

**NOTICE OF PROPOSED RULEMAKING HEARING**

**NOTICE IS HEREBY GIVEN** that New Mexico Health Connections (NMHC), a New Mexico domiciled insurer, has petitioned the New Mexico Office of Superintendent of Insurance (“OSI”) requesting the promulgation of a new rule. Accordingly, the OSI is initiating rulemaking proceedings in accordance with the statutory requirements and authority found in Section 12-8-7 NMSA 1978 and Sections 59A-2-8, 59A-2-9 and 59A-2-10 NMSA 1978.

In its petition, NMHC “requests the OSI take action to ameliorate the disastrous effect of the federal risk adjustment program by either: (1) requesting permission from the United States Department of Health and Human Services to run a state alternative risk adjustment program which would cap risk adjustment assessments at a prescribed percentage of an issuer’s premium; or (2) promulgating a rule that would permit the OSI, in its discretion, to suspend or defer federal risk adjustment assessments in the event such assessments pose significant financial threats to issuers.” NMHC states that such action would “limit the volatility of the program and allow issuers greater predictability in rate-setting, which should permit issuers to reduce premiums that have been priced high to guard against the risk of unpredictably large risk adjustment bills”. Additionally, NMHC states that such action “can also incentivize new entry, as investors will have some assurance that the company’s reserves will not be wiped out by one excessive risk adjustment charge”.

The petition and the proposed rule may be found on the OSI website at <http://www.osi.state.nm.us> under the “Statutes & Rulemaking” tab and is incorporated by reference into this Notice of Proposed Rulemaking. The proposed rule designation is 13.10.31 NMAC. A copy of the petition and the proposed rule is available by electronic download from the OSI website or the New Mexico Sunshine portal, or by requesting a copy in person at the NM Office of Superintendent of Insurance, 1120 Paseo de Peralta, Santa Fe, NM 87501.

The Superintendent of the OSI (“Superintendent”) will hold a public comment hearing on the proposed rule beginning at **10:00 a.m. on Monday, October 29, 2018** at the NM Office of Superintendent of Insurance, 4th Floor Hearing Room, Old PERA Building, 1120 Paseo de Peralta, Santa Fe, New Mexico. The Superintendent or his designee shall act as the hearing officer for this rulemaking.

OSI staff, all health insurers, other persons transacting insurance business in New Mexico, and members of the public are encouraged to provide comments or file any written proposals or comments according to the criteria and schedule set forth as follows:

Oral comments will be accepted at the public hearing from any interested parties including, but not limited to NMHC and the staff of the OSI Life and Health Insurance Bureau. Written comments may be submitted for the record prior to the hearing and are due no later than **4:00 p.m. on Friday, October 19, 2018**. Written responses may be submitted for the record following the hearing and are due no later than 4:00 pm on **Friday, November 2, 2018**.

Written comments, proposals, or responsive comments may be submitted via email to [mariano.romero@state.nm.us](mailto:mariano.romero@state.nm.us) or may be filed by sending original copies to:

OSI Records and Docketing, NM Office of Superintendent of Insurance  
Attention: Mariano Romero, Room 331

1120 Paseo de Peralta, P.O. Box 1689, Santa Fe, NM 87504-1689     **Docket No.: 18-00050-RULE-LH**

Only signed statements, proposals or comments will be accepted. Scanned or facsimile signatures or electronic signatures conforming to federal and state court requirements will be accepted with the understanding that if there is any dispute regarding a signature, OSI reserves the right to require that original signatures be provided to verify the electronic or facsimile signature. All filings must be received between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except on state holidays. Any filings received after 4:00 p.m. will be filed to the docket the next business day.

Any person with a disability requiring special assistance in order to participate in the hearing should contact Melissa Martinez, Law Clerk, Office of General Counsel, at 505-476-0333 at least 48 hours prior to the commencement of the hearing.

The Superintendent will consider all oral comments, and will review all timely submitted written comments and responses. The record shall be closed at **4:00 p.m. on Friday, November 2, 2018.**

DONE AND ORDERED this 25<sup>th</sup> day of September, 2018.  
/S/JOHN G. FRANCHINI