

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 865 Session of
2007

INTRODUCED BY D. WHITE, PUNT, BOSCOLA, ERICKSON, O'PAKE, VANCE,
RAFFERTY, EARLL, RHOADES, MADIGAN, WAUGH AND ROBBINS,
MAY 31, 2007

REFERRED TO BANKING AND INSURANCE, MAY 31, 2007

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.

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 BENEFIT PLAN REQUIREMENTS

21 Section 2201. Scope of article.

22 This article relates to any small group health benefit plan
23 offered by an insurance carrier that provides insurance coverage

1 to employees of a small employer.

2 Section 2202. Definitions.

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

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

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

14 (2) A nonprofit corporation subject to 40 Pa.C.S. Ch. 61
15 (relating to hospital plan corporations) or 63 (relating to
16 professional health services plan corporations).

17 "Carrier group." A carrier writing coverage in Pennsylvania,
18 including, but not limited to, the parent carrier, its
19 subsidiaries and affiliates.

20 "Commissioner." The Insurance Commissioner of the
21 Commonwealth.

22 "Community rating." The rating methodology where premiums
23 are based on the average health care costs of the community
24 covered, and not the age, gender or occupation of the individual
25 subscribers.

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

27 "Dominant market share." A carrier group determined by the
28 Insurance Department to provide coverage for 50% or more of the
29 covered lives within a region.

30 "Middle market share." A carrier group determined by the

Insurance Department to provide coverage for 11% or more, but less than 50% of the covered lives in a region.

"Modified community rating." The rating methodology where premiums are based on the average health care costs of the community covered, as modified by rating factors that have been filed with the Insurance Department.

"Region I." The geographic area covered by the counties of Bucks, Chester, Delaware, Montgomery and Philadelphia.

"Region II." The geographic area covered by the counties of Adams, Berks, Cumberland, Dauphin, Franklin, Fulton, Lancaster, Lebanon, Lehigh, Northampton, Perry, Schuylkill and York.

"Region III." The geographic area covered by the counties of Bradford, Carbon, Clinton, Lackawanna, Luzerne, Lycoming, Monroe, Pike, Sullivan, Susquehanna, Tioga, Wayne and Wyoming.

"Region IV." The geographic area covered by the counties of Centre, Columbia, Juniata, Mifflin, Montour, Northumberland, Snyder and Union.

"Region V." The geographic area covered by the counties of Bedford, Blair, Cambria, Clearfield, Huntingdon, Jefferson and Somerset.

"Region VI." The geographic area covered by the counties of Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Washington and Westmoreland.

"Region VII." The geographic area covered by the counties of Cameron, Clarion, Crawford, Elk, Erie, Forest, McKean, Mercer, Potter, Venango and Warren.

"Small employer." In connection with a group health plan with respect to a calendar year and a plan year, an employer who employs an average of at least two but not more than 50 employees on business days during the preceding calendar year

1 and who employs at least two employees on the first day of the
2 plan year. In the case of an employer which was not in existence
3 throughout the preceding calendar year, the determination of
4 whether an employer is a small employer shall be based on the
5 average number of employees that it is reasonably expected that
6 the employer will employ on business days in the current
7 calendar year.

8 "Small group health benefit plan." The health insurance plan
9 under which individuals obtain insurance coverage, directly or
10 through any arrangement, on behalf of themselves and their
11 dependents through a group health plan maintained by a small
12 employer or through membership in an association. The term shall
13 not include any of the following:

14 (1) Accident only policy.

15 (2) Limited benefit policy.

16 (3) Credit policy.

17 (4) Long-term or disability income policy.

18 (5) Specified disease policy.

19 (6) Medicare supplement policy.

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

22 (8) Workers' compensation policy.

23 (9) Automobile medical payment policy.

24 "Small market share." A carrier group determined by the
25 Insurance Department to provide coverage for less than 11% of
26 the covered lives in the region.

27 "Status." Dominant market share, small market share or
28 middle market share.

29 Section 2203. Data calls.

30 (a) Reports.--Not less frequently than March 1 of every

1 other calendar year, each carrier group shall file a report with
2 the department of the carrier group's market share by region,
3 and the market share of each carrier within the carrier group by
4 region, for the immediately preceding calendar year. The carrier
5 shall report the number of covered lives of all small group
6 health benefit plans, the time periods over which coverage was
7 provided during the preceding calendar year, and such other
8 information as the department shall determine.

9 (b) Data calls.--The department may issue all other data
10 calls necessary to fulfill the requirements of this article.

11 (c) Review of reports.--By July 1 of each reporting year,
12 the department shall review the reports provided for under this
13 article and shall publish in the Pennsylvania Bulletin the
14 status of each carrier within each region in which the carrier
15 provides coverage.

16 (d) Penalty.--The commissioner shall impose an
17 administrative penalty of \$1,000 against each carrier within the
18 carrier group for every day that the report is not provided in
19 accordance with subsection (a).

20 Section 2204. Rating requirements.

21 (a) Small group health benefit plans.--Each carrier within a
22 carrier group within a region which has a dominant market share
23 status shall use community rating in writing small group health
24 benefit plans in that region and may increase or decrease its
25 approved rate base by not more than 10% without the prior
26 approval of the department.

27 (b) Modified community rating factors.--Each carrier within
28 a carrier group within a region which has a middle market share
29 status may use modified community rating in writing small group
30 health benefit plans in that region and may include in its rate

structure such modified community rating factors as are filed with the department. The application of modified community rating factors to a specific employer group shall not exceed plus or minus 35% of the community rate.

(c) Rating methodology.--Each carrier within a carrier group within a region which has a small market share status may use any rating methodology in writing small group health benefit plans without prior approval of the department.

(d) Rate filings.--Carriers shall make all rate filings necessary to ensure compliance with this article.

Section 2205. Transition rates and rating methodology.

(a) Different status.--In any year that the department determines that the status of a carrier group's market share transitions the carrier group into a status different from the preceding year, each carrier within the carrier group shall institute a new rating methodology consistent with this section.

(b) First year rating methodology.--For the first year in which a carrier group's status has changed, each carrier within the carrier group shall utilize a rating methodology which consists of two-thirds of the previous year's methodology and one-third of the methodology of the new status.

(c) Second year rating methodology.--For the second year after a carrier group's status has changed, each carrier within the carrier group shall utilize a rating methodology which consists of one-third of the methodology of the base year and two-thirds of the methodology of the new status.

(d) Third year rating methodology.--For the third year after a carrier group's status has changed, each carrier within the carrier group shall utilize the new rating methodology determined to be applicable at the beginning of the transition.

1 (e) Exemption.--The department may, upon application of the
2 carrier group, exempt a carrier group from the conditions of
3 this section upon a showing by the carrier group of
4 extraordinary circumstances.

5 Section 2206. Regulations.

6 The commissioner may promulgate any and all regulations
7 necessary to implement and administer this article.

8 Section 2207. Application.

9 (a) Initial data call; reports.--Within 90 days of passage
10 of this section, the initial data call provided for in section
11 2203 shall be commenced, and the department shall provide notice
12 to all carriers by publishing in the Pennsylvania Bulletin the
13 due date for the reports required under this article.

14 (b) Rate filings.--All rate filings made pursuant to this
15 act shall be subject to and in compliance with applicable law
16 and regulations.

17 Section 2. This act shall take effect immediately.