



Office Of Insurance Regulation Releases Presumed Factor

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News from the Florida Office of Insurance Regulation

- Completes next step in carrying out medical malpractice insurance reform -

Tallahassee (11/10/2003) – The Florida Office of Insurance Regulation (Office) has released the presumed factor, which medical malpractice insurers must use in setting new rates. The Office announced that the presumed factor is a negative 7.8%. Legislation aimed at reforming the state's medical malpractice insurance market called for this number to be developed and published by November 14, 2003.

Director of the Office of Insurance Regulation Kevin McCarty said, "This completes the next step in implementation of the medical malpractice reform enacted by the Legislature. However, we don't anticipate filings with net negative effect on rates. Even after application of the presumed factor, we anticipate insurers will file for rate increases. This is primarily due to the rate need of the industry, which has continued to develop over the last year. We do, however, expect any requests for rate increases to be moderated by the presumed factor."

The new law requires that insurers exclusively adopting the presumed factor make such rates effective no later than January 1, 2004. Those insurers must apply the resulting rates retroactive to September 15th for new and renewal business. Refunds will have to be issued as appropriate. The presumed factor reflects the impact on insurance rates of the reforms contained in the recent medical malpractice reform legislation.

If an insurer believes that adoption of the presumed factor would result in an excessive, inadequate, or unfairly discriminatory rate they may submit additional data in the required filing that, when combined with the presumed factor, results in an adequate rate.

Testifying before the Senate Banking and Insurance Committee, recently, Office of Insurance Regulation Deputy Director Steve Roddenberry explained that if a filing results in a rate increase, the increase would be applied prospectively. These filings will be reviewed by the Office on a prior approval basis.

The medical malpractice reform law was passed during a special legislative session in August. Funds were provided for the hiring of an independent firm to develop the presumed factor, prior to it being reviewed by the

Office. The Office sought quotes from eight firms and received bids from three – eventually selecting Deloitte-Touche for the work.

Deloitte-Touche identified two sections of the medical malpractice reform legislation in which it was able to determine values that together comprise the final presumed factor.

Deloitte-Touche calculated that the caps on non-economic damages would yield 5.3% in rate level impact and reforms in the bad faith provisions of Florida law would result in a rate level impact of 2.5% - totaling the 7.8% presumed factor.

Deloitte-Touche was careful to note that many stakeholders could be confused by the end result of the reforms. Some may have expected an overall drop in rates by the amount of the presumed factor, rather than an increase. In the end, the presumed factor has simply moderated the expected increases.

An example of the concept would be if an insurer's indicated premium rate change is +40.0% and the estimated rate level impact from tort reform is 37.5%, insurance consumers would NOT see a rate reduction of 37.5% but a net premium increase of 2.5% (e.g., 40.0% - 37.5%).

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