



**STATE OF RHODE ISLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

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*Peter F. Neronha*  
*Attorney General*

August 11, 2021

**Via Electronic Mail Only**

Mr. Patrick Tigue  
Health Insurance Commissioner  
Office of the Health Insurance Commissioner (“OHIC”)  
1511 Pontiac Avenue  
Building 69, First Floor  
Cranston, Rhode Island 02920  
[Patrick.Tigue@ohic.ri.gov](mailto:Patrick.Tigue@ohic.ri.gov)

**In re: Rates Filed for 2022 Large Group and Small Group Health Plans**

Dear Commissioner Tigue:

The Rhode Island Attorney General objects to the increases requested by insurers in both the large group and small group markets. In the small group market, carriers requested increases from 2.9% to 17.5%. In the large group market, carriers requested increases ranging from 5.3% to 14.1%. The Attorney General addresses OHIC in his distinct role in this rate review: to represent, protect and advocate for Rhode Islanders who are and will be consumers of insurance products. *See R.I. Gen. Laws § 27-36-1*. In addition, as the State’s Health Care Advocate, the Attorney General is obligated to carry out the mandate of the Health Care Advocate statute and advocate for quality and affordable health care for the people of this State. *R.I. Gen. Laws § 42-9.1-1*.

The Attorney General’s objections are based on non-actuarial findings and the unaffordability of the proposed increases.<sup>1</sup> Our Office asks that you exercise your authority to account for affordability and deny all requested rate increases across both markets.

**Preliminary Statement**

This is your first rate review as Health Insurance Commissioner. In OHIC’s press release in June 2020 announcing the rate review process, you stated that you were “concerned by many of the requested premium increases” across all markets and acknowledged that “health insurers have

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<sup>1</sup> OHIC held a public comment meeting via Zoom on the rate review process on Monday, August 2, 2021, at 4:30pm. Representatives from our Office were in attendance.

generated substantial profits as a result of the reduction in medical services experienced during the coronavirus disease 2019 public health emergency.”<sup>2</sup> You pledged that OHIC “will scrutinize the requested increases and critically evaluate the necessity of significant increases, given the overall financial health of the insurers.” You have an extraordinary opportunity to begin anew, put words into action, and show the employers of Rhode Island that OHIC hears them and acts in their best interest to take one step closer toward affordable health insurance by lifting the burden of too-high premiums which create a barrier to healthcare for all.

### **Unaffordability of a Rate Increase**

Close to 140,000 subscribers – almost 48,000 in small group plans<sup>3</sup> and over 91,000 in large group plans<sup>4</sup> - will be affected by these final rates. The IRS, under Affordable Care Act provisions, caps the contribution from employees at a certain rate each year. For 2021, an employer could charge its employees no more than 9.83% of an employee’s household income toward monthly premium payments.<sup>5</sup> While this provision is rightly intended to control costs, employers are responsible for over 90% of costs associated with monthly premiums. Nationally, employer costs for health insurance increased by 4% in 2020 and have soared 55% within the past decade, which is more than twice the pace of inflation and wages.<sup>6</sup> Additionally, Congress enacted the American Rescue Plan Act of 2021 (“ARPA”) to help mitigate the financial devastation COVID-19 has caused to American families, individuals, and businesses. One of the key tenets of the ARPA is extension of COBRA benefits under the COBRA Premium Assistance Program, which allows former employees to obtain COBRA benefits without cost to the employee.<sup>7</sup> Prior to ARPA, COBRA beneficiaries - not employers - paid their own premium and did not have the capability to extend eligibility. Now under ARPA, the employer is responsible for paying the COBRA

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<sup>2</sup> [2022 Rate Review Process Press Release - Requested Rates.pdf \(ri.gov\)](#), June 28, 2021.

<sup>3</sup> **Small Group:** Blue Cross Blue Shield of Rhode Island (2.9% increase for 40,255 subscribers); Neighborhood Health Plan of Rhode Island (6.5% increase 1,730 subscribers); United Healthcare (17.5% for HMO plans and 10.7% for PPO plans for combined 3,126 subscribers); and Tufts Health Plan (5.2% increase for HMO plans and 5.1% increase for PPO plans for combined 2,825 subscribers). See [2022 Rate Review Process Press Release - Requested Rates.pdf \(ri.gov\)](#), June 28, 2021.

<sup>4</sup> **Large Group:** Blue Cross Blue Shield of Rhode Island (7.4% increase for 68,936 subscribers); United Healthcare (14.1% for 15,461 subscribers); Tufts Health Plan (9.1% increase for HMO plans and PPO plans for combined 6,589 subscribers); and Cigna (5.3% increase for 617 subscribers). Aetna requests a 9% increase but currently does not have any Rhode Island subscribers. See [2022 Rate Review Process Press Release - Requested Rates.pdf \(ri.gov\)](#), June 28, 2021.

<sup>5</sup> <https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/aca-coverage-terms.aspx>.

<sup>6</sup> <https://khn.org/news/employer-health-insurance-costs-rose-4-percent-in-2020-and-55-percent-over-decade/#:~:text=Health%20insurance%20costs%20for%20Americans.to%20a%20study%20published%20Thursday.&text=More%20than%20half%20of%20employers%20provide%20insurance%20to%20at%20least%20some%20workers>.

<sup>7</sup> See FAQs about COBRA Premium Assistance Under the American Rescue Plan Act of 2021 at <https://www.google.com/url?sa=t&source=web&rct=j&url=https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/cobra-premium-assistance-under-arp.pdf&ved=2ahUKEwikj5nF0KfyAhUiszEKHfg2Ad8QFnoECAQQAQ&usq=AOvVaw3BT9576wDw6nhcsu3eDHS7>, April 7, 2021.

premium upfront with the promise of a tax credit in the amount of premium assistance given.<sup>8</sup> While these changes are designed to provide continued health care coverage to the unemployed, these changes also subject employers to greater upfront costs that they otherwise would not have to consider in a non-pandemic year.

Premium costs continue to rise, and while unacceptable in any year, it is unconscionable and egregious during COVID and on the heels of annual rate increases approved by former Commissioners. For example, United Healthcare (“United”), which asks for the largest increase of all insurers at 17.5% for small group HMO rates, 10.7% for PPO rates, and 14.1% for large group rates, has enjoyed increases in three of its four PPO and HMO plans for 2020 and 2021 rates: 7.5% and 6.8% increases for 2020 small group HMO and PPO plans respectively, and another 2.3% for its 2021 PPO plan.<sup>9</sup> Blue Cross Blue Shield of Rhode Island (“Blue Cross”), which serves the largest population of subscribers between small and large group markets at close to 110,000 subscribers, asks for a 2.9% increase for small group plans and 7.4% increase for large group plans. Blue Cross was granted a 4.5% increase for small group 2020 rates and a 2.7% increase for small group 2021 rates. For large group, United was granted an 8.1% increase for both 2020 and 2021 rates, and Blue Cross was granted an 8.1% increase for 2020 rates and a 4.5% increase for 2021 rates.

The Attorney General strongly urges you to exercise your regulatory authority and discretion to determine 2022 rates based upon affordability to the employers who must pay for these insurance products. OHIC Regulation 230-RICR-20-30-4 (Powers and Duties of OHIC), Section 4.9 (C) delineates the factors to consider in determining affordability of rates. The lack of transparency behind OHIC’s regulatory decision-making and consideration of affordability in all markets, but particularly in the large and small group markets where most insurers do not meet the covered lives threshold for OHIC’s affordability standards and are not subject to a rate hearing under any circumstance, is especially troubling.<sup>10</sup> The only rationale OHIC provides the public is a very minimal overview of the components of the rate review and corresponding numbers.<sup>11</sup> If OHIC continues to determine the insurers must be granted substantial increases, the public deserves an equally substantial explanation.

## Conclusion

Keeping the needs and considerations of the affected employers and employees always first and foremost, the Office of the Attorney General asks that you place significant weight on the unaffordability of higher health insurance rates and deny all rate increase requests in both the small group and large group markets. At a time when Rhode Island seeks to attract and retain businesses

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<sup>8</sup> *See id.*

<sup>9</sup> OHIC approved a 0.5% decrease for United’s PPO small group plan in 2021.

<sup>10</sup> OHIC’s Affordability Standards only apply to insurers that cover at least 10,000 lives. *See* 230-RICR-20-30-4.10(A). Blue Cross meets that standard in both markets, and United meets that standard in the large group market. Only the individual market has a public hearing requirement if an insurer which covers 10,000 lives or more requests an increase of 10% or more in a given year. *See e.g.*, R.I. Gen. Laws § 27-19-6(f).

<sup>11</sup> *See e.g.* 2020 Rate Review Process Large Group Rate Summary at

<http://www.ohic.ri.gov/documents/2020/July/Rate%20Review/2020%20Large%20Group%20Rate%20Review%20Detailed%20Summary.pdf>, July 21, 2020.

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and support its workers, Rhode Island employers and employees deserve nothing less than affordable health insurance coverage.

Respectfully Submitted,

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