

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1240 Session of  
2005

INTRODUCED BY SCHRODER, TURZAI, WALKO, ADOLPH, BELFANTI,  
BIANCUCCI, BROWNE, BUXTON, CALTAGIRONE, CAPPELLI, CLYMER,  
CRAHALLA, DALLY, DeLUCA, DENLINGER, EACHUS, FICHTER, FLEAGLE,  
GANNON, GEORGE, GILLESPIE, GINGRICH, HARHART, HENNESSEY,  
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STERN, T. STEVENSON, STURLA, TANGRETTI, E. Z. TAYLOR, THOMAS,  
TIGUE, WANSACZ, WATERS, WATSON, WRIGHT, YOUNGBLOOD AND  
WHEATLEY, MARCH 30, 2005

REFERRED TO COMMITTEE ON INSURANCE, MARCH 30, 2005

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 small group health  
12 plan rates, for coverage requirements and for marketing  
13 requirements; and making a repeal.

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

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

19 ARTICLE XXII

20 SMALL GROUP HEALTH PLAN REQUIREMENTS

1 Section 2201. Scope of article.

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

5 Section 2202. Definitions.

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

9 "Carrier." A health insurance entity licensed in this  
10 Commonwealth to issue group health insurance, subscriber  
11 contracts, certificates or plans that provide medical or health  
12 care coverage by a health care facility or licensed health care  
13 provider that is offered or governed under this act or any of  
14 the following:

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

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

20 (3) A nonprofit corporation subject to 40 Pa.C.S. Chs.  
21 61 (relating to hospital plan corporations) and 63 (relating  
22 to professional health services plan corporations).

23 "Commissioner." The Insurance Commissioner of the  
24 Commonwealth.

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

26 "Eligible employee." An employee who works on a full-time  
27 basis with a normal work week of 30 or more hours. The term  
28 shall also include an employee who, at the employer's  
29 discretion, works on a full-time basis with a normal work week  
30 of at least 17.5 hours if this eligibility criterion is applied

uniformly among all of the employer's employees and without regard to a health status-related factor. The term includes, but is not limited to, a self-employed individual, a sole proprietor and a partner of a partnership, and may include an independent contractor if the self-employed individual, sole proprietor, partner of a partnership or independent contractor is included as an employee under the health benefit plan of the employer. The term does not include an employee who works on a temporary or substitute basis or who works fewer than 17.5 hours per week.

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

(1) Accident only policy.

(2) Limited benefit policy.

(3) Credit policy.

(4) Long-term or disability income policy.

(5) Specified disease policy.

(6) Medicare supplement policy.

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

(8) Workers' compensation policy.

(9) Automobile medical payment policy.

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

(1) Health status.

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

(3) Substance abuse.

(4) Claims experience.

(5) Receipt of health care.

1           (6) Medical history.

2           (7) Genetic information.

3           (8) Evidence of insurability, including conditions  
4           arising out of acts of domestic violence.

5           (9) Disability

6           (10) Occupation.

7           "Modified demographic rating." A rating method used to  
8           develop a carrier's premium that spreads financial risk across  
9           the carrier's small group population that results in a small  
10           group premium rate that may be modified based on rate class  
11           factors such as age, gender, family composition, industry and  
12           geographic area. The geographic area for small group policies  
13           shall have counties as the smallest permissible rating  
14           territory.

15           "Preexisting condition." A condition, regardless of its  
16           cause, for which medical advice, diagnosis, care or treatment  
17           was recommended or received during the six months immediately  
18           preceding the enrollment date of coverage.

19           "Producer." An individual who is licensed by the Insurance  
20           Department as an insurance producer and who sells, solicits or  
21           negotiates insurance contracts.

22           "Restricted network provision." A provision of a health  
23           benefit plan that conditions the payment of benefits on the use  
24           of health care providers that have entered into a contractual  
25           arrangement with the insurance carrier to provide health care  
26           services to covered individuals.

27           "Small employer." A person, firm, corporation, partnership  
28           or political subdivision that:

29                   (1) is actively engaged in business;

30                   (2) has a bona fide employer-employee relationship;

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

3       (4) on at least 50% of its working days during the  
4       preceding calendar quarter, employed 50 or fewer eligible  
5       employees.

6       "Small group health benefit plan." A health benefit plan for  
7       groups of two to 50 eligible persons, whether issued directly to  
8       small employers or made available to small employers through  
9       membership in an association.

10      Section 2203. Premium rates.

11      (a) General rule.--Premium rates for a small group health  
12      benefit plan shall be based on modified demographic rating and  
13      shall be subject to the following provisions:

14              (1) A carrier offering small group health benefit plans  
15              to small employers shall develop a base rate for each small  
16              group health benefit plan and shall modify the base rate only  
17              by rate class factors of:

18                      (i) geographic area;

19                      (ii) industry;

20                      (iii) age;

21                      (iv) gender; and

22                      (v) family composition-coverage type selected by the  
23              eligible employee.

24              (2) Rate adjustment factors used to modify the small  
25      group base rate will have the following restrictions:

26                      (i) age and gender adjustment factors shall be  
27                      combined and shall not exceed plus or minus 35%; and

28                      (ii) the industry adjustment factor shall not exceed  
29              plus or minus 10%.

30              (3) Medical underwriting that uses any of the following

factors is prohibited:

(i) Health status.

(ii) Medical condition, including both physical and mental illness, including the use of group or individual medical questionnaires.

(iii) Claims experience.

(iv) Genetic information.

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

(vi) Disability.

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

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

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

(3) Changes to the family composition of employees.

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

(c) Premium rates produced by rating factors.--Rating factors for small group health benefit plans shall produce premium rates for identical groups that differ only as to the amounts attributable to plan design.

(d) Restricted network provision.--A small group health benefit plan that contains a restricted network provision or operates in a limited service area shall not be considered similar coverage to a small group health benefit plan that does not contain such a provision.

1     (e) Filing requirements.--A carrier offering small group  
2 health benefit plans shall place on file with the department all  
3 small group base rates and modifying factors. Rates for a  
4 specific group may not deviate by more than 15% from the rate  
5 developed utilizing the filed small group base rates or base  
6 rate formulas and modifying factors, unless the specific group  
7 rates are placed on file with the department.

8     (f) Regulations.--The commissioner shall establish  
9 regulations to implement the provisions of this section and to  
10 ensure that rating practices used by carriers offering small  
11 employer group insurance plans are consistent with the  
12 provisions of this article.

13 Section 2204. Renewability of coverage.

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

17         (1) The small employer fails to pay premiums or make  
18 contributions in accordance with the terms of the small group  
19 health benefit plan or the carrier has not received timely  
20 payments.

21         (2) The small employer has made an intentional  
22 misrepresentation of material fact or done anything which  
23 constitutes fraud with respect to the small group health  
24 benefit plan.

25         (3) The small employer has not complied with the  
26 carrier's minimum participation requirements or employer  
27 contribution requirements.

28         (4) The carrier elects to discontinue offering a small  
29 group health benefit plan. If such an election is made, the  
30 carrier shall provide notice of the election as follows:

1           (i) At least 90 days before the plan expires, the  
2           carrier shall give notice to the commissioner.

3           (ii) At least 30 days before the plan expires, the  
4           carrier shall give notice to all affected small  
5           employers.

6 Section 2205. Availability of coverage.

7       (a) Uniformity.--As a condition of transacting business in  
8       this Commonwealth, a carrier that offers small group health  
9       benefit plans shall offer to small employers all of the small  
10       group health benefit plans that the carrier markets.

11       (b) Preexisting conditions.--Small group health benefit  
12       plans shall not deny, exclude or limit benefits to a covered  
13       individual for losses incurred more than 12 months following  
14       either the coverage enrollment date or the first day of the  
15       waiting period for enrollment, whichever is earlier, due to a  
16       preexisting condition.

17 Section 2206. Fair marketing standards.

18       The commissioner shall determine that the following standards  
19       have been met by a carrier or producer, as appropriate:

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

24           (2) (i) Except as provided in subparagraph (ii), a  
25           producer or a carrier that provides small group health  
26           benefit plans shall not encourage or direct a small  
27           employer to refrain from filing an application for  
28           coverage with the carrier or seek coverage from another  
29           carrier because of a health status-related factor or the  
30           nature of the industry, occupation or geographic location



1       of the small employer.

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

7           (3) A carrier that provides small group health benefit  
8       plans shall not enter into a contract, agreement or  
9       arrangement that provides for or results in a producer's  
10       compensation being varied because of an initial or renewal  
11       health status-related factor or the nature of the industry or  
12       occupation of the small employer.

13           (4) A carrier that provides small group health benefit  
14       plans shall not terminate, fail to renew or limit its  
15       contract or agreement with a producer for a reason related to  
16       an initial or renewal health status-related factor or  
17       occupation of the small employer.

18           (5) A producer or carrier that provides small group  
19       health benefit plans shall not induce or encourage a small  
20       employer to exclude an employee or the employee's dependents  
21       from health coverage or benefits available under the plan.

22   Section 2207. Filing of annual actuarial certification.

23       A carrier offering small group health benefit plans shall  
24       file with the commissioner on or before March 1 of each year an  
25       actuarial certification that the carrier is in compliance with  
26       this act and that the rating methods of the carrier are  
27       actuarially sound. A copy of the certification shall be retained  
28       by the carrier at its principal place of business.

29   Section 2208. Transition period.

30       The commissioner may establish a phase-in period for renewal

rates of no less than one year and no more than two years in  
duration for carriers to implement rate adjustments. Any  
transition period shall be applied uniformly to all carriers.

Section 2. The following parts of the act of December 18,  
1996 (P.L.1066, No.159), known as the Accident and Health Filing  
Reform Act, are repealed insofar as they provide for required  
rate filings, review procedures and related matters for small  
group health benefit plans or are otherwise inconsistent with  
the requirements of this act:

(1) Section 3(e)(1), (2), (3), (4), (5) and (6) and (f).

(2) Section 4(a), (b), (c), (d), (e) and (f).

(3) Section 5.

(4) Section 6.

(5) Section 7.

(6) Section 8(a), (c) and (e).

Section 3. This act shall take effect in 180 days.