



# STATE OF CONNECTICUT

## INSURANCE DEPARTMENT

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In the Matter of:

THE PROPOSED RATE INCREASE APPLICATION  
OF CONNECTICARE INSURANCE COMPANY, INC.

Docket No. LH 16-46

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### ORDER

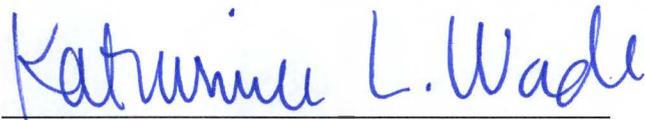
I, Katharine L. Wade, Insurance Commissioner of the State of Connecticut, having read the record in the above captioned matter, do hereby adopt the findings and recommendations of Jared Kosky, Hearing Officer, which are contained in the attached Proposed Final Decision, and issue the following orders, TO WIT:

1. The rate application filed by ConnectiCare Insurance Company, Inc. ("ConnectiCare"), to be effective January 1, 2017, for its individual off exchange plans are excessive and are hereby disapproved in accordance with General Statutes § 38a-481.
2. ConnectiCare is authorized to submit revised rates for review and they shall be approved if I, the Insurance Commissioner, find them to be consistent with the recommendations as set forth in the Proposed Final Decision issued by Jared Kosky, Hearing Officer, on September 2, 2016. ConnectiCare will recalculate its rates using the following recommended rate assumptions for rates effective January 1, 2017 and submit a revised rate filing to the

Insurance Department no later than September 7, 2016 to enable adequate notice to be issued to policyholders.

- Reduce the risk adjustment charge from \$76.81 pmpm to \$55.43 pmpm.

Dated at Hartford, Connecticut, this 2<sup>nd</sup> day of September, 2016.



Katharine L. Wade  
Katharine L. Wade  
Insurance Commissioner



**STATE OF CONNECTICUT**  
*INSURANCE DEPARTMENT*

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In the Matter of:

THE PROPOSED RATE INCREASE APPLICATION  
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**PROPOSED FINAL DECISION**

**I. INTRODUCTION**

On June 1, 2016, ConnectiCare Insurance Company, Inc. ("ConnectiCare" or "Applicant"), filed a rate application regarding the Applicant's individual rates for off exchange plans ("Application") with the Connecticut Insurance Department ("Department") pursuant to General Statutes § 38a-481. The Application was later amended on July 27, 2016 and on August 3, 2016. Although there is no statutory requirement that a rate hearing be held, on June 6, 2016, Insurance Commissioner Katharine L. Wade ("Commissioner") issued a notice of public hearing ordering that a public hearing be held on August 4, 2016 concerning the Application.

A copy of the Notice of Public Hearing was filed with the Office of the Secretary of the State on June 6, 2016, and was published on the Department's Internet website (the "Notice"). The Notice indicated that the Application was available for public inspection at the Department, and that the Department was accepting written statements concerning the Application. In accordance with § 38a-8-48 of the Regulations of Connecticut State Agencies, the Applicant was designated as a party to the proceeding.

On June 28, 2016, the Commissioner appointed the undersigned to serve as Hearing Officer in the proceeding.

On August 4, 2016, a public hearing on the Application was held before the undersigned (the "Hearing"). The following individuals testified at the Hearing on behalf of the Applicant: Eric Galvin, Chief Financial Officer, ConnectiCare; Neil Kelsey, Chief Actuary, ConnectiCare; Mary van der Heidje, Principal and Consulting Actuary, Milliman. Bradford S. Babbitt, Esq., of Robinson & Cole LLP, represented the Applicant.

The following Department staff participated in the Hearing: Paul Lombardo, ASA, MAAA, Life and Health Actuary and Kristin Campanelli, Esq., Legal Division counsel.

Pursuant to the Notice, the public was given an opportunity to speak at the Hearing and to submit written comments on the Application with respect to the issues to be considered by the Commissioner no later than the close of business August 4, 2016. The deadline for submission of written comment was extended at the Hearing to the close of business August 11, 2016. Six members of the public provided oral comment during the two public comment sessions at the Hearing. These members of the public were Lynne Ide, Universal Health Care Foundation of Connecticut; Alison Bliss, former policy holder; Dr. Elizabeth Keenan, CONECT; Anne Watkins, CONECT; Dr. Richard Duenas, Connecticut Chiropractic Association; and Mary Jennings, independent broker. Public comment by persons who are not parties "shall be given the same weight as legal argument."<sup>1</sup>

As of the close of the record for public comment, on August 11, 2016, there were over 210 written communications containing public comment, some from persons who also provided oral comment. Nearly all of the written comments were in opposition to the Application. The major theme in the opposition letters and oral comments was for

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<sup>1</sup>Regs., Conn. State Agencies § 38a-8-51 (b)

the reduction of the requested rate increases, if not an overall objection to ConnectiCare's Application. Opposition was premised on the proposed rate increases being unaffordable to consumers as well as ConnectiCare's profits, net income and its executives' salaries not justifying rate increases. Some of the written and oral comments included detailed descriptions of the hardship to consumers under ConnectiCare's existing rates and requested rate increases. There were also numerous comments critical of health insurers and health insurance rates in general.

At the conclusion of the hearing, ConnectiCare was directed to submit supplemental information no later than the close of business August 4, 2016. ConnectiCare timely submitted the supplemental information on August 4, 2016 and the record was closed on August 11, 2016.

## **II. FINDINGS OF FACT**

After reviewing the exhibits entered into the Hearing record, the testimony of witnesses, and utilizing the experience, technical competence and specialized knowledge of the Department, the undersigned makes the following findings of fact:

1. On June 1, 2016, ConnectiCare electronically filed the Application requesting an average increase of 24.3% (later increased on July 27, 2016 to 37.5%, and on August 3, 2016 to 42.7%) on the Applicant's individual rates for off exchange plans to be effective January 1, 2017.
2. The Application is a filing made by ConnectiCare based on the Connecticut statutory requirements and is applicable only to its off exchange individual health insurance products offered in Connecticut.
3. The Application included an Actuarial Certification by Shumei R. Kuo, FSA, MAAA, Director of Actuarial Services, which certified that the Application was compliant with state filing guidelines, actuarial standards, including specifically Actuarial Standards

of Practice No. 8, Regulatory Filings for Health Plan Entities (“ASOP 8”), and that data quality was reconciled to financial statements.

4. The following are illustrations provided by ConnectiCare in its Application:

a. ConnectiCare’s most recent historical financial experience applicable to the rate increase being requested:

<u>Calendar Year</u>	<u>Earned Premium (\$)</u>	<u>Incurred Claims (\$)</u>	<u>Loss Ratio</u>	<u>Members</u>
2011	8,410,245	4,864,060	57.8%	2,594
2012	15,244,772	10,353,405	67.9%	4,613
2013	25,109,377	17,465,822	69.6%	7,527
2014	86,552,454	80,051,733	92.5%	20,366
<u>2015</u>	<u>169,155,285</u>	<u>167,045,033</u>	<u>98.8%</u>	<u>39,341</u>
Total	\$304,472,134	\$279,780,053	91.9%	

b. ConnectiCare’s Unit Cost (\$) Trend:

				YE 2014	YE 2015
<u>Service</u>	<u>YE 2013</u>	<u>YE 2014</u>	<u>YE 2015</u>	<u>Trend</u>	<u>Trend</u>
Inpatient	5,246	4,674	5,289	-10.9%	13.2%
Outpatient	714	828	787	16.0%	-5.0%
<u>Professional</u>	<u>98</u>	<u>99</u>	<u>101</u>	<u>0.8%</u>	<u>2.2%</u>
Subtotal Medical	207	211	211	2.1%	-0.1%
<u>Retail Rx</u>	<u>48</u>	<u>65</u>	<u>72</u>	<u>36.4%</u>	<u>10.1%</u>
Total	150	155	158	3.4%	2.3%

c. ConnectiCare's Utilization/1,000 Trend:

<u>Service</u>	YE 2013	YE 2014	YE 2015	YE 2014	YE 2015
				Trend	Trend
Inpatient	168.3	200.2	188.2	18.9%	-6.0%
Outpatient	1,553.7	1,847.7	1,876.0	18.9%	1.5%
<u>Professional</u>	<u>15,072.0</u>	<u>18,141.4</u>	<u>18,568.6</u>	<u>20.4%</u>	<u>2.4%</u>
Subtotal Medical	16,794.0	20,189.3	20,632.9	20.2%	2.2%
<u>Retail Rx</u>	<u>9,417.0</u>	<u>12,708.1</u>	<u>12,550.2</u>	<u>34.9%</u>	<u>-1.2%</u>
Total	26,211.0	32,897.4	33,183.0	25.5%	0.9%

d. ConnectiCare's Allowed Per Member Per Month ("PMPM") (\$):

<u>Service</u>	YE 2013	YE 2014	YE 2015	YE 2014	YE 2015
				Trend	Trend
Inpatient	71.56	77.72	82.91	8.6%	6.7%
Outpatient	92.39	127.46	123.11	38.0%	-3.4%
<u>Professional</u>	<u>123.21</u>	<u>149.78</u>	<u>156.65</u>	<u>21.6%</u>	<u>4.6%</u>
Subtotal Medical	287.16	354.96	362.66	23.6%	2.2%
<u>Retail Rx</u>	<u>37.65</u>	<u>69.69</u>	<u>75.56</u>	<u>85.1%</u>	<u>8.4%</u>
Total	324.80	424.65	438.23	30.7%	3.2%

e. ConnectiCare's Net PMPM (\$):

<u>Service</u>	<u>YE 2013</u>	<u>YE 2014</u>	<u>YE 2015</u>	YE 2014	YE 2015
				Trend	Trend
Inpatient	67.27	72.24	77.67	7.4%	7.5%
Outpatient	71.36	97.87	92.72	37.1%	-5.3%
<u>Professional</u>	<u>83.22</u>	<u>101.23</u>	<u>107.61</u>	<u>21.6%</u>	<u>6.3%</u>
Subtotal Medical	221.86	271.33	278.00	22.3%	2.5%
<u>Retail Rx</u>	<u>22.54</u>	<u>51.29</u>	<u>59.58</u>	<u>127.6%</u>	<u>16.1%</u>
Total	244.40	322.63	337.58	32.0%	4.6%

Below is first quarter 2015 compared to first quarter 2016 by ConnectiCare:

f. ConnectiCare's Unit Cost (\$) Trend:

<u>Service</u>	<u>2015Q1</u>	<u>2016Q1</u>	2016Q1
			Trend
Inpatient	5,129	5,575	8.7%
Outpatient	789	830	5.3%
<u>Professional</u>	<u>101</u>	<u>102</u>	<u>1.1%</u>
Subtotal Medical	212	239	12.8%
<u>Retail Rx</u>	<u>65</u>	<u>75</u>	<u>14.6%</u>
Total	155	178	14.8%

g. ConnectiCare's Utilization/1,000 Trend:

			2016Q1
<u>Service</u>	<u>2015Q1</u>	<u>2016Q1</u>	<u>Trend</u>
Inpatient	176.1	286.5	62.7%
Outpatient	1,687.0	1,905.1	12.9%
<u>Professional</u>	<u>16,559.9</u>	<u>19,369.0</u>	<u>17.0%</u>
Subtotal Medical	18,423.0	21,560.5	17.0%
<u>Retail Rx</u>	<u>11,656.4</u>	<u>12,757.1</u>	<u>9.4%</u>
Total	30,079.4	34,317.6	14.1%

h. ConnectiCare's Allowed PMPM (\$):

			2016Q1
<u>Service</u>	<u>2015Q1</u>	<u>2016Q1</u>	<u>Trend</u>
Inpatient	75.25	133.10	76.9%
Outpatient	110.88	131.83	18.9%
<u>Professional</u>	<u>139.60</u>	<u>165.06</u>	<u>18.2%</u>
Subtotal Medical	325.73	429.98	32.0%
<u>Retail Rx</u>	<u>63.24</u>	<u>79.30</u>	<u>25.4%</u>
Total	388.97	509.28	30.9%

i. ConnectiCare's Net PMPM (\$):

		2016Q1		
<u>Service</u>	<u>2015Q1</u>	<u>2016Q1</u>		<u>Trend</u>
Inpatient	69.51	125.08		80.0%
Outpatient	73.72	89.44		21.3%
<u>Professional</u>	<u>80.45</u>	<u>93.02</u>		<u>15.6%</u>
Subtotal Medical	223.68	307.54		37.5%
<u>Retail Rx</u>	<u>40.77</u>	<u>52.49</u>		<u>28.7%</u>
Total	264.44	360.03		36.1%

j. ConnectiCare's Summary of Trend Assumptions per the Application:

<u>Category</u>	<u>Utilization Per 1,000</u>	<u>Gross Unit Cost</u>	<u>Gross PMPM</u>	<u>Leveraging Impact</u>	<u>Pricing Trend</u>
Inpatient	7.2%	5.2%	12.7%	0.4%	13.2%
Outpatient	6.1%	3.8%	10.1%	1.6%	11.9%
Physician	4.3%	1.0%	5.4%	0.1%	5.5%
Rx	5.2%	6.3%	11.8%	3.7%	15.9%

Pricing trend assumed by ConnectiCare in its Application is 10.9%.

5. The Applicant evaluated its trends using a ground-up historical review where utilization and allowed unit cost information are analyzed over a three to five year period of time. This information was then used with information from the Applicant's Network Operations staff to develop the prospective trends.

6. The mandated benefits in the Application have been separately identified in the rate development. See Exhibit 1, within the Application, for the price build-up. Per ConnectiCare, the benefits comply with provisions of the Affordable Care Act (“ACA”)<sup>2</sup>, including Essential Health Benefits (“EHB”) therein.
7. Retention from the most recent statutory blank is 15.8%; retention charge used in the Application is 16.1%.
8. Per the Application, the expected medical loss ratio (“MLR”) for this filing is 83.9%. The anticipated loss ratio for Federal MLR Rebate purposes is 88.5%.
9. The 2016 ACA fees for the Applicant, as noted in the Application, are as follows:
  - Patient Centered Outcomes Research Fee: \$0.20 pmpm
  - Transitional Reinsurance Program: N/A
  - Health Insurer Fee: N/A
  - Administrative cost of the Risk Adjustment Program is \$0.13 pmpm.
10. The Applicant’s capital and surplus, as of December 31, 2015, is \$66,531,587, as identified in ConnectiCare’s 2015 Annual Statement filed with the Department.
11. The starting rates for this Individual Off-Exchange product were developed as follows: The experience for this Policy form (Individual Off-Exchange) was based on the existing non-grandfathered Individual risk pool of the Applicant, using the incurred period January 2015 through December 2015, paid through March 2016. Appropriate completion factors were then applied and the claims were trended at an average annual trend (including leveraging) of 10.90% for 24 months. Non-Fee for Service (“FFS”) costs and the impact of Health Care Reform, in general, are

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<sup>2</sup>Patient Protection and Affordable Care Act, 42 U.S.C. § 18001, et seq. (2010).

included. The projected claims were also normalized for average Age, Benefit and Area factors to develop the proposed base rate in the Application.

### III. DISCUSSION

General Statutes § 38a-481 provides that individual health insurance rates must be filed with the commissioner. The commissioner may disapprove such rates if the rates are found to be excessive, inadequate or unfairly discriminatory.<sup>3</sup> These terms are not defined in § 38a-481 but are defined by § 38a-481-1 of the Regulations of Connecticut Agencies which provides in part:

As used in Sections 38a-481-1 to 38a-481-9, inclusive, of the Regulations of Connecticut State Agencies, unless the context otherwise requires: ... (3) "Excessive rate" means the rate is unreasonably high for the insurance provided .... (6) "Inadequate rate" means a rate that is unreasonably low for the insurance provided, and continued use of it would endanger solvency of the insurer .... (11) "Unfairly discriminatory" means rating practices that reflect differences based on age, disability, race, ethnicity, gender, sexual orientation or health status that are not actuarially justified or otherwise prohibited by law.

These definitions are consistent with those found for the same terms in another statute dealing with rate filings within the insurance statutes (Title 38a). General Statutes § 38a-665, which addresses rates pertaining to commercial risk insurance provides in relevant part:

Rates shall not be excessive or inadequate, as herein defined, nor shall they be unfairly discriminatory. No rate shall be held to be excessive unless (1) such rate is unreasonably high for the insurance provided or (2) a reasonable degree of competition does not exist in the area with respect to the classification to which such rate is applicable. No rate shall be held inadequate unless (A) it is unreasonably low for the insurance provided, and (B) continued use of it would endanger solvency of the insurer, or unless (C) such rate is unreasonably low for the insurance provided and the use of such rate by the insurer using same has, or, if continued, will have the effect of destroying competition or creating a monopoly.<sup>4</sup>

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<sup>3</sup>See General Statutes § 38a-481 (b), and Regs. Conn. State Agencies § 38a-481-7 (e).

<sup>4</sup>General Statutes § 38a-665 (a).

With the definitions noted above, along with actuarial standards of practice for health insurance, the Department uses the following standards for the review of health insurance rate filings.

- The Department deems rates excessive if they are unreasonably high in relation to the benefits provided and the underlying risks.
- Rates are deemed inadequate if they are unreasonably low in relation to the benefits provided and the underlying risks, and continued use of it would endanger the solvency of the insurer.
- Rates would be deemed unfairly discriminatory if the methodology to develop the rates is not actuarially sound and is not applied in a fairly consistent manner so that resulting rates were not reasonable in relation to the benefits and underlying risks.
- The actuarial review of the Application to determine if the rates are reasonable, i.e. not excessive, inadequate or unfairly discriminatory, must be in compliance with ASOP 8 issued by the Actuarial Standards Board of the American Academy of Actuaries.

A primary concern raised by numerous members of the public is that the applied for increases would not be affordable for the renewing policyholders. As one commenter noted, “unaffordable health insurance is a more expensive version of being uninsured for some people.”<sup>5</sup> Affordability, however, is relative to each person and subjective, and although of overall concern, is not a standard for rate review within the statute or actuarial standards of practice. Public officials and members of the general public also argued that ConnectiCare’s profits, net income and its executives’ salaries

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<sup>5</sup>Hrg. Transcr. 14:14-16 (August 4, 2016).

cannot justify any such rate increases. Furthermore, a portion of comments suggested that ConnectiCare was well aware that the federal government's transition reinsurance program for the individual market would be ending and that it is being opportunistic by using that event to justify the increases being requested.

As previously stated, under § 38a-481, the Department is required to evaluate any proposed rate increase based on whether, from an actuarial perspective, it is excessive, inadequate or unfairly discriminatory. Without the affirmative act of the Connecticut General Assembly to amend or replace the statute and include either, or both, an affordability standard or insurer net income standard, they will remain issues the Department cannot consider in its health insurance rate filing reviews.

To determine if the rates filed by ConnectiCare are reasonable in relation to the benefits provided, the Department's actuarial staff completed an actuarial analysis to review the experience, assumptions and projections used in the Application. Since this filing incorporates all the new rating requirements of the ACA, the Department used criteria set forth in the latest U.S. Department of Health and Human Services ("HHS") rate regulations as a template for review along with previously issued Connecticut Insurance Department Notices<sup>6</sup> that discuss the requirements for rate filings.

The Department reviewed the 10.9% annual trend assumption used in the Application and believes that based upon the experience data submitted this assumption is appropriate.

ConnectiCare estimated the cost of the Tomosynthesis mandate as \$1.38 pmpm. Based on the information provided, this estimate appears to be reasonable.

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<sup>6</sup>CID Notice: Filing Requirements for Individual and Small Employer Group Health Insurance Policies Subject to ACA (March 7, 2016). <http://www.ct.gov/cid/lib/cid/LH-FilingRequirementSubjectToACA.pdf>.

CID Notice: Health Insurance Rate Filing Submission Guidelines (March 7, 2016). <http://www.ct.gov/cid/lib/cid/LH-HealthInsuranceRateFilingSubmissionGuidelines.pdf>.

The Department reviewed the June 30, 2016 Center for Consumer Information and Insurance Oversight ("CCIIO") Reinsurance and Risk Adjustment report for Connecticut. Based on this report, ConnectiCare paid out \$26,170,707.17 in risk adjustment payments for the individual market, which equates to \$55.43 pmpm. The Department believes the net risk adjustment of \$76.81 pmpm is excessive and should be reduced to \$55.43 pmpm for 2017.

Based upon the federal MLR of 88.5%, the Department believes that the proposed pricing supports the federally required 80% loss ratio for individual business.

#### **IV. CONCLUSION AND RECOMMENDATION**

Based on the foregoing and the Hearing record, the undersigned concludes that the rates filed by ConnectiCare, to be effective January 1, 2017, are excessive pursuant to § 38a-481 and recommends that the Insurance Commissioner disapprove the rate increases requested in the Application. The undersigned recommends that the Commissioner accept the following changes to the rating assumptions for the Applicant's rates effective January 1, 2017:

- Reduce the risk adjustment charge from \$76.81 pmpm to \$55.43 pmpm

Accordingly, the undersigned recommends that the Insurance Commissioner order ConnectiCare to recalculate the rates using the recommended revised risk adjustment charge with an effective date of January 1, 2017, and submit a revised rate filing to the Department no later than September 7, 2016.

Dated at Hartford, Connecticut, this 2<sup>nd</sup> day of September, 2016.

  
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Jared T. Kosky, Esq.  
Hearing Officer