

# The New York Times

## In Seeking Rate Increases in New York, Health Insurers Fight to Keep Secrets

By Nina Bernstein

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Major [health insurance](#) companies seeking steep premium increases in New York have submitted memos to state officials to justify the higher rates. Now they are fighting to keep the memos from the public, saying they include trade secrets that competitors could use against them.



“How these companies are setting these rates is vital for the public to know, and should not be treated like a state secret,” Benjamin M. Lawskey, the state superintendent of [financial services](#), said on Tuesday. “Transparency will promote healthy competition and enable the public to rigorously comment on proposed rates, two goals that all of us should favor.”

Mr. Lawskey, whose new agency oversees the state insurance division, has ordered that the memos be made public. His decision, which will go into effect by the end of November unless the companies obtain a court injunction, ends a longstanding policy that exempted the insurance companies from public access under a “trade secret” exception.

The decision followed a battle by a consumer advocacy coalition, [Health Care for All New York](#), which had first sought information for a policyholder in Queens who faced a 76 percent increase in his family’s [Emblem Health](#) premium. ([The fee was later raised by 270 percent.](#))

Michael Appleton for The New York Times  
Benjamin M. Lawskey oversees  
insurance in New York State

Last year, the then-State Insurance Department gained new power to reject rate increases proposed for about three million residents covered by individual and small-group policies. It has since been flooded with consumer protests over proposed premium increases, many of them double-digit percentages. The department does not control rates for customers in large-group plans.

In a typical message, an unemployed 61-year-old, informed that Aetna wanted to raise her \$1,932 monthly premium as much as 19.7 percent, wrote: “I worry every day how I will keep a roof over my head in the future. My teeth are all broken and I cannot afford to get them fixed because all my \$\$ is going to Aetna. So actually you could say that I am neglecting my health in order to be able to pay for my insurance.”

Aetna, like other carriers, has said premium increases are driven by the actual cost of health care. But consumer advocates dispute such assertions, while complaining that it is hard to challenge the increases without access to the company filings.

Mr. Lawskey’s decision would add New York to a list of at least 12 states that make insurance company filings public. It fits with an Obama administration effort, part of the federal [health care reform](#), to curb health care costs through more oversight and transparency when insurance rates are set.

The companies, notified of Mr. Lawskey's decision in late September, had 10 days to file objections. Two companies, Atlantis Health Plan and Humana, have not done so. But 10 others contended in letters last week that disclosure would provide competitors with an unfair advantage, possibly reducing competition and raising prices even higher.

"This matter is of critical importance to us," United Health/Oxford wrote Oct. 7, calling the information "proprietary." [Aetna](#) wrote that "public disclosure in this format will provide ready and easy access to comprehensive pricing, product and marketing strategies," and warned of "substantial and irreparable injury to Aetna." Another company, Independent Health, said it had spent "well over \$700,000 developing the trade secret documents" and estimated that the value of keeping them confidential was much higher.

Moreover, other companies argued, the filings are too technical to be understood by consumers.

"Several of the exhibits to the rate application as well as the actuarial memorandum contain not only trade secrets as noted above, but esoteric actuarial pricing precepts best understood by fellow actuaries and health plan competitors," Sean M. Doolan, a lawyer representing Excellus, Empire, Connecticut General, and Capital District Physicians' Health Plan wrote to state officials. "These documents, often speaking of concepts such as morbidity and anti-selection, could cause not only confusion, but also unnecessary alarm to the layman policyholder."

Elisabeth Benjamin, vice president for health initiatives at the [Community Service Society of New York](#) and a founder of [Health Care for All New York](#), a coalition of 100 groups working for more affordable medical care, called such concerns "patronizing" and noted that her coalition had hired its own actuaries.

"The only way the public will find out whether these outlandish price hikes are justified is if we can see the underpinnings," she said. "They would like to have us ignorant. What they are saying to us, by opposing the disclosure of why they think their rate increases are justified, is that they want to keep us uninformed consumers."

*This article has been revised to reflect the following correction:*

**Correction: October 11, 2011**

*An earlier version of this article misstated the date of Mr. Lawskey's decision to order the release of the insurance companies' data.*

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