations, policies and procedures to implement requirements of the Affordable Care Act.
  - B. Standardize rate review, approval and information submission
    - a. Create a Health Section, including hiring appropriate staff.
    - b. Create standard filing formats to ensure consistency with submissions and review.
    - c. Write and promulgate regulations to implement rate review and approval authority.
    - d. Develop internal policies and procedures regarding rate review and approval.
    - e. Write bulletins, if necessary, to clarify DOI policies and procedures regarding rate review and approval.
    - f. Design information technology systems to assist in the rate review process and disseminate information to consumers.
  - C. Develop public awareness, build coalitions and strengthen grassroots support.
    - a. Develop local and state partnerships which can be used to disseminate information on the Affordable Care Act and increase support for DOI initiatives.
    - b. Develop informational toolkits, frequently asked questions, news releases and public service announcements to explain the Affordable Care Act regarding premium rates.
    - c. Develop and schedule educational presentations for town hall meetings, editorial boards and other interested parties.
    - d. Hire and train an experienced consumer service specialist and a communications specialist to serve as subject matter experts.
    - e. Redesign and enhance the DOI website to house Affordable Care Act information.

Our original goal one, successful establishment of rate review and approval authority through legislation, was critical to the overall success of our grant planning process. Members of the DOI staff—attorney, project director, consulting actuary, in-house actuary and L&H rates/forms analyst—spent many hours

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developing rate review and approval draft legislation. The process involved including a proposed new chapter to the Insurance Title of the Alabama Code incorporating new rate review and approval language, amending an existing, relevant Code title and several related chapters to be consistent with this new chapter. Although a long and tedious process, at the end we felt we had a viable bill that would give the DOI an “effective rate review program” as described in 45 C.F.R. 154.301, as well as provide necessary consumer protections long needed in Alabama. Success would have been measured by enactment of legislation in the past Legislative session which ended on June 9, 2011; however, this goal was not achieved as will be explained in the Significant Activities Unmet section.

Goal two was partially realized even in the absence of rate review and approval authority legislation. The DOI made some internal personnel changes and added a L&H insurance rate/form reviewer to the Rates & Forms Division. This allowed the Project Director more time to spend working on the grant project. We also increased our consulting actuary’s contract to encompass additional time spent on drafting legislation, developing a company examination procedure for verifying ACA compliance and implementing this procedure by conducting visits to two Alabama domestic companies and paper reviews of three foreign companies (details were submitted with the Quarter 4 report on October 25, 2011).

Absence of rate review and approval statutes negated the creation of supporting regulations and bulletins. After consultations with the System for Rate and Form Filing (SERFF) area of the National Association of Insurance Commissioners (NAIC), we determined that our internal IT systems did not need to be modified at this time as additional SERFF components were developed and put into production for reporting of rate review data to HHS via the HIOS system.

We did develop modify our current DOI rate review process to encompass the requirements found in 45 CFR 154.301(a)(3). We also elected to require companies to include the rate disclosure Part II form with all filings as of 9/1/2011 through the SERFF system. However, with no statutory authority to require and enforce this, we can only request this information from insurers and review rates on an “informational basis”.

Our biggest accomplishment of goal three was the partial redesign of our DOI and [healthinsurance.alabama.gov](http://healthinsurance.alabama.gov) (HIA) websites to include information regarding ACA requirements, changes and updates, health insurance Exchange information

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and the addition of additional information on health insurance in general in a more consumer-friendly format. We ultimately decided not to combine these websites at this time so we could possibly use the HIA website in the future exclusively for Exchange information. Since we do not have an “effective rate review process” and HHS is responsible for reviewing our “unreasonable” rate increases, we made the decision not to post rate information on our DOI website until as such time as our rate review statutory authority is in place.

We had great success in developing and establishing local and state partnerships to help support DOI initiatives, including rate review and approval authority. In conjunction with the Exchange planning grant, we developed a list of 110 stakeholders which included various State departments and agencies, associations, provider groups and consumer groups. Our opinion is that we have the support of these groups for our legislative initiatives and will call on them before and during the next Legislative session beginning in February, 2012.

### *2. Challenges and Responses:*

Our biggest challenge in developing appropriate legislation was due to the 2010 election year in Alabama. A new Governor, Lieutenant Governor, Secretary of State, and Attorney General were elected in November and all are Republicans. Additionally, there is now a Republican majority in both the Senate and House—the first time since Reconstruction in the 1800s. The DOI experienced difficulty in establishing new contacts and developing strong ties in order to find sponsors for any proposed legislation. Our Governmental Affairs person was involved in this process but apparently this was not a priority for this new legislative body. We will continue trying to establish the appropriate contacts within the new administration and legislature before the second Legislative session begins in February, 2012.

### **Significant Activities Undertaken:**

Our rate review legislation was completed in early April, 2011, and, after thorough review by DOI staff, was given to our Governmental Affairs Manager to present to the Legislature for introduction. Unfortunately, due to other priorities in this Legislative session, our bill did not get introduced and thus the DOI is left without any rate approval authority until at least the next Legislative session which begins in early February, 2012. We plan to pre-file this bill with our Legislature in January, 2012, so the bill can be introduced and acted upon quickly. We sent a draft of our proposed bill to CCIIO and Georgetown University (as part of a Robert Woods Johnson Foundation technical assistance program in conjunction with our

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Alabama Medicaid Agency) in August for their review and comment and, after their input, we feel confident that our revised bill will meet the requirements of an “effective rate review program”. We will also be working on the accompanying regulation during this time period so that our rate review “package” will be complete.

Our actuary and other DOI staff, along with CCIIO/CMS staff, reviewed our current rate review process as to the Federal standards of an “effective rate review program.” This was completed in May, 2011. However, on June 24, 2011, CMS/CCIIO notified the DOI that their preliminary finding was that Alabama does not meet all of the criteria for an Effective Rate Review Program in all markets as described in 45 C.F.R. 154.301. One of the main reasons for this was that Alabama’s determination of whether a rate increase was unreasonable was not made under a standard that is set forth in State statute or regulation per 45 C.F.R. 154.301(a)(5). We plan to incorporate this standard into the pre-filed bill mentioned above as well as creating an accompanying regulation with the specifics and details of the process. Also, we are in the process of a comprehensive review of all Alabama insurance statutes and regulations to ascertain if any additional legislative changes need to be made in order for the DOI to have an “effective rate review program”.

### **Significant Activities Unmet:**

Of course the failure to achieve Legislative approval of our rate review and approval authority bill was our most significant unmet activity. As stated above, we definitely intend to pursue passage of this legislation during the upcoming Legislative term. This will be done by the DOI without the use of a no-cost extension or Cycle II funds.

We will develop a consumer assistance program in conjunction with the Exchange establishment process as work on the Alabama Health Insurance Exchange continues. And as stated previously, the HIA website will most likely be used as an Exchange information platform to inform and advise Alabama consumers regarding the upcoming health reform changes in 2014.

Once the DOI recognized that our rate review and approval legislation would not be implemented, we did not pursue development of consumer and educational materials for public dissemination. This will be an area that we will re-visit before the upcoming Legislative session begins.

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**Operational/Policy Developments/Issues:**

Again, our failure to achieve passage of favorable rate review and approval legislation was the significant program issue/problem that occurred during the Cycle I grant period. As previously stated, we plan on overcoming this through successful passage of legislation in the upcoming 2012 Legislative session. There will be no no-cost extension or Cycle II grant funds used.

**Final Rate Filing Data Summary:**

Category	Quarter 1	Quarter 2	Quarter 3	Quarter 4
# Rate filings	8	20	14	24
# Rate increases	5	8	8	15
Reviewed	20	14	18	22
Approved	17	13	18	16
Denied	3	0	0	0
Deferred	0	1	0	6

The source of the data in the above data summary table was the HIPR Table A-Summary generated from the SERFF system as reported via the HIOS website.

Under current Alabama Code §27-13-2, the DOI does not have prior rate approval authority for health insurance rates; thus, all of the above filings were reviewed and, at disposition, given a status of “Filed with the DOI”. Three filings were denied in Quarter 1 due to failure of the company to respond to a DOI request for additional information. Effective September 1, 2011, CMS began their review of “unreasonable” rate increases that are proposed for use in Alabama and rate data will be posted on the HIOS website.

**Public Access Activities:**

Historically, all actuarial data and methodology for rate determinations have been considered confidential proprietary information and not available for public viewing unless the company agrees to the release of this data or as a result of an order of a court of competent jurisdiction. In order to make the information process more transparent and public, some existing statutes and regulations will need to be amended or repealed. While the DOI is hopeful that this can be accomplished in the upcoming Legislative session, a thorough examination of the existing statutes and regulations must be made. Additionally, there is potential for considerable

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opposition to the public release of this data by the insurance industry. The DOI must develop a strategy of overcoming this opposition by meeting with and informing the incoming new legislators of the need for these changes.

As of September, 2011, the NAIC SERFF system does allow public access to ACA initial rate filings and we have incorporated this on our DOI website at <http://www.aldoi.gov/Consumers/ACARateFilings.aspx> . However, since the DOI does not have an “effective rate review program” as determined by HHS, we will not be manually posting rate review information on our DOI website as companies will not be required to file these increases with the DOI; rather, HHS will post this directly on their website. Upon successful passage of rate review and approval authority legislation in the upcoming 2012 Legislative Session, the DOI will be posting complete rate review information on our DOI website.

### **Collaborative Efforts:**

The DOI developed examination procedures for examining the initial rates submitted by companies for ACA compliance. These examination procedures involved reviewing the prior experience of the company, including sampling. The DOI completed our rate review examination of the six companies involved as of September 16. Additionally, the DOI has been responsive to the companies-- answering numerous questions and clarifying issues that the Affordable Care Act raises. To keep abreast of national issues, the DOI has participated in numerous conference calls and webinars with the NAIC and HHS regarding the reporting of data through the SERFF system. These collaborations have made reporting and data collection easier for all involved.

### **Materials Produced During Cycle I:**

Two types of materials were developed/produced during the Cycle I period: (1) draft legislation and (2) website revisions. A copy of the proposed rate review and approval bill can be found at Attachment C to this document. Our websites can be viewed at <http://www.aldoi.gov/Consumers/HealthInsReform.aspx> and <http://healthinsurance.alabama.gov/>

Changes to the websites were completed in August, 2011. Major changes included a complete update of the Glossary section of the HIA website and the addition of a Health Reform Information Center section on the DOI website.

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### **Impact:**

The overall impact of the Cycle I grant funds on the rate review process in Alabama was very positive and constructive. Without these funds it would have put a significant resource stress on our DOI budget with the possibility of some of the projects not having been undertaken.

While we did not achieve our main goal of having a “effective rate review program” due to the failure of our legislative efforts, we did strengthen and expand our review process for future rate reviews by incorporation of the requirements found in 45 CFR 154.301(a)(3). Once legislation is enacted, we will immediately be poised to initiate a complete and effective rate review process without delay. This can only improve the transparency of the process for consumers as well as provide an opportunity for education and assistance to them as well.

The mission of the Alabama DOI is “...is to serve the people of Alabama by regulating the insurance industry, providing consumer protection, promoting market stability, and enforcing fire safety standards and laws.” We feel that the receipt of these grants funds and our accomplishment of certain goals can only enhance this mission as to the regulation of rates and consumer protections.

### **Lessons Learned:**

One of the key challenges has been ensuring staff have adequate time to plan, coordinate and implement procedures which are part of the grant project. State budget constraints have placed significant resource stress on the DOI and staffing levels have been impacted. The DOI has been required to do more with less due to the increased demands of the Affordable Care Act and the day-to-day state regulatory issues. We accomplished the majority of our goals through the internal shifting of personnel within the DOI in order to have adequate staffing to complete the requirements and objectives set out as part of the grant project as well as continuing our usual day-to-day operations.

Working to get legislation passed proved to be a challenge. The DOI did not foresee the difficulty involved. With the past Legislative session behind us and important lessons learned as to how that process works with a new Administration and Legislature in place, we feel we can move forward with confidence and achieve success in the upcoming Legislative session with early and detailed planning as key considerations.

### **Final Budget Summary:**

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See Attachment A.

**Final Work Plan and Timeline:**

See Attachment B.

**Enclosures/Attachments:**

Attachment A: Final Budget Summary

Attachment B: Final Work Plan and Timeline

Attachment C: Proposed Rate Review and Approval Authority Legislation