

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1109

By: Turner of the House

and

Shurden of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to insurance; amending 36 O.S. 2001, Sections 6532, as amended by Section 1, Chapter 439, O.S.L. 2002 and 6539 (36 O.S. Supp. 2002, Section 6532), which relate to the Health Insurance High Risk Pool Act; modifying definitions; modifying method of assessment; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 2001, Section 6532, as amended by Section 1, Chapter 439, O.S.L. 2002 (36 O.S. Supp. 2002, Section 6532), is amended to read as follows:

Section 6532. As used in the Health Insurance High Risk Pool Act:

1. "Agent" means any person who is licensed to sell health insurance in this state;

2. "Primary plan" means the comprehensive health insurance benefit plan adopted by the Board of Directors of the Health Insurance High Risk Pool which meets all requirements of federal law as a plan required to be offered by the Pool;

3. "Board" means the Board of Directors of the Health Insurance High Risk Pool;

4. "Church plan" has the meaning given such term under Section 3(33) of the Employee Retirement Income Security Act of 1974;

5. "Creditable coverage" means, with respect to an individual, coverage of the individual provided under any of the following:

- a. a group health plan,
- b. health insurance coverage,
- c. Part A or B of Title XVIII of the Social Security Act,
- d. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under Section 1928 of such act,
- e. Chapter 55 of Title 10, U.S. Code,
- f. a medical care program of the Indian Health Service or of a tribal organization,
- g. a state health benefits risk pool,
- h. a health plan offered under Chapter 89 of Title 5, U.S. Code,
- i. a public health plan as defined in federal regulations, or
- j. a health benefit plan under Section 5(e) of the Peace Corps Act, 22 U.S.C. 2504(e);

6. "Federally defined eligible individual" means an individual:

- a. for whom, as of the date on which the individual seeks coverage under the Health Insurance High Risk Pool Act, the aggregate of the periods of creditable coverage, as defined in Section 1D of the Employee Retirement Income Security Act of 1974, is eighteen (18) or more months,
- b. whose most recent prior creditable coverage was under a group health plan, governmental plan, church plan or health insurance coverage offered in conjunction with any such plan,

- c. who is not eligible for coverage under a group health plan, part A or B of Title XVIII of the Social Security Act, or a state plan under Title XIX of such Act or any successor program and who does not have other health insurance coverage,
- d. with respect to whom the most recent coverage under a COBRA continuation provision or under a similar state program, elected such coverage, and
- e. who has exhausted such continuation coverage under such provision or program, if the individual elected the continuation coverage described in this paragraph of this section;

7. "Governmental plan" has the same meaning given such term under Section 3(32) of the Employee Retirement Income Security Act of 1974 and any federal governmental plan;

8. "Group health benefit plan" means an employee welfare benefit plan as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 to the extent that the plan provides medical care as defined in Section 3N of the Employee Retirement Income Security Act of 1974 and including items and services paid for as medical care to employees or their dependents as defined under the terms of the plan directly or through insurance, reimbursement, or otherwise;

9. "Health insurance" means any individual or group hospital or medical expense-incurred policy or health care benefits plan or contract or excess loss, stop-loss or reinsurance policy issued by an insurer covering a group health benefit plan. The term does not include any policy governing short-term accidents only, a fixed-indemnity policy, a limited benefit policy, a specified accident policy, a specified disease policy, a Medicare supplement policy, a long-term care policy, medical payment or personal injury coverage

in a motor vehicle policy, coverage issued as a supplement to liability insurance, a disability policy, or workers' compensation;

10. "Insurer" means any individual, corporation, association, partnership, fraternal benefit society, or any other entity engaged in the health insurance business, except insurance agents and brokers. This term shall also include not-for-profit hospital service and medical indemnity plans, health maintenance organizations, preferred provider organizations, prepaid health plans, the State and Education Employees Group Health Insurance Plan, and any reinsurer reinsuring health insurance in this state, which shall be designated as engaged in the business of insurance for the purposes of Section 6531 et seq. of this title;

11. "Medical care" means amounts paid for:

- a. the diagnosis, care, mitigation, treatment or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body,
- b. transportation primarily for and essential to medical care referred to in ~~paragraph 1~~ subparagraph a of this ~~section~~ paragraph, and
- c. insurance covering medical care referred to in ~~paragraphs 1~~ subparagraphs a and ~~2~~ b of this ~~section~~ paragraph;

12. "Medicare" means coverage under Parts A and B of Title XVIII of the Social Security Act (Public Law 74-271, 42 U.S.C., Section 1395 et seq., as amended);

13. "Pool" means the Health Insurance High Risk Pool;

14. "Physician" means a doctor of medicine and surgery, doctor of osteopathic medicine, doctor of chiropractic, doctor of podiatric medicine, doctor of optometry, and, for purposes of oral and maxillofacial surgery only, a doctor of dentistry, each duly licensed by this state;

15. "Plan" means any of the comprehensive health insurance benefit plans as adopted by the Board of Directors of the Health Insurance High Risk Pool, or by rule;

16. "Alternative plan" means any of the comprehensive health insurance benefit plans adopted by the Board of Directors of the Health Insurance High Risk Pool other than the primary plan; and

17. "Reinsurer" means any insurer as defined in Section 103 of this title from whom any person providing health insurance to Oklahoma insureds procures insurance for itself as the insurer, with respect to all or part of the health insurance risk of the person.

SECTION 2. AMENDATORY 36 O.S. 2001, Section 6539, is amended to read as follows:

Section 6539. A. 1. Each participating insurer and each participating reinsurer shall be assessed by the Board of Directors of the Health Insurance High Risk Pool a portion of the operating losses of the plan based upon the health insurance they insure or reinsure; such portion being determined by multiplying the operating losses by a fraction, the numerator of which equals the ~~insurer's total health insurance premiums or subscriber's contract charges pertaining to the direct writing of health insurance written in this state during the preceding calendar year~~ number of Oklahoma insureds, certificate holders, employees or their dependents insured or reinsured by each insurer and the denominator of which equals the total of all ~~health insurance premiums and all subscriber contract charges written by all health insurers in this state during the preceding calendar year~~ Oklahoma insureds, certificate holders, employees or their dependents insured or reinsured by all insurers, all determined as of the end of the prior calendar year. The computation of assessments shall be made with a reasonable degree of accuracy, with the recognition that exact determinations may not always be possible.

2. The Board shall ensure that each insured, certificate holder, employee or dependents of the employee is counted only once with respect to any assessment. For that purpose, the Board shall require each insurer that obtains reinsurance for its health insurance plans to include in its count of insureds, certificate holders, employees or their dependents all insureds, certificate holders, employees or their dependents whose coverage is reinsured in whole or in part. The Board shall allow an insurer who is a reinsurer to exclude from its number of insureds, certificate holders, employees or their dependents those that have been counted by the primary insurer or the primary reinsurer for the purpose of determining its assessment under this subsection.

B. 1. If assessments and other receipts by the Pool exceed the actual losses and administrative expenses of the plan, the excess shall be held at interest and used by the Board to offset future losses or to reduce premiums.

2. As used in this subsection, the term "future losses" includes reserves for claims incurred but not reported.

C. 1. Each participant's proportion of participation in the plan shall be determined annually by the Board based on annual statements and other reports deemed necessary by the Board and filed with it by the insurer.

2. Any deficit incurred under the plan shall be recouped by assessments apportioned among the participants by the Board in the manner set forth in subsection A of this section, and the participants may recover the net loss, if any, in the normal course of their respective businesses without time limitation.

3. An insurer which has paid an assessment levied pursuant to this section shall not take a credit on the premium tax return for that insurer but may include the assessment amount in the insurer's claims cost calculation for the purpose of determining the insurer's rates for premiums charged for insurance policies to which the act

applies. The rates shall not be deemed excessive for the sole reason of including in the calculation an amount reasonably calculated to recoup the assessment amount paid by the participating insurer or reinsurer.

SECTION 3. This act shall become effective November 1, 2003.

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