

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 37 Session of 2009

INTRODUCED BY GREENLEAF, FONTANA, WILLIAMS, BROWNE, RAFFERTY,
EARLL AND O'PAKE, JANUARY 20, 2009

REFERRED TO BANKING AND INSURANCE, JANUARY 20, 2009

AN ACT

1 Amending the act of June 26, 2001 (P.L.755, No.77), entitled "An
2 act establishing a special fund and account for money
3 received by the Commonwealth from the Master Settlement
4 Agreement with tobacco manufacturers; providing for home and
5 community-based care, for tobacco use prevention and
6 cessation efforts, for Commonwealth universal research
7 enhancement, for hospital uncompensated care, for health
8 investment insurance, for medical assistance for workers with
9 disabilities, for regional biotechnology research centers,
10 for the HealthLink Program, for community-based health care
11 assistance programs, for PACE reinstatement and PACENET
12 expansion, for medical education loan assistance and for
13 percentage allocation and appropriation of moneys," in health
14 investment insurance, adding definitions, expanding adult
15 basic coverage insurance; and providing for a health
16 insurance tax credit for small employers.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Section 1302 of the act of June 26, 2001 (P.L.
20 755, No.77), known as the Tobacco Settlement Act, is amended by
21 adding definitions to read:

22 Section 1302. Definitions.

23 The following words and phrases when used in this chapter
24 shall have the meanings given to them in this section unless the
25 context clearly indicates otherwise:

1 * * *

2 "Qualified adult." A person who is self-employed or an
3 active employee of a small employer, and at least 19 years of
4 age, but less than 65 years of age and whose household income
5 exceeds 200% of the Federal poverty level at the time of
6 eligibility determination.

7 "Small employer." A person, firm, corporation, partnership
8 or association which employed, on at least 50% of its working
9 days during the preceding year, at least two but not more than
10 50 employees.

11 Section 2. The act is amended by adding sections to read:
12 Section 1305. Qualified adults and small employers.

13 (a) Eligibility.--A qualified adult shall be eligible to
14 purchase adult basic coverage insurance if the qualified adult
15 has not been covered by a health insurance plan, a self-
16 insurance plan or a self-funded plan during the three months
17 immediately preceding the determination of eligibility. In
18 addition, a small employer shall be eligible to purchase adult
19 basic coverage insurance if it has not provided health insurance
20 coverage, directly or indirectly, to qualified adults anytime
21 during the 12 months immediately preceding the determination of
22 eligibility.

23 (b) Payment.--A qualified adult or small employer seeking to
24 purchase adult basic coverage insurance shall:

25 (1) Submit an application to the department.

26 (2) Be responsible for any required copayments for
27 health care services rendered under the benefit package in
28 section 1303(f) (2).

29 (3) Pay the cost of the adult basic coverage insurance
30 actually incurred by the department or its contractors.

1 Section 1306. Small employer health insurance tax credit.

2 (a) Credit for health insurance expense.--

3 (1) A taxpayer who incurs a qualified health insurance
4 expense in a taxable year may apply for a health insurance
5 premium tax credit as provided in this section. By September
6 15, a taxpayer must submit an application to the department
7 for a qualified health insurance expense incurred in the
8 taxable year that ended in the prior calendar year.

9 (2) A taxpayer that is eligible under paragraph (1)
10 shall receive a health insurance premium tax credit for the
11 taxable year in an amount up to \$30,000 per small employer.

12 (3) By December 15 of the calendar year following the
13 close of the taxable year during which a qualified health
14 insurance expense was incurred, the department shall notify
15 the taxpayer of the amount of the taxpayer's health insurance
16 tax credit approved by the department.

17 (b) Carryover, carryback, refund and assignment of credit.--

18 (1) If a taxpayer cannot use the entire amount of the
19 health insurance tax credit for the taxable year in which the
20 health insurance tax credit is first approved, then the
21 excess may be carried over to succeeding taxable years and
22 used as a credit against the qualified tax liability of the
23 taxpayers for those taxable years. Each time that the health
24 insurance tax credit is carried over to a succeeding taxable
25 year, it shall be reduced by the amount that was used as a
26 credit during the immediately preceding taxable year. The
27 health insurance tax credit provided by this section may be
28 carried over and applied to succeeding taxable years for no
29 more than 15 taxable years following the first taxable year
30 for which the taxpayer was entitled to claim the credit.

1 (2) A health insurance tax credit approved by the
2 department for a qualified health insurance expense in a
3 taxable year first shall be applied against the taxpayer's
4 qualified tax liability for the current taxable year as of
5 the date on which the credit was approved before the health
6 insurance tax credit is applied against any tax liability
7 under paragraph (1).

8 (3) A taxpayer is not entitled to carry back or obtain a
9 refund of an unused health insurance tax credit.

10 (c) Determination of qualified health insurance expenses.--
11 The department shall require the documentation it deems
12 necessary to determine which health insurance expense is to be
13 deemed a qualified health insurance expense for purposes of
14 computing the credit provided by this section.

15 (d) Pennsylvania S corporation shareholder pass-through.--

16 (1) If a Pennsylvania S corporation does not have an
17 eligible tax liability against which the health insurance tax
18 credit may be applied, a shareholder of the Pennsylvania S
19 corporation is entitled to a health insurance tax credit
20 equal to the health insurance tax credit determined for the
21 Pennsylvania S corporation for the taxable year multiplied by
22 the percentage of the Pennsylvania S corporation's
23 distributive income to which the shareholder is entitled.

24 (2) The credit provided under paragraph (1) is in
25 addition to any health insurance tax credit to which a
26 shareholder of a Pennsylvania S corporation is otherwise
27 entitled under the act of March 4, 1971 (P.L.6, No.2), known
28 as the Tax Reform Code of 1971. However, a Pennsylvania S
29 corporation and a shareholder of a Pennsylvania S corporation
30 may not claim a credit under this section for the same

1 qualified health insurance expense.

2 (e) Report to General Assembly.--

3 (1) The secretary shall submit an annual report to the
4 General Assembly indicating the effectiveness of the credits
5 provided by this section no later than March 15 following the
6 year in which the credits were approved. The report shall
7 include the names of all taxpayers utilizing the credits as
8 of the date of the report and the amount of credits approved
9 and utilized by each taxpayer.

10 (2) The report may also include any recommendations for
11 changes in the calculation or administration of the credits.
12 Notwithstanding any law providing for the confidentiality of
13 tax records, the information contained in the report shall be
14 public information.

15 (f) Definitions.--As used in this section, the following
16 words and phrases shall have the meanings given to them in this
17 subsection:

18 "Department." The Department of Revenue of the Commonwealth.

19 "Qualified health insurance expense." Fifty percent of the
20 expense incurred by a small employer in purchasing adult basic
21 coverage insurance for qualified adults.

22 "Qualified tax liability." The liability for taxes imposed
23 under Article III, IV or VI of the act of March 4, 1971 (P.L.6,
24 No.2), known as the Tax Reform Code of 1971.

25 "Secretary." The Secretary of Revenue of the Commonwealth.

26 "Tax credit." The health insurance tax credit authorized
27 under this section.

28 "Taxpayer." An employer that is liable for taxes under
29 Article III, IV or VI of the act of March 4, 1971 (P.L.6, No.2),
30 known as the Tax Reform Code of 1971. The term shall include the

1 shareholder of a Pennsylvania S corporation that receives a
2 health insurance tax credit.

3 Section 3. This act shall take effect in 60 days.