

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1791

By: Peterson (Ron)

AS INTRODUCED

An Act relating to insurance; amending Section 4, Chapter 276, O.S.L. 2002 (36 O.S. Supp. 2004, Section 4524), which relates to the Employer Health Insurance Purchasing Group Act; removing HIPG from being subject to requirements of certain regulation; amending 36 O.S. 2001, Section 6515, which relates to the Small Employer Health Insurance Reform Act; modifying percentage at which premium rate may vary; and providing an effective date.

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

SECTION 1. AMENDATORY Section 4, Chapter 276, O.S.L. 2002 (36 O.S. Supp. 2004, Section 4524), is amended to read as follows:

Section 4524. A. Each Health Insurance Purchasing Group (HIPG), in conjunction with a HIPG health carrier, shall make available a health benefits plan in the manner described in this section to all eligible employers and eligible employees at rates, including employers' and employees' shares, on a policy- or product-specific basis which may vary only as permitted under law.

B. Subject to subsection C of this section, a HIPG shall not offer a health benefit plan which unfairly discriminates against eligible employees.

C. Nothing in this act shall be construed as requiring a HIPG health carrier to provide coverage outside the service area of the insurer or organization.

D. Each HIPG shall provide a health benefits plan only through contracts with HIPG health carriers and shall not assume insurance risk with respect to the coverage.

E. Except as provided in this act, the HIPG may develop or offer a health benefits plan for its members, in whole or in part, not subject to state-mandated health benefits.

F. The HIPG shall offer at least two types of plans to its members, including one plan providing a choice of deductibles with state-mandated health benefits.

G. The HIPG may also offer a health benefits plan not subject to state-mandated health benefits which does not contain standard provisions or rights required to be present in a health benefits plan pursuant to law or regulations unrelated to a specific illness, injury or condition of the insured, for the provisions as may be determined by rules and regulations of the Commissioner.

H. Every health benefits plan offered through a HIPG shall:

1. Be underwritten by a HIPG health carrier that:

- a. is licensed or otherwise regulated under state law,
- b. meets all applicable state standards relating to consumer protection, including, but not limited to, state solvency and market conduct, and
- c. offers the coverage under an approved contract with the HIPG;

2. Be approved or otherwise permitted to be offered under law;

3. Provide full portability of creditable coverage for individuals who remain members of the same HIPG notwithstanding that they change the eligible employer through which they are members; and

4. Comply with the provisions of the Oklahoma Insurance Code in their sales and solicitation of insurance including, but not limited to, the Deceptive Trade Practices Act, and to the degree that an agent is involved in the solicitation, sale or purchase of a health

benefits plan offered to a HIPG, that agent must be duly licensed by the State Insurance Department and hold a valid license to transact the business of insurance.

I. A HIPG shall not be subject to the requirements of the Small Employer Health Insurance Reform Act.

J. Nothing in this act shall be construed as precluding a HIPG health carrier from offering a health benefits plan through a HIPG by establishing premium discounts for members, or from modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention, so long as the programs are agreed to in advance by the HIPG and comply with all other provisions of this act and do not discriminate among similarly situated members.

SECTION 2. AMENDATORY 36 O.S. 2001, Section 6515, is amended to read as follows:

Section 6515. A. Premium rates for health benefit plans subject to the Small Employer Health Insurance Reform Act shall be subject to the following provisions:

1. The rate manual developed for use by a small employer carrier shall be filed and approved by the Insurance Commissioner prior to use. Any changes to the rate manual shall be filed and approved by the Insurance Commissioner prior to use. Every filing shall be made not less than thirty (30) days prior to the date the small employer carrier intends to implement the rates. The rate manual so filed shall be deemed approved upon expiration of the thirty-day waiting period unless, prior to the end of the period, it has been affirmatively approved or disapproved by order of the Commissioner. Approval of a rate manual by the Commissioner shall constitute a waiver of any unexpired portion of the thirty-day waiting period. The Commissioner may extend the period to approve or disapprove a rate manual by not more than an additional thirty (30) days by giving notice of such extension before expiration of

the initial thirty-day period. At the expiration of an extended period, the rate filing shall be deemed approved unless otherwise approved or disapproved by the Commissioner. The Commissioner may at any time, after notice and for cause shown, withdraw approval of a filed rate;

2. A small employer health benefit plan shall not be delivered or issued for delivery unless the policy form or certificate form can be expected to return to policyholders and certificate holders in the form of aggregate benefits provided under the policy form or certificate form at least sixty percent (60%) of the aggregate amount of premiums earned. The rate of return shall be estimated for the entire period for which rates are computed to provide coverage. The rate of return shall be calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for the period in accordance with accepted actuarial principles and practices;

3. The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than twenty percent (20%);

4. For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged to such employers under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent (25%) ~~of~~ above the index rate or more than forty percent (40%) below the index rate;

5. The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

- a. the percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers,
- b. any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business, and
- c. any adjustment due to change in coverage or change in the case characteristics of the small employer, as determined from the small employer carrier's rate manual for the class of business;

6. Adjustments in rates for claim experience, health status and duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer;

7. Premium rates for health benefit plans shall comply with the requirements of this section notwithstanding any assessments paid or payable by small employer carriers pursuant to Section 6523 of this title;

8. A small employer carrier may utilize industry as a case characteristic in establishing premium rates; provided, the highest rate factor associated with any industry classification shall not exceed the lowest rate factor associated with any industry classification by more than fifteen percent (15%);

9. In the case of health benefit plans issued prior to the effective date of the Small Employer Health Insurance Reform Act, a premium rate for a rating period may exceed the ranges set forth in paragraphs 3 and 4 of this subsection for a period of three (3) years following the effective date of the Small Employer Health Insurance Reform Act. In such case, the percentage increase in the premium rate charged to a small employer for a new rating period shall not exceed the sum of the following:

- a. the percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers, and
- b. any adjustment due to change in coverage or change in the case characteristics of the small employer, as determined from the carrier's rate manual for the class of business;

10. Small employer carriers shall:

- a. apply rating factors, including case characteristics, consistently with respect to all small employers in a

class of business. Rating factors shall produce premiums for identical groups within the same class of business which differ only by amounts attributable to plan design and do not reflect differences due to claims experience, health status and duration of coverage,

- b. treat all health benefit plans issued or renewed in the same calendar month as having the same rating period;

11. For the purposes of this subsection, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize such a network, provided that utilization of the restricted provider network results in substantial differences in claims costs;

12. The Insurance Commissioner may establish rules to implement the provisions of this section and to assure that rating practices used by small employer carriers are consistent with the purposes of the Small Employer Health Insurance Reform Act, including:

- a. assuring that differences in rates charged for health benefit plans by small employer carriers are reasonable and reflect objective differences in plan design, not including differences due to claims experience, health status or duration of coverage, and
- b. prescribing the manner in which case characteristics may be used by small employer carriers.

B. A small employer carrier shall not transfer a small employer involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status or duration of coverage.

C. The Commissioner may suspend for a specified period the application of paragraph 3 of subsection A of this section as to the premium rates applicable to one or more small employers included within a class of business of a small employer carrier for one or more rating periods upon a filing by the small employer carrier and a finding by the Commissioner either that the suspension is reasonably necessary in light of the financial condition of the small employer carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

SECTION 3. This act shall become effective November 1, 2005.

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