

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1892 Session of
2003

INTRODUCED BY VANCE, MICOZZIE, ROSS, DeLUCA, ADOLPH, BARRAR,
BASTIAN, BELFANTI, BUNT, CAPPELLI, CLYMER, CRAHALLA,
CREIGHTON, CURRY, DALLY, EACHUS, D. EVANS, FAIRCHILD,
FICHTER, FLEAGLE, FREEMAN, GABIG, GEORGE, GINGRICH, GORDNER,
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ROONEY, RUBLEY, SCAVELLO, SCHRODER, SEMMEL, SHANER, B. SMITH,
SOLOBAY, STEIL, TANGRETTI, E. Z. TAYLOR, THOMAS, TIGUE,
WANSACZ, WASHINGTON, WATERS, WATSON, YOUNGBLOOD AND YUDICHAK,
AUGUST 4, 2003

REFERRED TO COMMITTEE ON INSURANCE, AUGUST 4, 2003

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An
2 act relating to insurance; amending, revising, and
3 consolidating the law providing for the incorporation of
4 insurance companies, and the regulation, supervision, and
5 protection of home and foreign insurance companies, Lloyds
6 associations, reciprocal and inter-insurance exchanges, and
7 fire insurance rating bureaus, and the regulation and
8 supervision of insurance carried by such companies,
9 associations, and exchanges, including insurance carried by
10 the State Workmen's Insurance Fund; providing penalties; and
11 repealing existing laws," providing for basic health benefit
12 plans.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. The act of May 17, 1921 (P.L.682, No.284), known
16 as The Insurance Company Law of 1921, is amended by adding an
17 article to read:

18 ARTICLE XXII

1 BASIC HEALTH BENEFIT PLAN

2 Section 2201. Scope.

3 This act relates to any health benefit plan offered by an
4 insurance carrier that provides insurance coverage to employees
5 of a small employer.

6 Section 2202. Definitions.

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

10 "Association." A bona fide trade, industry, professional or
11 chamber of commerce membership group that makes health insurance
12 coverage available to its members, whether they be individual
13 members, small employer members or large group members. To
14 qualify as an association, membership may not be conditioned on
15 health status nor may annual membership dues or fees be based on
16 health status or limited to the cost of selected health benefit
17 plans.

18 "Carrier." A health insurance entity licensed in this
19 Commonwealth to issue group health insurance, subscriber
20 contracts, certificates or plans which provide medical or health
21 care coverage by a health care facility or licensed health care
22 provider which is offered or governed under this act or any of
23 the following:

24 (1) The act of December 29, 1972 (P.L.1701, No.364),
25 known as the Health Maintenance Organization Act.

26 (2) The act of May 18, 1976 (P.L.123, No.54), known as
27 the Individual Accident and Sickness Insurance Minimum
28 Standards Act.

29 (3) A nonprofit corporation subject to 40 Pa.C.S. Chs.
30 61 (relating to hospital plan corporations) and 63 (relating

1 to professional health services plan corporations).

2 "Commissioner." The Insurance Commissioner of the
3 Commonwealth.

4 "Community rating." A method used to develop a carrier's
5 premium that spreads financial risk equally across the carrier's
6 small group population. The community-rated premium rate charged
7 by a carrier may be based on a geographic community's rate
8 experience for small group policies. In developing the
9 geographic rating factor for a community, counties are the
10 smallest rating territory.

11 "Eligible employee." An employee who works on a full-time
12 basis with a normal work week of 30 or more hours. The term
13 shall also include an employee who, at the employer's
14 discretion, works on a full-time basis with a normal work week
15 of at least 17.5 hours if this eligibility criterion is applied
16 uniformly among all of the employer's employees and without
17 regard to a health status-related factor. The term includes, but
18 is not limited to, a self-employed individual, a sole proprietor
19 and a partner of a partnership, and may include an independent
20 contractor if the self-employed individual, sole proprietor,
21 partner of a partnership or independent contractor is included
22 as an employee under the health benefit plan of the employer.
23 The term does not include an employee who works on a temporary
24 or substitute basis or who works less than 17.5 hours per week.

25 "Health benefit plan." A hospital or medical expense
26 insurance policy that is offered, executed, issued, renewed or
27 delivered by a carrier for medical care for a subscriber. The
28 term shall not include one or more of the following:

29 (1) Accident only.

30 (2) Limited benefit.

1 (3) Credit.

2 (4) Long-term or disability income.

3 (5) Specified disease.

4 (6) Medicare supplement.

5 (7) Civilian Health and Medical Program of the Uniformed
6 Services (CHAMPUS) supplement.

7 (8) Workers' compensation.

8 (9) Automobile medical payment.

9 "Health status-related factor." Any of the following:

10 (1) Health status.

11 (2) Medical condition, including both physical and
12 mental illness.

13 (3) Substance abuse.

14 (4) Claims experience.

15 (5) Receipt of health care.

16 (6) Medical history.

17 (7) Genetic information.

18 (8) Evidence of insurability, including conditions
19 arising out of acts of domestic violence.

20 (9) Disability.

21 (10) Occupation.

22 "Preexisting condition." A condition, regardless of its
23 cause, for which medical advice, diagnosis, care or treatment
24 was recommended or received during the six months immediately
25 preceding the enrollment date of coverage.

26 "Producer." An individual who is licensed by the Insurance
27 Department as an insurance producer and who sells, solicits or
28 negotiates insurance contracts.

29 "Restricted network provision." A provision of a health
30 benefit plan that conditions the payment of benefits on the use

1 of health care providers that have entered into a contractual
2 arrangement with the insurance carrier to provide health care
3 services to covered individuals.

4 "Small employer." A person, firm, corporation, partnership,
5 association or political subdivision:

6 (1) that is actively engaged in business;

7 (2) in which a bona fide employer-employee relationship
8 exists;

9 (3) is not formed primarily for the purpose of buying
10 health insurance; and

11 (4) that, on at least 50% of its working days during the
12 preceding calendar quarter, employed 100 or fewer employees.

13 "Small group health benefit plan." A health benefit plan for
14 groups of two to 100 eligible persons, or, in the case of
15 associations, small employer groups of one to 50 eligible
16 persons.

17 Section 2203. Premium rates.

18 (a) Restrictions.--Premium rates for small group health
19 benefit plans shall be subject to the following provisions:

20 (1) A carrier offering health benefit plans to small
21 employers shall develop a community rate for each health
22 benefit plan and may only vary the community rate for:

23 (i) geographic area; and

24 (ii) family size.

25 (2) Medical underwriting which uses any of the following
26 health status-related factors is not permitted:

27 (i) Health status.

28 (ii) Medical condition, including both physical and
29 mental illness.

30 (iii) Claims experience.

1 (iv) Genetic information.

2 (v) Evidence of insurability, including conditions
3 arising out of acts of domestic violence.

4 (vi) Disability.

5 (b) Adjustment of premiums.--The premium for a health
6 benefit plan may not be adjusted by a carrier more than once a
7 year, except that rates may be changed more frequently to
8 reflect:

9 (1) Changes to the enrollment of the small employer
10 group.

11 (2) Changes to a health benefit plan that have been
12 requested by the small employer.

13 (3) Changes to the family composition of employees.

14 (4) Changes pursuant to a government order or judicial
15 proceeding.

16 (c) Rating factors.--Rating factors for health benefit plans
17 shall produce premiums for identical groups which differ only as
18 to the amounts attributable to plan design and which do not
19 reflect differences due to the nature of the groups presumed to
20 select particular health benefit plans.

21 (d) Restricted network provision.--A health benefit plan
22 that contains a restricted network provision shall not be
23 considered similar coverage to a health benefit plan that does
24 not contain such a provision.

25 (e) Regulations.--The commissioner shall establish
26 regulations to implement the provisions of this section and to
27 ensure that rating practices used by small employer group
28 insurance carriers are consistent with the provisions of this
29 article.

30 Section 2204. Renewability of coverage.

1 A small group health benefit plan shall at the option of the
2 employer be renewable with respect to all eligible employees and
3 their dependents except in the following cases:

4 (1) The small employer fails to pay premiums or make
5 contributions in accordance with the terms of the health
6 benefit plan or the carrier has not received timely payments.

7 (2) The small employer has, relating to the small group
8 health benefit plan, made an intentional misrepresentation of
9 material fact or done anything which constitutes fraud.

10 (3) The small employer has not complied with either of
11 the following:

12 (i) The carrier's minimum participation
13 requirements.

14 (ii) The carrier's employer contribution
15 requirements.

16 (4) The carrier elects to discontinue offering a small
17 group health benefit plan. If such an election is made, the
18 carrier must provide notice of the election as follows:

19 (i) At least 30 days before the plan expires, the
20 carrier shall give notice to all affected small
21 employers.

22 (ii) At least 180 days before the plan expires, the
23 carrier shall give notice to the commissioner.

24 Section 2205. Availability of coverage.

25 (a) Uniformity.--As a condition of transacting business in
26 this Commonwealth, a carrier who provides small group health
27 benefit plans shall offer to small employers all the health
28 benefit plans which it markets.

29 (b) Preexisting conditions.--Health benefit plans that cover
30 small groups shall not deny, exclude or limit benefits to a

covered individual for losses incurred more than six months following either the coverage enrollment date or the first day of the waiting period for enrollment, whichever is earlier, due to a preexisting condition.

Section 2206. Standards to assure fair marketing.

(a) Duties of commissioner.--The commissioner shall determine that the following standards have been met by a carrier or producer, as appropriate:

(1) A carrier who provides small group health benefit plans shall actively market all health benefit plans sold by the carrier to eligible small employers in this Commonwealth.

(2) Except as provided under paragraph (3), a carrier who provides small group health benefit plans or a producer may not:

(i) Encourage or direct a small employer to refrain from filing an application for coverage with the carrier because of a health status-related factor or the nature of the industry, occupation or geographic location of the small employer.

(ii) Encourage or direct a small employer to seek coverage from another carrier because of a health status-related factor or the nature of the industry, occupation or geographic location of the small employer.

(3) The provisions of paragraph (2) shall not apply with respect to information provided by a carrier or producer to a small employer regarding an established geographic service area or a restricted network provision of a carrier.

(4) A carrier who provides small group health benefit plans may not enter into a contract, agreement or arrangement that provides for or results in a producer's compensation to

1 be varied because of an initial or renewal health status-
2 related factor or the nature of the industry or occupation of
3 the small employer.

4 (5) A carrier who provides small group health benefit
5 plans may not terminate, fail to renew or limit its contract
6 or agreement with a producer for a reason related to an
7 initial or renewal health status-related factor or occupation
8 of the small employer.

9 (6) A producer or carrier who provides small group
10 health benefit plans may not induce or encourage a small
11 employer to exclude an employee or the employee's dependents
12 from health coverage or benefits available under the plan.

13 (b) Regulations.--The commissioner may promulgate
14 regulations which set forth additional standards to provide for
15 broad availability and fair marketing of health benefit plans to
16 small employers in this Commonwealth.

17 Section 2. This act shall take effect January 1, 2004.