Senator Dianne Feinstein
Testimony on health insurance rate review
Senate Committee on Health, Education, Labor and Pensions
August 2, 2011

Thank you very much Mr. Chairman and Senator Enzi, Senator Franken and Senator Murkowski.

I have for a number of years now been concerned about the affordability of health insurance. Of course, as you look at health insurance around the world you see that no country has the size of large for-profit medical insurance companies that America does.

If you go further, you see that since 1999, average premiums for family coverage have risen 131 percent, while medical inflation, which should guide this, rose just 31 percent.

Two years ago, in 2009, 57 percent of people attempting to purchase insurance in the individual market found it difficult or impossible to afford coverage. Now that's before the health reform law.

While the cost of health insurance continues to rise for individuals, insurance companies, particularly the largest for-profit companies enjoy unprecedented profits.

In the first quarter of 2011, the five largest for-profit health insurance companies recorded a net profit of $3.9 billion – an average 16 percent increase from the same quarter the year before.

CEO pay for the 10 largest for-profit health insurance companies was $228.1 million in 2009, up from $85.5 million in 2008. That's a 167 percent raise in just one year. This doesn't even include the tens of millions more dollars in exercised stock options, and means that these CEOs received nearly $1 billion in total compensation; dollars that could have been used to provide health benefits. This raises the question to me, as to whether America's health insurance should be controlled by for-profit health insurance companies.

Here's the rub. At the same time, insurance companies were reducing the amount they spend on actual medical care.

The GAO report shows state insurance practices vary widely, even within different markets in the same state. To me, the GAO report shows just how fractured the health insurance market continues to be, and how consumers are not uniformly protected from egregious rate increases.

I believe that what should be standardized is the authority to block or modify unjustified premium rate increases.

I believe that each state insurance commissioner or regulator should not only be able to look at insurance rate filings and evaluate them thoroughly *prior* to implementation, but that he or she should also possess the authority to block or modify those rates that are egregious.

To evaluate the rates and have no authority to reduce or stop rates found to be unjustified makes the state Insurance Commissioner simply a "paper tiger".

The Department of Health and Human Services reports that as of December 2010, less than half of States and Territories had the legal authority to reject excessive rates. The Kaiser Family Foundation reports that in at least 17 states, including my own, California, state regulators do not possess the authority to block or modify premium rates prior to implementation.

The health reform law takes critical first steps to help control premium increases and ensures that companies spend more on medical care, not profits. The grants provided to states to improve rate review processes have helped ensure more information is available about all rate increases.

However, the health reform law does not grant explicit authority to block or modify egregious rate increases. This is a loophole, which is why during health reform I introduced legislation to authorize the Secretary of Health and Human Services to block or modify unjustified premium increases in states where the regulator does not have that authority.

I reintroduced this legislation – the Health Insurance Rate Review Act of 2011 – in order to close this loophole, it is pending in this House, and a like bill is pending in the House of Representatives

These bills creates a federal fallback rate review process that grants the Secretary of Health and Human Services authority to block or modify rate increases that are excessive, unjustified, or unfairly discriminatory in those states where there is not appropriate authority.

This legislation is a simple, common sense solution and we almost got it included in the bill, be we did not. And so since then, what's happening is these big for-profit companies are raising rates wherever they can - sometimes once a year, sometimes twice a year, and sometimes three times a year.

In 2010, I received over 1,700 letters from constituents, pleading with me to help them with their skyrocketing rates.

In 2010 in California, the State Insurance Commissioner reviewed some filings. Fourteen were withdrawn or negotiated to lower rates, so 6 percent were modified. I suspect that if California regulators had the appropriate legal authority, many more than 14 rate filings would have been modified or withdrawn in 2010.

Let me give you an example of why the review of rate filings is not sufficient, and why I believe the authority to block or modify is necessary.

Just about everyone, I think, is familiar with the increases that Anthem/Blue Cross was set to impose in February of 2010—as much as 39 percent—for 800,000 policy-holders in California. And in California a couple of these companies essentially control the major medical insurance markets. As you stated, Mr. Chairman, there isn't the competition there might be otherwise.

Anthem wasn't an aberration. Insurance companies in California have continued to propose 30, 40 even 80 percent cumulative premium increases.

We have a very strong Insurance Commissioner in California, Dave Jones, and he has been successful in getting some of these big companies to reduce or cancel their premium increases.

Recently, a number of insurance companies were set to impose premium increases in my state, some as much as 80 percent cumulative increases.

Commissioner Jones requested a delay of these increases until he had a chance to review them, and the insurance companies complied.

After review and pressure from Mr. Jones, Anthem Blue Cross agreed to scale back planned rate hikes from 16.4 percent to 9.1 percent for 600,000 individual policies in the Department of Insurance; and to delay implementation of these hikes.

But here's the catch.

Anthem Blue Cross also serves individual policyholders through the Department of Managed Health Care (DMHC) in California.

For over 120,000 Californians that receive their Blue Cross insurance through this Department, rates rose an average of 16 percent on May 1 of this year.

The Department of Managed Health Care deemed these increases unreasonable, but they do not have authority to block them.

This means that the same company scaled back rates for some individual policy holders, but not others.

I don't think that make sense.

On page 43 of the GAO report, in the Appendix are general comments of the Department of Health and Human Services on the Government Accountability Report. What they say is:

'For too long, insurance companies in many States have increased health insurance premiums with little oversight, transparency, or public accountability. Health insurance premiums have doubled on average over the last ten years, much faster than wages and inflation,

putting coverage out of reach for millions of Americans. As recently as December 2010, fewer than half of States and Territories had the legal authority to reject a proposed increase if the increase was excessive, lacked justification, or failed to meet other State standards. Additionally, many states that had authority lacked the resources needed to exercise it meaningfully. This lack of authority and resources for States has contributed to unjustified premium increases.'

And then it announces:

'Starting in September 2011, HHS is requiring that all non-grandfathered insurers seeking rate increases of 10 percent or more in the individual and small group markets publicly disclose the proposed increases and their justification for them. Disclosing proposed increases, along with the insurer's justification, sheds light on industry pricing practices that some experts believe have led to unnecessarily high prices. This transparency in the health insurance market will help to promote competition, encourage insurers to work towards controlling health care costs, and discourage insurers from charging unjustified premiums.'

And it goes on to discuss the Affordable Care Act. I think this is a major step forward, Mr. Chairman. We worked with the Department of Health and Human services to try to give them rate authority as part of the bill; we failed. The lobbying by the insurance companies was intense. Suffice it to say, we have a problem that is out of control, and we have a lot of people suffering for it. We have a reduction in the number of people covered by this insurance because people can no longer afford the premiums.

Whether they (insurance companies) are doing this because they know in 2014 the health insurance law goes into play, and therefore they want to recover as much as they can before that, or simply because they are going to raise rates to flush up their bottom line—I think it's as simple as this.

Let me conclude with this: a man by the name of T.R. Reid wrote a book about health care all over the world, probably members of this Committee have read it, and he concludes that no nation on earth has been able to reform health insurance with large for-profit insurance industries.

That may continue to be a problem, but I just want to thank you for watching this carefully, because our people have to be able to afford to be covered. I wish we could get this rate review through, I thank you for your support of it.

I wish the other side of the aisle—Ranking Member Enzi has always been fair, we've worked together on other matters, but this one really cries out for watching and for taking action to see that premium rates are truly justified.

I thank you for the opportunity to testify.