

*I Mina'Trentai Kuáttro Na Liheslaturan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
131-34 (COR)	Dennis G. Rodriguez, Jr.	AN ACT ADD NEW §§ 103121 AND 103122 TO CHAPTER 103 OF TITLE 11, GUAM CODE ANNOTATED, TO PROVIDE UNDER GUAM LAW, THE EQUIVALENT STATUTORY APPLICATION OF SECTION 2794 [RATE REVIEW] AND SECTION 2718 [MEDICAL LOSS RATIO] OF THE UNITED STATES PUBLIC HEALTH SERVICE ACT.	6/23/17 4:58 p.m.						

**MINA' TRENTAI KUATTRO NA LIHESLATURAN GUAHAN  
2017 (FIRST) Regular Session**

Bill No. 131-34 (COR)

Introduced by:

D.G. RODRIGUEZ, JR. 

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**AN ACT ADD NEW §§ 103121 AND 103122 TO CHAPTER 103 OF TITLE 11, GUAM CODE ANNOTATED, TO PROVIDE UNDER GUAM LAW, THE EQUIVALENT STATUTORY APPLICATION OF SECTION 2794 [RATE REVIEW] AND SECTION 2718 [MEDICAL LOSS RATIO] OF THE UNITED STATES PUBLIC HEALTH SERVICE ACT.**

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

**Section 1. Legislative Findings and Intent.**

*I Liheslaturan Guåhan* finds that the *interim* decision by the Administrator, Centers for Medicare and Medicaid Services, issued on July 16, 2014, excludes Guam and the other United States Territories from the Patient Protection and Affordable Care Act. Among the important provisions providing significant consumer protections are, Rate Review (Public Health Service Act - section 2794) and the Medical Loss Ratio (Public Health Service Act - section 2718). These provisions respectively ensured: 1) consumer protection from unreasonable rate increases; and 2) bringing down the cost of health care coverage, through the provision of rebates preventing excessive profiteering by insurance issuers.

*I Liheslaturan Guåhan* further finds that just as these Federal statutory provisions are important to protecting consumers of health insurance in the fifty

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1 States, they are likewise equally important to insurance consumers on Guam.  
2 Further, that it is appropriate that these provisions be provided.

3 It is, therefore, the intent of *I Liheslaturan Guåhan* to establish the equivalent  
4 statutory provisions under Guam law, rules and regulations.

5 **Section 2.** A new §103121 is *ADDED* to Chapter 103 of Title 11, Guam Code  
6 Annotated, to read:

7 **“§103121. Health Insurance Coverage Rate Review.** There is hereby  
8 established a mandate to provide for health insurance rate review for the public  
9 benefit purpose of consumer protection from unreasonable rate increases. The  
10 Commissioner, in conjunction with the Banking and Insurance Board, *shall* initiate  
11 and complete the promulgation of regulations for the purpose of initial health  
12 insurance premium review, and shall establish a process for the annual review of  
13 unreasonable increases in premiums for health insurance coverage on Guam.

14 In the development of the regulations, the Commissioner and Board *shall* give  
15 due consideration to the model established pursuant to Section 2794 of the United  
16 States Public Health Service Act, as added by Section 1003 of the Patient Protection  
17 and Affordable Care Act. Consideration of various State models may also be  
18 pursued. The process established pursuant to this Section shall require health  
19 insurance issuers to submit to the Banking and Insurance Commission relevant  
20 justification for an unreasonable premium increase prior to the implementation of  
21 the increase, as determined by the applicable regulations.

22 The Commissioner and Board, in the consideration of the health insurance  
23 market rates, *shall*, at a minimum, also seek to acquire or: (i) develop fee schedules  
24 and other database tools that fairly and accurately reflect market rates for medical

1 services and the differences in those rates; (ii) use the best available statistical  
2 methods and data processing technology to develop such fee schedules and other  
3 database tools; (iii) regularly update such fee schedules and other database tools to  
4 reflect changes in charges for medical services; (iv) make health care cost  
5 information readily available to the public through an Internet website that allows  
6 consumers to understand the amounts that health care providers in their area charge  
7 for particular medical services; (v) professional actuarial services; and (vi)  
8 regularly publish information concerning the statistical methodologies used to  
9 analyze health charge data and make such data available to researchers and policy  
10 makers.

11 (a) The proposed regulations, and recommendations for any additional  
12 legislation required for the implementation and enforcement of the rate review  
13 process *shall* be submitted to *I Liheslaturan Guåhan* by no later than sixty (60) days  
14 from the enactment of this Section, and as provided pursuant to Article 3, Chapter 9  
15 [Administrative Adjudication Law], Division 1, Title 5, Guam Code Annotated.

16 (b) The Rules and Regulations established pursuant to this Section *shall* be  
17 codified under Chapter 3 of Title 12, Guam Administrative Rules and Regulations.

18 (c) Available funds from the Banking and Insurance Enforcement Fund may  
19 be expended for the purposes of this section.”

20 **Section 3.** A new § 103122 is *ADDED* to Chapter 103 of Title 11, Guam  
21 Code Annotated, to read:

22 **“§ 103122. Medical Loss Ratio; Mandate established.**

1           There is hereby established a mandate to provide the applicability and  
2 establishment of a Guam based Medical Loss Ratio policy for health insurance  
3 issuers, in line with the Federal Medical Loss Ratio mandate pursuant to the  
4 Affordable Care Act. The Commissioner, in conjunction with the Banking and  
5 Insurance Board, *shall* initiate and complete the promulgation of regulations for the  
6 purpose of the Insurance Commissioner and the Banking and Insurance Board  
7 implementing and regulating Medical Loss Ratio provisions on premiums for health  
8 insurance coverage on Guam.

9           In the development and promulgation of regulations determined  
10 “appropriate” to “carry out” the mandates of this Section, the Commissioner and  
11 Board shall give due consideration to the model statutory framework established  
12 pursuant to Section 2718 of the United States Public Health Service Act, as amended  
13 by the Patient Protection and Affordable Care Act. Further, the *spirit* and *intent* of  
14 the Federal Medical Loss Ratio policy *shall* be duly reflected, and to the extent  
15 practicable adhered to. The USPHSA provisions, as amended by the PPACA, which  
16 are deemed appropriate and necessary to implement the mandate of this Section,  
17 may be enacted by citation references to the relevant Federal statutes and Code of  
18 Federal Regulations, and/or by the direct enactment under Guam law in a manner so  
19 as to mirror the provisions.

20           The Patient Protection and Affordable Care Act (Pub. L. 111-148) was  
21 enacted on March 23, 2010; the Health Care and Education Reconciliation Act (Pub.  
22 L. 111-152) was enacted on March 30, 2010 [collectively as the Affordable Care  
23 Act]. The Affordable Care Act reorganizes, amends, and adds to the provisions of  
24 Part A of title XXVII of the Public Health Service Act (PHS Act) relating to group  
25 health plans and health insurance issuers in the group and individual markets.

1           Section 2718 of the PHS Act includes two provisions designed to achieve the  
2 objective in the section title: “Bringing down the cost of health care coverage.”  
3 The first is the establishment of greater transparency and accountability around the  
4 expenditures made by health insurance issuers. The law requires that issuers  
5 publicly report on major categories of spending of policyholder premium dollars,  
6 such as clinical services provided to enrollees and activities that will improve health  
7 care quality. The second is the establishment of MLR standards for issuers, which  
8 are intended to help ensure policyholders receive value for their premium dollars.  
9 Issuers will provide rebates to enrollees when their spending for the benefit of  
10 policyholders on reimbursement for clinical services and quality improving  
11 activities, in relation to the premiums charged, is less than the MLR standards  
12 established pursuant to the statute. The rebate provisions of section 2718 are  
13 designed not just to provide value to policyholders, but also to create incentives for  
14 issuers to become more efficient in their operations. Section 2718 also contains  
15 provisions which allow for modifications to the standards under certain  
16 circumstances, which are described in the regulation. To inform decisions about  
17 definitions and methodologies for calculating MLRs, the Affordable Care Act  
18 directed the NAIC to make recommendations to the Secretary, subject to  
19 certification by the Secretary. The Commissioner and the Board *shall* duly consider  
20 these recommendations, as well as the consideration of various State models which  
21 may also be pursued if deemed appropriate for Guam.

22           Accordingly, the Commissioner and the Board, in the promulgation of  
23 regulations determined necessary to effect under Guam law the provisions of PHS  
24 Act section 2718, *shall* also duly adhere to, to the extent practicable the provisions  
25 of 45 CFR § 158.221, which provides the “*Formula for calculating an issuer's*

1 *medical loss ratio*”, so as to fully mirror the Federal *Medical Loss Ratio* provisions  
2 under Guam law.

3 (a) The proposed regulations, and recommendations for any additional  
4 legislation required for the implementation and enforcement of the Medical Loss  
5 Ratio provisions *shall* be submitted to *I Liheslaturan Guåhan* by no later than sixty  
6 (60) days from the enactment of this Section, and as provided pursuant to Article 3,  
7 Chapter 9 [Administrative Adjudication Law], Division 1, Title 5, Guam Code  
8 Annotated.

9 (b) The Rules and Regulations established pursuant to this Section shall be  
10 codified under Chapter 2 of Title 12, Guam Administrative Rules and Regulations.

11 (c) Available funds from the Banking and Insurance Enforcement Fund may  
12 be expended for the purposes of this Section.”

13 **Section 6. Severability.** If any provision of this Act or its application to any  
14 person or circumstance is found to be invalid or contrary to law, such invalidity shall  
15 not affect other provisions or applications of this Act which can be given effect  
16 without the invalid provisions or application, and to this end the provisions of this  
17 Act are severable.

18 **Section 7. Effective Date.** This Act shall become immediately effective upon  
19 enactment.