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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**

**No. 1597** Session of  
1995

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INTRODUCED BY SCRIMENTI, BELFANTI, WALKO, YOUNGBLOOD, BELARDI,  
PISTELLA, BOSCOLA, TRELLO, CAPPABIANCA, MERRY AND RAMOS,  
MAY 9, 1995

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REFERRED TO COMMITTEE ON INSURANCE, MAY 9, 1995

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AN ACT

1 Providing for the issuance of health insurance at an affordable  
2 level for small employer groups, for the rating of basic  
3 small group insurance plans, for renewability of coverage,  
4 for limits on preexisting condition provisions and for review  
5 of the reforms.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Small  
10 Business Health Insurance Reform Act.

11 Section 2. Legislative findings and declaration of policy.

12 The General Assembly finds and declares as follows:

13 (1) There are approximately 1,000,000 persons in this  
14 Commonwealth without health insurance. Approximately two-  
15 thirds of the uninsured population are employed persons or  
16 dependents of employed persons.

17 (2) The working uninsured in this Commonwealth tend to  
18 be employed by small businesses.

19 (3) Several factors, such as cost shifting, high premium

1 costs and underwriting and rating practices, have made health  
2 insurance coverage prohibitively expensive for small employer  
3 groups.

4 (4) The Commonwealth should initiate measures to enhance  
5 the affordability of health insurance for small employer  
6 groups.

7 Section 3. Definitions.

8 The following words and phrases when used in this act shall  
9 have the meanings given to them in this section unless the  
10 context clearly indicates otherwise:

11 "Basic small group insurance plan." A policy or subscription  
12 contract which an insurer may choose to offer to a small  
13 employer group. The term does not include a policy or  
14 subscription contract offered by an association made up entirely  
15 or in part by small employer groups.

16 "Commissioner." The Insurance Commissioner of the  
17 Commonwealth.

18 "Community rate." A means of determining premium rates for  
19 basic small group insurance plans by placing all beneficiaries  
20 of such policies into one large group, actuarially projecting  
21 the claims of the group and setting premium rates accordingly.

22 "Department." The Insurance Department of the Commonwealth.

23 "Dependent children." Includes the natural and adopted  
24 children of the employee. The term may include stepchildren  
25 residing in the household if the employee has assumed the  
26 financial responsibility for the child and another parent is not  
27 legally responsible for support for and medical expenses of the  
28 child.

29 "Eligible dependent." Includes only spouses of employees and  
30 dependent children under 19 years of age.

1 "Insurer." An insurer, health maintenance organization,  
2 fraternal benefit society, hospital plan or health services plan  
3 corporation offering basic small group insurance plans to small  
4 employers.

5 "Preexisting condition provision." A policy provision that  
6 excludes or limits coverage for charges or expenses incurred  
7 during a specified period following the insured's effective date  
8 of coverage as to a condition which, during a specified period  
9 immediately preceding the effective date of coverage, had  
10 manifested itself in a manner that would cause an ordinarily  
11 prudent person to seek medical advice, diagnosis, care or  
12 treatment or for which medical advice, diagnosis, care or  
13 treatment was recommended or received.

14 "Qualified individual." Any person employed by a small  
15 employer who is an active employee or eligible dependent.

16 "Small employer." A person, firm, corporation, partnership  
17 or association which employed, on at least 50% of its working  
18 days during the preceding year, at least two but not more than  
19 50 employees.

20 "Small employer group." A group composed of qualified  
21 individuals.

22 Section 4. Issuance of basic small group insurance plans.

23 (a) General rule.--Insurers are authorized to issue basic  
24 small group insurance plans to small employer groups.

25 (b) Eligibility.--A small employer group shall be eligible  
26 to elect a basic small group insurance plan only if the small  
27 employer has not provided health insurance coverage, directly or  
28 indirectly, to qualified individuals within the group anytime  
29 during the immediately preceding 12-month period.

30 (c) Coverage.--Basic small group insurance plans may be

1 offered without regard to coverage mandated for group accident  
2 and health insurance policies under section 632 and Article VI-A  
3 of the act of May 17, 1921 (P.L.682, No.284), known as The  
4 Insurance Company Law of 1921, and the act of August 1, 1975  
5 (P.L.157, No.81), entitled "An act providing for the health and  
6 welfare of newborn children and their parents by regulating  
7 certain health insurance coverage for newborn children." In  
8 devising basic small group insurance plans, insurers are  
9 encouraged to offer a basic level of primary care and may offer  
10 preventive care. Such plans may also include managed care  
11 provisions to control the cost of a basic small group insurance  
12 plan. Nothing in this act prohibits an insurer from offering  
13 different tiers of basic small group insurance plans which  
14 provide different levels of benefits or from offering benefits  
15 in addition to those offered under the basic small group  
16 insurance plan and charging an additional premium accordingly.  
17 Section 5. Rating of basic small group insurance plans.

18 (a) General rule.--In determining the premium rates to be  
19 charged for basic small group insurance plans, insurers shall  
20 establish a community rate. This community rate shall be based  
21 strictly on the utilization of people in the new basic small  
22 group insurance plans and not combined with any other currently  
23 existing community rated plan's experience. Premium rates for  
24 basic small group insurance plans shall be calculated annually  
25 and trended monthly for all new and renewing groups. The rates  
26 shall not be based on a small employer group's own health claims  
27 experience nor on the small employer group's own demographic  
28 characteristics.

29 (b) Inclusion of all members in small employer group.--If an  
30 insurer elects to offer a basic small group insurance plan to a

1 small employer group, it shall not exclude from coverage any  
2 qualified individual within that group. This requirement shall  
3 also apply to eligible dependents if the small employer elects  
4 to extend coverage to them.

5 Section 6. Renewability of coverage.

6 Basic small group insurance plans shall be renewable at the  
7 option of the small employer except for any of the following  
8 reasons:

9 (1) Nonpayment of required premiums.

10 (2) Fraud or misrepresentation of the small employer or,  
11 with respect to coverage of an insured individual, fraud or  
12 misrepresentation by the insured individual or the  
13 individual's representative.

14 (3) Noncompliance with plan provisions, including  
15 provisions regarding minimum numbers of or percentages of  
16 insureds.

17 (4) When the insurer ceases doing business in the small  
18 employer market, provided that all of the following  
19 conditions are met:

20 (i) Notice of the decision to cease doing business  
21 in the small employer market is provided to the  
22 department and the small employer.

23 (ii) Basic small group insurance plans shall not be  
24 canceled by the insurer for one year after the date of  
25 the notice required under subparagraph (i) unless the  
26 business is sold to another insurer.

27 (iii) An insurer that ceases to do business in the  
28 small employer marketplace is prohibited from reentering  
29 the small employer marketplace for a period of five years  
30 from the date of the notice required under subparagraph

1 (i).

2 Section 7. Preexisting condition provisions.

3 (a) General rule.--If an insurer applies a preexisting  
4 condition provision to coverage under a basic small group  
5 insurance plan, the provision shall not exclude or limit  
6 coverage for a period beyond six months following the  
7 individual's effective date of coverage and may only relate to  
8 conditions during the 12 months immediately preceding the  
9 effective date of coverage.

10 (b) Exception.--An insurer shall not apply a preexisting  
11 condition provision to an individual who has been continually  
12 insured. For the purposes of this section, "continually insured"  
13 shall mean having had health insurance coverage, whether  
14 individual or group coverage, continuously for the preceding 12-  
15 month period. An individual shall be considered continually  
16 insured even if his coverage has been interrupted by a period of  
17 temporary unemployment, including, but not limited to, changing  
18 of jobs and temporary layoffs, so long as the period of  
19 temporary unemployment has not exceeded a period of six months  
20 in the preceding 12-month period.

21 Section 8. Review of reforms.

22 (a) Appointment of panel.--Five years from the effective  
23 date of this act, the commissioner shall appoint a review panel  
24 to study the effects of this act on the small employer group  
25 insurance marketplace. Whenever appointing members to the panel,  
26 the commissioner shall ensure that the members represent the  
27 diverse interests in the small employer group insurance  
28 marketplace.

29 (b) Review by panel.--In its study of the effects of this  
30 act, the panel shall consider the following:

1           (1) The impact of the reforms on the uninsured rate in  
2 this Commonwealth and specifically on the rate of uninsured  
3 persons who are employed or dependents of unemployed persons.

4           (2) The number of small businesses that lacked health  
5 insurance coverage prior to enactment of this act but since  
6 obtained coverage.

7           (3) The number of insurers who established and offered  
8 basic small group insurance plans.

9           (4) The need for further reforms in the small employer  
10 group insurance marketplace.

11           (5) Any additional aspects of the issue which the panel  
12 deems relevant to consider.

13       (c) Report of panel.--The panel shall report its findings  
14 and make recommendations as appropriate to the commissioner, the  
15 Governor and the General Assembly within 18 months of its  
16 appointment by the commissioner.

17 Section 9. Effective date.

18       This act shall take effect in 60 days.