

SB 1527

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THE STATE SENATE
Monday, February 28, 2000

Senate Bill No. 1527

SENATE BILL NO. 1527 - By: SNYDER of the Senate and LIOTTA of the House.

An Act relating to insurance; amending Section 2, Chapter 329, O.S.L. 1992, as last amended by Section 2, Chapter 304, O.S.L. 1998 (36 O.S. Supp. 1999, Section 6512), which relates to the Small Employer Health Insurance Reform Act; modifying definitions; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 2, Chapter 329, O.S.L. 1992, as last amended by Section 2, Chapter 304, O.S.L. 1998 (36 O.S. Supp. 1999, Section 6512), is amended to read as follows:

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

1. "Actuarial certification" means a written statement by a 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 used by the small employer carrier in establishing premium rates for applicable health benefit plans;

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

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

11 4. "Board" means the board of directors of the program
12 established pursuant to Section & 6522 of this ~~act~~ title;

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

21 6. "Case characteristics" means demographic or other objective
22 characteristics of a small employer that are considered by the small
23 employer carrier in the determination of premium rates for the small

1 employer, provided that claim experience, health status and duration
2 of coverage shall not be case characteristics for the purposes of
3 the Small Employer Health Insurance Reform Act. A small employer
4 carrier shall not use case characteristics, other than age, gender,
5 industry, geographic area, family composition and group size,
6 without prior approval of the Insurance Commissioner;

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

10 8. "Commissioner" means the Insurance Commissioner;

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

13 10. "Control" (including the terms "controlling", "controlled
14 by" and "under common control with") means the possession, direct or
15 indirect, of the power to direct or cause the direction of the
16 management and policies of a person, whether through the ownership
17 of voting securities, by contract or otherwise, unless the power is
18 the result of an official position with or corporate office held by
19 the person. Control shall be presumed to exist if any person,
20 directly or indirectly, owns, controls, holds with the power to
21 vote, or holds proxies representing ten percent (10%) or more of the
22 voting securities of any other person. This presumption may be
23 rebutted by a showing that control does not exist in fact in the

1 manner provided in Section 1654 of this title. The Commissioner may
2 determine, after furnishing all persons in interest notice and
3 opportunity to be heard and making specific findings of fact to
4 support such determination, that control exists in fact,
5 notwithstanding the absence of a presumption to that effect;

6 11. "Department" means the Insurance Department;

7 12. "Dependent" means a spouse, an unmarried child under the
8 age of eighteen (18), an unmarried child who is a full-time student
9 under the age of twenty-three (23) and who is financially dependent
10 upon the parent, and an unmarried child of any age who is medically
11 certified as disabled and dependent upon the parent;

12 13. "Eligible employee" means an employee who works on a full-
13 time basis and has a normal work week of twenty-four (24) or more
14 hours. The term includes a sole proprietor, a partner of a
15 partnership, and associates of a limited liability company, if the
16 sole proprietor, partner or associate is included as an employee
17 under a health benefit plan of a small employer, but does not
18 include an employee who works on a part-time, temporary or
19 substitute basis. The term "eligible employee" also includes leased
20 employees working for a small employer at least twenty-four (24)
21 hours per week; provided, the leased and nonleased employees shall
22 be aggregated for purposes of determining the minimum criteria to
23 meet the normal enrollment standards of the carrier;

1 14. "Established geographic service area" means a geographic
2 area, as approved by the Commissioner and based on the carrier's
3 certificate of authority to transact insurance in this state, within
4 which the carrier is authorized to provide coverage;

5 15. a. "Health benefit plan" means any hospital or medical
6 policy or certificate; contract of insurance provided
7 by a not-for-profit hospital service or medical
8 indemnity plan; or prepaid health plan or health
9 maintenance organization subscriber contract.

10 b. "Health benefit plan" does not include accident-only,
11 credit, dental, vision, Medicare supplement, long-term
12 care, or disability income insurance, coverage issued
13 as a supplement to liability insurance, worker's
14 compensation or similar insurance, any plan certified
15 by the Oklahoma Basic Health Benefits Board, or
16 automobile medical payment insurance.

17 c. "Health benefit plan" shall not include policies or
18 certificates of specified disease, hospital
19 confinement indemnity or limited benefit health
20 insurance, provided that the carrier offering such
21 policies or certificates complies with the following:
22 (1) the carrier files on or before March 1 of each
23 year a certification with the Commissioner that

1 contains the statement and information described
2 in division (2) of this subparagraph,

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

5 (a) a statement from the carrier certifying that
6 policies or certificates described in this
7 subparagraph are being offered and marketed
8 as supplemental health insurance and not as
9 a substitute for hospital or medical expense
10 insurance or major medical expense
11 insurance, and

12 (b) a summary description of each policy or
13 certificate described in this subparagraph,
14 including the average annual premium rates
15 (or range of premium rates in cases where
16 premiums vary by age, gender or other
17 factors) charged for such policies and
18 certificates in this state, and

19 (3) in the case of a policy or certificate that is
20 described in this subparagraph and that is
21 offered for the first time in this state on or
22 after ~~the effective date of this act~~ July 1,
23 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. "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. "Late enrollee" means an eligible employee or dependent who
10 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

1 termination of the qualifying previous coverage,
2 death of a spouse or divorce, and

3 (3) the individual requests enrollment within thirty
4 (30) days after termination of the qualifying
5 previous coverage,

6 b. the individual is employed by an employer which offers
7 multiple health benefit plans and the individual
8 elects a different plan during an open enrollment
9 period, or

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

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

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

1 20. "Premium" means all monies paid by a small employer and
2 eligible employees as a condition of receiving coverage from a small
3 employer carrier, including any fees or other contributions
4 associated with the health benefit plan;

5 21. "Program" means the Oklahoma Small Employer Health
6 Reinsurance Program created pursuant to Section § 6522 of this ~~act~~
7 title;

8 22. "Qualifying previous coverage" and "qualifying existing
9 coverage" mean benefits or coverage provided under:

- 10 a. Medicare or Medicaid,
11 b. an employer-based health insurance or health benefit
12 arrangement that provides benefits similar to or
13 exceeding benefits provided under the basic health
14 benefit plan, or
15 c. an individual health insurance policy, including
16 coverage issued by a health maintenance organization,
17 fraternal benefit society and those entities set forth
18 in Section 2501 et seq. of Title 63 of the Oklahoma
19 Statutes, that provides benefits similar to or
20 exceeding the benefits provided under the basic health
21 benefit plan, provided that such policy has been in
22 effect for a period of at least one (1) year;

1 23. "Rating period" means the calendar period for which premium
2 rates established by a small employer carrier are assumed to be in
3 effect;

4 24. "Reinsuring carrier" means a small employer carrier
5 participating in the reinsurance program pursuant to Section § 6522
6 of this ~~act~~ title;

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

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

16 27. "Small employer" means any person, firm, corporation,
17 partnership, limited liability company or association that is
18 actively engaged in business that, on at least fifty percent (50%)
19 of its working days during the preceding calendar quarter, employed
20 no more than fifty (50) eligible employees, the majority of whom
21 were employed within this state. In determining the number of
22 eligible employees, companies that are affiliated companies, or that

1 are eligible to file a combined tax return for purposes of state
2 income taxation, shall be considered one employer; and

3 28. "Small employer carrier" means a carrier that offers health
4 benefit plans covering eligible employees of one or more small
5 employers in this state.

6 SECTION 2. This act shall become effective July 1, 2000.

7 SECTION 3. It being immediately necessary for the preservation
8 of the public peace, health and safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

11 COMMITTEE REPORT BY: COMMITTEE ON SMALL BUSINESS, dated 2-24-00 - DO
12 PASS, As Coauthored.