

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1201 Session of
2005

INTRODUCED BY MICOZZIE, DeLUCA, NICKOL, WRIGHT, ZUG, MUNDY,
WALKO, BARRAR, CALTAGIRONE, CAPPELLI, FABRIZIO, GINGRICH,
HARPER, HARRIS, HERSHEY, MACKERETH, MARKOSEK, REICHLEY,
RUBLEY, SCAVELLO, SEMMEL, SOLOBAY, STERN, E. Z. TAYLOR, TIGUE
AND YOUNGBLOOD, 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.

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

21 Section 2201. Scope of article.

22 This article relates to any health benefit plan offered by an

1 insurance carrier that provides insurance coverage to employees
2 of a small employer.

3 Section 2202. Definitions.

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

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

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

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

18 (3) A nonprofit corporation subject to 40 Pa.C.S. Chs.
19 61 (relating to hospital plan corporations) and 63 (relating
20 to professional health services plan corporations).

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

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

24 "Eligible employee." An employee who works on a full-time
25 basis with a normal work week of 30 or more hours. The term
26 shall also include an employee who, at the employer's
27 discretion, works on a full-time basis with a normal work week
28 of at least 17.5 hours if this eligibility criterion is applied
29 uniformly among all of the employer's employees and without
30 regard to a health status-related factor. The term includes, but

1 is not limited to, a self-employed individual, a sole proprietor
2 and a partner of a partnership, and may include an independent
3 contractor if the self-employed individual, sole proprietor,
4 partner of a partnership or independent contractor is included
5 as an employee under the health benefit plan of the employer.
6 The term does not include an employee who works on a temporary
7 or substitute basis or who works fewer than 17.5 hours per week.

8 "Health benefit plan." A hospital or medical expense
9 insurance policy that is offered, executed, issued, renewed or
10 delivered by a carrier for medical care for a subscriber. The
11 term shall not include the following types of insurance or any
12 combination thereof: hospital indemnity, accident only, fixed
13 indemnity, credit, dental, vision, specified disease, Medicare
14 supplement, Civilian Health and Medical Program of the Uniformed
15 Services (CHAMPUS) supplement, long-term care or disability
16 income, workers' compensation or automobile medical payment
17 insurance or other limited benefit plan.

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

19 (1) Health status.

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

22 (3) Substance abuse.

23 (4) Claims experience.

24 (5) Receipt of health care.

25 (6) Medical history.

26 (7) Genetic information.

27 (8) Evidence of insurability, including conditions
28 arising out of acts of domestic violence.

29 (9) Disability

30 (10) Occupation.

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

9 "Preexisting condition." A condition, regardless of its
10 cause, for which medical advice, diagnosis, care or treatment
11 was recommended or received during the six months immediately
12 preceding the enrollment date of coverage.

13 "Producer." An individual who is licensed by the Insurance
14 Department as an insurance producer and who sells, solicits or
15 negotiates insurance contracts.

16 "Restricted network provision." A provision of a health
17 benefit plan that conditions the payment of benefits on the use
18 of health care providers that have entered into a contractual
19 arrangement with the insurance carrier to provide health care
20 services to covered individuals.

21 "Small employer." A person, firm, corporation, partnership
22 or political subdivision that:

23 (1) is actively engaged in business;

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

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

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

30 "Small group health benefit plan." A health benefit plan for

1 groups of two to 50 eligible persons, whether issued directly to
2 small employers or made available to small employers through
3 membership in an association.

4 Section 2203. Premium rates.

5 (a) Base rate.--A carrier offering small group health
6 benefit plans shall develop a base rate for each small group
7 health benefit plan and shall modify the base rate only by rate
8 class factors of:

9 (1) geographic area;

10 (2) industry;

11 (3) age;

12 (4) gender; and

13 (5) family composition-coverage type selected by the
14 eligible employee.

15 (b) Rate adjustment factors.--Rate adjustment factors used
16 to modify the small group base rate shall be subject to the
17 following restrictions:

18 (1) age and gender adjustment factors shall be combined
19 and shall not exceed plus or minus 35%;

20 (2) the industry adjustment factor shall not exceed plus
21 or minus 10%; and

22 (3) the adjustment factor for medical underwriting shall
23 not exceed plus or minus 20%.

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

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

30 (2) Changes to a small group health benefit plan that

1 have been requested by the small employer.

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

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

5 (d) Base rates.--Rating factors for small group health
6 benefit plans shall produce base rates for identical groups that
7 differ only as to the amounts attributable to plan design.

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

13 (f) Filing requirements.--A carrier offering small group
14 health benefit plans shall place on file with the department all
15 small group base rates and modifying factors prior to use.

16 (g) Regulations.--The commissioner shall establish
17 regulations to implement the provisions of this section and to
18 ensure that rating practices used by carriers offering small
19 employer group insurance plans are consistent with the
20 provisions of this article.

21 Section 2204. Renewability of coverage.

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

25 (1) The small employer fails to pay premiums or make
26 contributions in accordance with the terms of the small group
27 health benefit plan or the carrier has not received timely
28 payments.

29 (2) The small employer has made an intentional
30 misrepresentation of material fact or done anything which

1 constitutes fraud with respect to the small group health
2 benefit plan.

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

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

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

11 (ii) At least 30 days before the plan expires, the
12 carrier shall give notice to all affected small
13 employers.

14 Section 2205. Availability of coverage.

15 (a) Uniformity.--As a condition of transacting business in
16 this Commonwealth, a carrier that offers small group health
17 benefit plans shall offer to small employers all of the small
18 group health benefit plans that the carrier markets.

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

25 Section 2206. Fair marketing standards.

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

28 (1) A carrier that provides small group health benefit
29 plans shall actively market all small group health benefit
30 plans sold by the carrier to eligible small employers in this

1 Commonwealth.

2 (2) (i) Except as provided in subparagraph (ii), a
3 producer or a carrier that provides small group health
4 benefit plans shall not encourage or direct a small
5 employer to refrain from filing an application for
6 coverage with the carrier or seek coverage from another
7 carrier because of a health status-related factor or the
8 nature of the industry, occupation or geographic location
9 of the small employer.

10 (ii) The provisions of subparagraph (i) shall not
11 apply with respect to information provided by a carrier
12 or producer to a small employer regarding an established
13 geographic service area or a restricted network provision
14 of a carrier.

15 (3) A carrier that provides small group health benefit
16 plans shall not enter into a contract, agreement or
17 arrangement that provides for or results in a producer's
18 compensation being varied because of an initial or renewal
19 health status-related factor or the nature of the industry or
20 occupation of the small employer.

21 (5) A carrier that provides small group health benefit
22 plans shall not terminate, fail to renew or limit its
23 contract or agreement with a producer for a reason related to
24 an initial or renewal health status-related factor or
25 occupation of the small employer.

26 (6) A producer or carrier that provides small group
27 health benefit plans shall not induce or encourage a small
28 employer to exclude an employee or the employee's dependents
29 from health coverage or benefits available under the plan.

30 Section 2. This act shall take effect in 180 days.