

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 1026

By: Eddins of the House

and

6 Snyder and Long of the
7 Senate

8
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to insurance; amending Section 2,
11 Chapter 329, O.S.L. 1992, as last amended by Section
12 2, Chapter 304, O.S.L. 1998, Section 8, Chapter 211,
13 O.S.L. 1994, as amended by Section 5, Chapter 304,
14 O.S.L. 1998, and Section 13, Chapter 211, O.S.L.
15 1994, as amended by Section 6, Chapter 304, O.S.L.
16 1998 (36 O.S. Supp. 1998, Sections 6512, 6522 and
17 6527), which relate to the Small Employer Health
18 Insurance Reform Act; modifying certain definition;
19 adding certain definitions; providing level of
20 reinsurance for basic and standard health benefit
21 plans; prohibiting the sale of stop-loss or excess-
22 risk insurance below a certain amount; providing for
23 applicability of limit; providing an effective date;
24 and declaring an emergency.

25 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

26 SECTION 1. AMENDATORY Section 2, Chapter 329, O.S.L.
27 1992, as last amended by Section 2, Chapter 304, O.S.L. 1998 (36
28 O.S. Supp. 1998, Section 6512), is amended to read as follows:

29 Section 6512. As used in the Small Employer Health Insurance
30 Reform Act:

31 1. "Actuarial certification" means a written statement by a
32 member of the American Academy of Actuaries or other individual
acceptable to the Insurance Commissioner that a small employer
carrier is in compliance with the provisions of Section 6515 of this
title, based upon the person's examination, including a review of
the appropriate records and of the actuarial assumptions and methods

1 used by the small employer carrier in establishing premium rates for
2 applicable health benefit plans;

3 2. "Affiliate" or "affiliated" means any entity or person who
4 directly or indirectly through one or more intermediaries, controls
5 or is controlled by, or is under common control with, a specified
6 entity or person;

7 3. "Base premium rate" means, for each class of business as to
8 a rating period, the lowest premium rate charged or which could have
9 been charged under a rating system for that class of business, by
10 the small employer carrier to small employers with similar case
11 characteristics for health benefit plans with the same or similar
12 coverage;

13 4. "Basic health benefit plan" means a lower cost health
14 benefit plan adopted by the Insurance Commissioner pursuant to this
15 act for small employer groups;

16 5. "Board" means the board of directors of the program
17 established pursuant to Section § 6522 of this ~~act~~ title;

18 ~~5.~~ 6. "Carrier" means any entity which provides health
19 insurance in this state. For the purposes of the Small Employer
20 Health Insurance Reform Act, carrier includes a licensed insurance
21 company, not-for-profit hospital service or medical indemnity
22 corporation, a fraternal benefit society, a health maintenance
23 organization, a multiple employer welfare arrangement or any other
24 entity providing a plan of health insurance or health benefits
25 subject to state insurance regulation;

26 ~~6.~~ 7. "Case characteristics" means demographic or other
27 objective characteristics of a small employer that are considered by
28 the small employer carrier in the determination of premium rates for
29 the small employer, provided that claim experience, health status
30 and duration of coverage shall not be case characteristics for the
31 purposes of the Small Employer Health Insurance Reform Act. A
32 small employer carrier shall not use case characteristics, other

1 than age, gender, industry, geographic area, family composition and
2 group size, without prior approval of the Insurance Commissioner;

3 ~~7.~~ 8. "Class of business" means all or a separate grouping of
4 small employers established pursuant to Section 6514 of the Small
5 Employer Health Insurance Reform Act;

6 ~~8.~~ 9. "Commissioner" means the Insurance Commissioner;

7 ~~9.~~ 10. "Committee" means the Health Benefit Plan Committee
8 ~~created pursuant to Section 10 of this act;~~

9 ~~10.~~ 11. "Control" (including the terms "controlling",
10 "controlled by" and "under common control with") means the
11 possession, direct or indirect, of the power to direct or cause the
12 direction of the management and policies of a person, whether
13 through the ownership of voting securities, by contract or
14 otherwise, unless the power is the result of an official position
15 with or corporate office held by the person. Control shall be
16 presumed to exist if any person, directly or indirectly, owns,
17 controls, holds with the power to vote, or holds proxies
18 representing ten percent (10%) or more of the voting securities of
19 any other person. This presumption may be rebutted by a showing
20 that control does not exist in fact in the manner provided in
21 Section 1654 of this title. The Commissioner may determine, after
22 furnishing all persons in interest notice and opportunity to be
23 heard and making specific findings of fact to support such
24 determination, that control exists in fact, notwithstanding the
25 absence of a presumption to that effect;

26 ~~11.~~ 12. "Department" means the Insurance Department;

27 ~~12.~~ 13. "Dependent" means a spouse, an unmarried child under
28 the age of eighteen (18), an unmarried child who is a full-time
29 student under the age of twenty-three (23) and who is financially
30 dependent upon the parent, and an unmarried child of any age who is
31 medically certified as disabled and dependent upon the parent;

32

1 ~~13.~~ 14. "Eligible employee" means an employee who works on a
2 full-time basis and has a normal work week of twenty-four (24) or
3 more hours. The term includes a sole proprietor, a partner of a
4 partnership, and associates of a limited liability company, if the
5 sole proprietor, partner or associate is included as an employee
6 under a health benefit plan of a small employer, ~~but.~~ The term also
7 includes leased employees working for an employee leasing company
8 which is a small employer or for an employee leasing company which
9 leases the employee to a small employer at least twenty-four (24)
10 hours per week; provided, a small employer with leased employees
11 shall have the option of electing to cover leased employees under a
12 health benefit plan provided by the small employer or a health
13 benefit plan provided by the employee leasing company. All leased
14 and nonleased employees shall be aggregated for purposes of
15 determining the minimum criteria to meet the normal enrollment
16 standards of the carrier. "Eligible employee" does not include an
17 employee who works on a part-time, temporary or substitute basis;

18 ~~14.~~ 15. "Established geographic service area" means a
19 geographic area, as approved by the Commissioner and based on the
20 carrier's certificate of authority to transact insurance in this
21 state, within which the carrier is authorized to provide coverage;

22 ~~15.~~ 16. a. "Health benefit plan" means any hospital or
23 medical policy or certificate; contract of
24 insurance provided by a not-for-profit hospital
25 service or medical indemnity plan; or prepaid
26 health plan or health maintenance organization
27 subscriber contract.

28 b. "Health benefit plan" does not include accident-only,
29 credit, dental, vision, Medicare supplement, long-term
30 care, or disability income insurance, coverage issued
31 as a supplement to liability insurance, worker's
32 compensation or similar insurance, any plan certified

1 by the Oklahoma Basic Health Benefits Board, or
2 automobile medical payment insurance.

3 c. "Health benefit plan" shall not include policies or
4 certificates of specified disease, hospital
5 confinement indemnity or limited benefit health
6 insurance, provided that the carrier offering such
7 policies or certificates complies with the following:

8 (1) the carrier files on or before March 1 of each
9 year a certification with the Commissioner that
10 contains the statement and information described
11 in division (2) of this subparagraph,

12 (2) the certification required in division (1) of
13 this subparagraph shall contain the following:

14 (a) a statement from the carrier certifying that
15 policies or certificates described in this
16 subparagraph are being offered and marketed
17 as supplemental health insurance and not as
18 a substitute for hospital or medical expense
19 insurance or major medical expense
20 insurance, and

21 (b) a summary description of each policy or
22 certificate described in this subparagraph,
23 including the average annual premium rates
24 (or range of premium rates in cases where
25 premiums vary by age, gender or other
26 factors) charged for such policies and
27 certificates in this state, and

28 (3) in the case of a policy or certificate that is
29 described in this subparagraph and that is
30 offered for the first time in this state on or
31 after ~~the effective date of this act~~ July 1,
32 1994, the carrier files with the Commissioner the

1 information and statement required in division
2 (2) of this subparagraph at least thirty (30)
3 days prior to the date such a policy or
4 certificate is issued or delivered in this state;

5 ~~16.~~ 17. "Index rate" means, for each class of business as to a
6 rating period for small employers with similar case characteristics,
7 the arithmetic average of the applicable base premium rate and the
8 corresponding highest premium rate;

9 ~~17.~~ 18. "Late enrollee" means an eligible employee or dependent
10 who requests enrollment in a health benefit plan of a small employer
11 following the initial enrollment period during which the individual
12 is entitled to enroll under the terms of the health benefit plan,
13 provided that the initial enrollment period is a period of at least
14 thirty-one (31) days. However, an eligible employee or dependent
15 shall not be considered a late enrollee if:

16 a. the individual meets each of the following:

- 17 (1) the individual was covered under qualifying
18 previous coverage at the time of the initial
19 enrollment,
20 (2) the individual lost coverage under qualifying
21 previous coverage as a result of termination of
22 employment or eligibility, the involuntary
23 termination of the qualifying previous coverage,
24 death of a spouse or divorce, and
25 (3) the individual requests enrollment within thirty
26 (30) days after termination of the qualifying
27 previous coverage,

28 b. the individual is employed by an employer which offers
29 multiple health benefit plans and the individual
30 elects a different plan during an open enrollment
31 period, or
32

1 c. a court has ordered coverage be provided for a spouse
2 or minor or dependent child under a covered employee's
3 health benefit plan and request for enrollment is made
4 within thirty (30) days after issuance of the court
5 order;

6 ~~18.~~ 19. "New business premium rate" means, for each class of
7 business as to a rating period, the lowest premium rate charged or
8 offered, or which could have been charged or offered, by the small
9 employer carrier to small employers with similar case
10 characteristics for newly issued health benefit plans with the same
11 or similar coverage;

12 ~~19.~~ 20. "Plan of operation" means the plan of operation of the
13 program established pursuant to Section § 6522 of this ~~act~~ title;

14 ~~20.~~ 21. "Premium" means all monies paid by a small employer and
15 eligible employees as a condition of receiving coverage from a small
16 employer carrier, including any fees or other contributions
17 associated with the health benefit plan;

18 ~~21.~~ 22. "Program" means the Oklahoma Small Employer Health
19 Reinsurance Program created pursuant to Section § 6522 of this ~~act~~
20 title;

21 ~~22.~~ 23. "Qualifying previous coverage" and "qualifying existing
22 coverage" mean benefits or coverage provided under:

23 a. Medicare or Medicaid,

24 b. an employer-based health insurance or health benefit
25 arrangement that provides benefits similar to or
26 exceeding benefits provided under the basic health
27 benefit plan, or

28 c. an individual health insurance policy, including
29 coverage issued by a health maintenance organization,
30 fraternal benefit society and those entities set forth
31 in Section 2501 et seq. of Title 63 of the Oklahoma
32 Statutes, that provides benefits similar to or

1 exceeding the benefits provided under the basic health
2 benefit plan, provided that such policy has been in
3 effect for a period of at least one (1) year;

4 ~~23.~~ 24. "Rating period" means the calendar period for which
5 premium rates established by a small employer carrier are assumed to
6 be in effect;

7 ~~24.~~ 25. "Reinsuring carrier" means a small employer carrier
8 participating in the reinsurance program pursuant to Section ~~§~~ 6522
9 of this ~~act~~ title;

10 ~~25.~~ 26. "Restricted network provision" means any provision of a
11 health benefit plan that conditions the payment of benefits, in
12 whole or in part, on the use of health care providers that have
13 entered into a contractual arrangement with the carrier pursuant to
14 Section 2501 et seq. of Title 63 of the Oklahoma Statutes to provide
15 health care services to covered individuals;

16 ~~26.~~ 27. "Risk-assuming carrier" means a small employer carrier
17 whose application is approved by the Commissioner pursuant to
18 Section ~~7~~ 6521 of this ~~act~~ title;

19 ~~27.~~ 28. "Small employer" means any person, firm, corporation,
20 partnership, limited liability company or association that is
21 actively engaged in business that, on at least fifty percent (50%)
22 of its working days during the preceding calendar quarter, employed
23 no more than fifty (50) eligible employees, the majority of whom
24 were employed within this state. In determining the number of
25 eligible employees, companies that are affiliated companies, or that
26 are eligible to file a combined tax return for purposes of state
27 income taxation, shall be considered one employer; ~~and~~

28 ~~28.~~ 29. "Small employer carrier" means a carrier that offers
29 health benefit plans covering eligible employees of one or more
30 small employers in this state; and

1 30. "Standard health benefit plan" means the health benefit
2 plan adopted by the Insurance Commissioner pursuant to this act for
3 small employers.

4 SECTION 2. AMENDATORY Section 8, Chapter 211, O.S.L.
5 1994, as amended by Section 5, Chapter 304, O.S.L. 1998 (36 O.S.
6 Supp. 1998, Section 6522), is amended to read as follows:

7 Section 6522. A. A reinsuring carrier shall be subject to the
8 provisions of this section.

9 B. There is hereby created a nonprofit entity to be known as
10 the "Oklahoma Small Employer Health Reinsurance Program".

11 C. 1. The program shall operate subject to the supervision and
12 control of the board. Subject to the provisions of paragraph 2 of
13 this subsection, the board shall consist of eight (8) members
14 appointed by the Insurance Commissioner plus the Commissioner, or
15 his or her designated representative, who shall serve as an ex
16 officio member of the board.

17 2. a. In selecting the members of the board, the
18 Commissioner shall include representatives of small
19 employers and small employer carriers and such other
20 individuals determined to be qualified by the
21 Commissioner. At least five members of the board
22 shall be representatives of carriers and shall be
23 selected from individuals nominated in this state
24 pursuant to procedures and guidelines developed by the
25 Commissioner.

26 b. In the event that the program becomes eligible for
27 additional financing pursuant to paragraph 3 of
28 subsection L of this section, the board shall be
29 expanded to include two additional members who shall
30 be appointed by the Commissioner. In selecting the
31 additional members of the board, the Commissioner
32 shall choose individuals who represent organizations

1 offering categories of health insurance not already
2 represented on the board, including but not limited to
3 excess or stoploss health insurance. The expansion of
4 the board under this subsection shall continue for the
5 period that the program continues to be eligible for
6 additional financing pursuant to paragraph 3 of
7 subsection L of this section.

8 3. The initial board members shall be appointed as follows:
9 two of the members to serve a term of two (2) years; three of the
10 members to serve a term of four (4) years; and three of the members
11 to serve a term of six (6) years. Subsequent board members shall
12 serve for a term of three (3) years. A board member's term shall
13 continue until his or her successor is appointed.

14 4. A vacancy on the board shall be filled by the Commissioner.
15 A board member may be removed by the Commissioner for cause.

16 D. Within sixty (60) days after the effective date of this act,
17 each small employer carrier shall make a filing with the
18 Commissioner containing the carrier's net health insurance premium
19 derived from health benefit plans delivered or issued for delivery
20 to small employers in this state in the previous calendar year.

21 E. Within one hundred eighty (180) days after the appointment
22 of the initial board, the board shall submit to the Commissioner a
23 plan of operation and, thereafter, any amendments thereto necessary
24 or suitable to ensure the fair, reasonable and equitable
25 administration of the program. The Commissioner may, after notice
26 and hearing, approve the plan of operation if the Commissioner
27 determines it to be suitable to ensure the fair, reasonable and
28 equitable administration of the program, and to provide for the
29 sharing of program gains or losses on an equitable and proportionate
30 basis in accordance with the provisions of this section. The plan
31 of operation shall become effective upon written approval by the
32 Commissioner.

1 F. If the board fails to submit a suitable plan of operation
2 within one hundred eighty (180) days after its appointment, the
3 Commissioner shall, after notice and hearing, adopt and promulgate a
4 temporary plan of operation. The Commissioner shall amend or
5 rescind any plan adopted under this subsection at the time a plan of
6 operation is submitted by the board and approved by the
7 Commissioner.

8 G. The plan of operation shall:

9 1. Establish procedures for the handling and accounting of
10 program assets and monies and for an annual fiscal reporting to the
11 Commissioner;

12 2. Establish procedures for selecting an administering carrier
13 and setting forth the powers and duties of the administering
14 carrier;

15 3. Establish procedures for reinsuring risks in accordance with
16 the provisions of this section;

17 4. Establish procedures for collecting assessments from
18 reinsuring carriers to fund claims and administrative expenses
19 incurred or estimated to be incurred by the program;

20 5. Establish a methodology for applying the dollar thresholds
21 contained in this section in the case of carriers that pay or
22 reimburse health care providers through capitation or salary; or

23 6. Provide for any additional matters necessary for the
24 implementation and administration of the program.

25 H. The program shall have the general powers and authority
26 granted under the laws of this state to insurance companies and
27 health maintenance organizations licensed to transact business,
28 except the power to issue health benefit plans directly to either
29 groups or individuals. In addition thereto, the program shall have
30 the specific authority to:

31 1. Enter into contracts as are necessary or proper to carry out
32 the provisions and purposes of this act, including the authority,

1 with the approval of the Commissioner, to enter into contracts with
2 similar programs of other states for the joint performance of common
3 functions or with persons or other organizations for the performance
4 of administrative functions;

5 2. Sue or be sued, including taking any legal actions necessary
6 or proper to recover any assessments and penalties for, on behalf
7 of, or against the program or any reinsuring carriers;

8 3. Take any legal action necessary to avoid the payment of
9 improper claims against the program;

10 4. Define the health benefit plans for which reinsurance will
11 be provided, and to issue reinsurance policies, in accordance with
12 the requirements of this act;

13 5. Establish rules, conditions and procedures for reinsuring
14 risks under the program;

15 6. Establish actuarial functions as appropriate for the
16 operation of the program;

17 7. Assess reinsuring carriers in accordance with the provisions
18 of subsection L of this section, and to make advance interim
19 assessments as may be reasonable and necessary for organizational
20 and interim operating expenses. Any interim assessments shall be
21 credited as offsets against any regular assessments due following
22 the close of the fiscal year;

23 8. Appoint appropriate legal, actuarial and other committees as
24 necessary to provide technical assistance in the operation of the
25 program, policy and other contract design, and any other function
26 within the authority of the program; and

27 9. Unless otherwise prohibited by law, borrow money to effect
28 the purposes of the program. Any notes or other evidence of
29 indebtedness of the program not in default shall be legal
30 investments for carriers and may be carried as admitted assets.

31 I. A reinsuring carrier may reinsure with the program as
32 provided for in this subsection:

1 1. With respect to a basic health benefit ~~plans~~ plan or a
2 standard health benefit plan, the program shall reinsure the level
3 of coverage provided and, with respect to other plans, the program
4 shall reinsure up to the level of coverage as described in paragraph
5 4 of this subsection provided in a basic or standard health benefit
6 plan;

7 2. A small employer carrier may reinsure an entire employer
8 group within sixty (60) days following the commencement of the
9 group's coverage under a health benefit plan;

10 3. A reinsuring carrier may reinsure an eligible employee or
11 dependent of a small employer within a period of sixty (60) days
12 following the commencement of coverage of the small employer. A
13 newly eligible employee or dependent of the reinsured small employer
14 may be reinsured within sixty (60) days of the commencement of his
15 or her coverage;

16 4. a. The program shall not reimburse a reinsuring carrier
17 with respect to the claims of a reinsured employee or
18 dependent until the carrier has incurred an initial
19 level of claims for such employee or dependent of Five
20 Thousand Dollars (\$5,000.00) in a calendar year for
21 benefits covered by the program. In addition, the
22 reinsuring carrier shall be responsible for ten
23 percent (10%) of the next Fifty Thousand Dollars
24 (\$50,000.00) of benefit payments during a calendar
25 year, and the program shall reinsure the remainder. A
26 reinsuring carrier's liability under this subparagraph
27 shall not exceed a maximum limit of Ten Thousand
28 Dollars (\$10,000.00) in any one (1) calendar year with
29 respect to any reinsured individual.

30 b. The board annually shall adjust the initial level of
31 claims and the maximum limit to be retained by the
32 carrier to reflect increases in costs and utilization

1 within the standard market for health benefit plans
2 within the state. The adjustment shall not be less
3 than the annual change in the medical component of the
4 "Consumer Price Index for All Urban Consumers" of the
5 Department of Labor, Bureau of Labor Statistics,
6 unless the board proposes and the Commissioner
7 approves a lower adjustment factor;

8 5. A small employer carrier may terminate reinsurance with the
9 program for one or more of the reinsured employees or dependents of
10 a small employer on any anniversary of the health benefit plan;

11 6. Premium rates charged for reinsurance by the program to a
12 health maintenance organization that is federally qualified under 42
13 U.S.C. Sec. 300c(c)(2)(A), and as such is subject to requirements
14 that limit the amount of risk that may be ceded to the program that
15 is more restrictive than those specified in paragraph 4 of this
16 subsection, shall be reduced to reflect that portion of the risk
17 above the amount set forth in paragraph 4 of this subsection that
18 may not be ceded to the program, if any; and

19 7. A reinsuring carrier shall apply all managed care and claims
20 handling techniques, including utilization review, individual case
21 management, preferred provider provisions, and other managed care
22 provisions or methods of operation consistently with respect to
23 reinsured and nonreinsured business.

24 J. 1. The board, as part of the plan of operation, shall
25 establish a methodology for determining premium rates to be charged
26 by the program for reinsuring small employers and individuals
27 pursuant to this section. The methodology shall include a system
28 for classification of small employers that reflects the types of
29 case characteristics commonly used by small employer carriers in the
30 state. The methodology shall provide for the development of base
31 reinsurance premium rates which shall be multiplied by the factors
32 set forth in paragraph 2 of this subsection to determine the premium

1 rates for the program. The base reinsurance premium rates shall be
2 established by the board, subject to the approval of the
3 Commissioner, and shall be set at levels which reasonably
4 approximate gross premiums charged to small employers by small
5 employer carriers for health benefit plans with benefits similar to
6 the standard health benefit plan, adjusted to reflect retention
7 levels required under this act.

8 2. Premiums for the program shall be as follows:

9 a. an eligible employee or dependent may be reinsured for
10 a rate that is five (5) times the base reinsurance
11 premium rate for the individual established pursuant
12 to this paragraph, and

13 b. an entire small employer group may be reinsured for a
14 rate that is one and one-half (1 1/2) times the base
15 reinsurance premium rate for the group established
16 pursuant to this paragraph. However, in no event
17 shall the reinsurance premium for any entire group be
18 less than five (5) times the lesser of:

19 (1) the lowest base reinsurance rate applicable to
20 any insured employee, or

21 (2) the lowest base reinsurance rate applicable to
22 any insured dependent in the group.

23 3. The board periodically shall review the methodology
24 established under paragraph 1 of this subsection, including the
25 system of classification and any rating factors, to ensure that it
26 reasonably reflects the claims experience of the program. The board
27 may propose changes to the methodology which shall be subject to the
28 approval of the Commissioner.

29 4. The board may consider adjustments to the premium rates
30 charged by the program to reflect the use of effective cost
31 containment and managed care arrangements.
32

1 K. If a health benefit plan for a small employer is entirely or
2 partially reinsured with the program, the premium charged to the
3 small employer for any rating period for the coverage issued shall
4 meet the requirements relating to premium rates set forth in Section
5 6515 of Title 36 of the Oklahoma Statutes.

6 L. 1. Prior to March 1 of each year, the board shall determine
7 and report to the Commissioner the program net loss for the previous
8 calendar year, including administrative expenses and incurred losses
9 for the year, taking into account investment income and other
10 appropriate gains and losses.

11 2. Any net loss for the year shall be recouped by assessments
12 of reinsuring carriers.

13 a. The board shall establish, as part of the plan of
14 operation, a formula by which to make assessments
15 against reinsuring carriers. The assessment formula
16 shall be based on:

17 (1) each reinsuring carrier's share of the total
18 premiums earned in the preceding calendar year
19 from health benefit plans delivered or issued for
20 delivery to small employers in this state by
21 reinsuring carriers, and

22 (2) each reinsuring carrier's share of the premiums
23 earned in the preceding calendar year from newly
24 issued health benefit plans delivered or issued
25 for delivery during the calendar year to small
26 employers in this state by reinsuring carriers.

27 b. The formula established pursuant to subparagraph a of
28 this paragraph shall not result in any reinsuring
29 carrier having an assessment share that is less than
30 fifty percent (50%) nor more than one hundred fifty
31 percent (150%) of an amount which is based on the
32 proportion of the reinsuring carrier's total premiums

1 earned in the preceding calendar year from health
2 benefit plans delivered or issued for delivery to
3 small employers in this state by reinsuring carriers
4 to the total premiums earned in the preceding calendar
5 year from health benefit plans delivered or issued for
6 delivery to small employers in this state by all
7 reinsuring carriers.

8 c. The board may, with approval of the Commissioner,
9 change the assessment formula established pursuant to
10 subparagraph a of this paragraph from time to time as
11 appropriate. The board may provide for the shares of
12 the assessment base attributable to total premium and
13 to the previous year's premium to vary during a
14 transition period.

15 d. Subject to the approval of the Commissioner, the board
16 shall make an adjustment to the assessment formula for
17 reinsuring carriers that are approved health
18 maintenance organizations which are federally
19 qualified under 42 U.S.C. Sec. 300 et seq., to the
20 extent, if any, that restrictions are placed on them
21 that are not imposed on other small employer carriers.

22 3. a. Prior to March 1 of each year, the board shall
23 determine and file with the Commissioner an estimate
24 of the assessments needed to fund the losses incurred
25 by the program in the previous calendar year.

26 b. If the board determines that the assessments needed to
27 fund the losses incurred by the program in the
28 previous calendar year will exceed five percent (5%)
29 of total premiums earned in the previous calendar year
30 from health benefit plans delivered or issued for
31 delivery to small employers in this state by
32 reinsuring carriers, the board shall evaluate the

1 operation of the program and report its findings,
2 including any recommendations for changes to the plan
3 of operation, to the Commissioner within ninety (90)
4 days following the end of the calendar year in which
5 the losses were incurred. The evaluation shall
6 include an estimate of future assessments and
7 consideration of the administrative costs of the
8 program, the appropriateness of the premiums charged,
9 the level of insurer retention under the program and
10 the costs of coverage for small employers. If the
11 board fails to file a report with the Commissioner
12 within ninety (90) days following the end of the
13 applicable calendar year, the Commissioner may
14 evaluate the operations of the program and implement
15 such amendments to the plan of operation the
16 Commissioner deems necessary to reduce future losses
17 and assessments.

18 c. If assessments in each two (2) consecutive calendar
19 years exceed five percent (5%) of total premiums
20 earned in the previous calendar year from health
21 benefit plans delivered or issued for delivery to
22 small employers in this state by reinsuring carriers,
23 the program shall be eligible to receive additional
24 financing as provided in Section 6523 of this title.

25 4. If assessments exceed net losses of the program, the excess
26 shall be held at interest and used by the board to offset future
27 losses or to reduce program premiums. As used in this paragraph,
28 "future losses" includes reserves for incurred but not reported
29 claims.

30 5. Each reinsuring carrier's proportion of the assessment shall
31 be determined annually by the board based on annual statements and
32

1 other reports deemed necessary by the board and filed by the
2 reinsuring carriers with the board.

3 6. The plan of operation shall provide for the imposition of an
4 interest penalty for late payment of assessments.

5 7. A reinsuring carrier may seek from the Commissioner a
6 deferment from all or part of an assessment imposed by the board.
7 The Commissioner may defer all or part of the assessment of a
8 reinsuring carrier if the Commissioner determines that the payment
9 of the assessment would place the reinsuring carrier in a
10 financially impaired condition. If all or part of an assessment
11 against a reinsuring carrier is deferred, the amount deferred shall
12 be assessed against the other participating carriers in a manner
13 consistent with the basis for assessment set forth in this
14 subsection. The reinsuring carrier receiving the deferment shall
15 remain liable to the program for the amount deferred and shall be
16 prohibited from reinsuring any individuals or groups with the
17 program until such time as it pays the assessments.

18 M. Neither the participation in the program as reinsuring
19 carriers, the establishment of rates, forms or procedures, nor any
20 other joint or collective action required by this section and
21 Section 6523 of this title shall be the basis of any legal action,
22 criminal or civil liability, or penalty against the program or any
23 of its reinsuring carriers either jointly or separately.

24 N. The program shall be exempt from any and all taxes.

25 SECTION 3. AMENDATORY Section 13, Chapter 211, O.S.L.
26 1994, as amended by Section 6, Chapter 304, O.S.L. 1998 (36 O.S.
27 Supp. 1998, Section 6527), is amended to read as follows:

28 Section 6527. A. Each small employer carrier shall actively
29 market health benefit plan coverage to all eligible small employers
30 in this state.

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1 B. 1. Except as provided in paragraph 2 of this subsection, no
2 small employer carrier or agent shall, directly or indirectly,
3 engage in the following activities:

4 a. encouraging or directing small employers to refrain
5 from filing an application for coverage with the small
6 employer carrier because of the health status, claims
7 experience, industry, occupation or geographic
8 location of the small employer, or

9 b. encouraging or directing small employers to seek
10 coverage from another carrier because of the health
11 status, claims experience, industry, occupation or
12 geographic location of the small employer.

13 2. The provisions of paragraph 1 of this subsection shall not
14 apply with respect to information provided by a small employer
15 carrier or agent to a small employer regarding the established
16 geographic service area or a restricted network provision of a small
17 employer carrier.

18 C. 1. Except as provided in paragraph 2 of this subsection, no
19 small employer carrier shall, directly or indirectly, enter into any
20 contract, agreement or arrangement with an agent that provides for
21 or results in the compensation paid to an agent for the sale of a
22 health benefit plan to be varied because of the health status,
23 claims experience, industry, occupation or geographic location of
24 the small employer.

25 2. Paragraph 1 of this subsection shall not apply with respect
26 to a compensation arrangement that provides compensation to an agent
27 on the basis of percentage of premium, provided that the percentage
28 shall not vary because of the health status, claims experience,
29 industry, occupation or geographic area of the small employer.

30 D. A small employer carrier shall provide reasonable
31 compensation, as provided under the plan of operation of the
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1 program, to an agent, if any, for the sale of any health benefit
2 plan.

3 E. No small employer carrier may terminate, fail to renew or
4 limit its contract or agreement of representation with an agent for
5 any reason related to the health status, claims experience,
6 occupation or geographic location of the small employers placed by
7 the agent with the small employer carrier.

8 F. No small employer carrier or agent may induce or otherwise
9 encourage a small employer to separate or otherwise exclude an
10 employee from health coverage or benefits provided in connection
11 with the employee's employment.

12 G. No small employer carrier shall sell, issue, or cause to be
13 issued to a small employer any policy of stop-loss or excess risk
14 insurance of any kind where the specific individual stop-loss amount
15 is less than Fifteen Thousand Dollars (\$15,000.00) or the aggregate
16 stop-loss amount or aggregate attachment point is not less than one
17 hundred twenty percent (120%) of expected claims. This subsection
18 shall apply only to policies written after July 1, 1999. Current
19 policies with stop-loss amounts shall continue until the specific
20 stop-loss amount reaches Fifteen Thousand Dollars (\$15,000.00) or
21 the aggregate stop-loss amount reaches one hundred twenty percent
22 (120%) or until termination of the policy.

23 H. Denial by a small employer carrier of an application for
24 coverage from a small employer shall be in writing and shall state
25 the reason or reasons for the denial. The reasons for denial shall
26 be limited to minimum participation requirements and minimum
27 contribution requirements.

28 ~~H.~~ I. The Insurance Commissioner may promulgate rules setting
29 forth additional standards to provide for the fair marketing and
30 broad availability of health benefit plans to small employers in
31 this state.

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1 ~~I.~~ J. 1. A violation of this section by a small employer
2 carrier or an agent shall be an unfair trade practice under Section
3 1204 et seq. of ~~Title 36 of the Oklahoma Statutes~~ this title.

4 2. If a small employer carrier enters into a contract,
5 agreement or other arrangement with a third-party administrator to
6 provide administrative, marketing or other services related to the
7 offering of health benefit plans to small employers in this state,
8 the third-party administrator shall be subject to this section as if
9 it were a small employer carrier.

10 SECTION 4. This act shall become effective July 1, 1999.

11 SECTION 5. It being immediately necessary for the preservation
12 of the public peace, health and safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

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