STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2398 By: Turner

AS INTRODUCED

An Act relating to insurance; amending Sections 1, 2, 3, 4 and 8, Chapter 276, O.S.L. 2002 (36 O.S. Supp. 2005, Sections 4521, 4522, 4523, 4524 and 4528), which relate to the Employer Health Insurance Purchasing Group Act; updating citations; adding and modifying definitions; modifying group formation requirements; modifying formation period; exempting HIPG health carrier from the Health Care Freedom of Choice Act; requiring certain plans to be offered by insurers; prohibiting insurer from being member of HIPG; prohibiting health insurers from taking certain actions in relation to a HIPG; authorizing health insurers to establish minimum contribution rules for the HIPG; and providing an effective date.

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

SECTION 1. AMENDATORY Section 1, Chapter 276, O.S.L. 2002 (36 O.S. Supp. 2005, Section 4521), is amended to read as follows:

Section 4521. Sections ~~1~~ 4521 through ~~9~~ 4529 of this ~~act~~ title shall be known and may be cited as the "Employer Health Insurance Purchasing Group Act".

SECTION 2. AMENDATORY Section 2, Chapter 276, O.S.L. 2002 (36 O.S. Supp. 2005, Section 4522), is amended to read as follows:

Section 4522. As used in the Employer Health Insurance Purchasing Group Act:

1. "Commissioner" means the Oklahoma Insurance Commissioner;

2. "Eligible employee" means an employee or individual who is a full-time employee of an eligible employer and is qualified to enroll in a health benefit plan offered through a HIPG;

3. "Eligible employer" means an employer employing no more than one hundred eligible employees;

4. "Employer", "employee", and "dependent", unless otherwise defined in this section, shall have the meaning applied to the terms with respect to the coverage under the laws of the state relating to the coverage and the issuer;

5. "Employer Health Coalition" means a private purchasing cooperative formed for the purpose of securing health coverage;

6. "Full time" means employees working at least twenty-four (24) hours per week for an eligible employer or an amount of hours per week as specified by the employer as a full-time worker for that employer;

~~6.~~ 7. "Health benefits plan" means a group plan, group policy, or group contract for health care services, issued or delivered by a HIPG health carrier, excluding plans, policies, or contracts providing health care benefits or health care services pursuant to the Workers' Compensation Laws and mandatory liability laws;

~~7.~~ 8. "Health insurer" means any entity which provides health insurance in this state. For the purposes of the Employer Health Insurance Purchasing Group Act, "health insurer" includes a licensed insurance company, not-for-profit hospital service or medical indemnity corporation, or a health maintenance organization;

~~8.~~ 9. "HIPG" means a Health Insurance Purchasing Group meeting the requirements of this act or an Employer Health Coalition;

~~9.~~ 10. "HIPG health carrier" means a health insurer as defined in this act;

~~10.~~ 11. "Large group" means a combination of two or more eligible employers belonging to a HIPG;

~~11.~~ 12. "Limited benefit contract" means, for the purposes of this act, a policy or certificate that does not contain state-mandated health benefits;

~~12.~~ 13. "Member" means an individual enrolled for health benefits coverage in a HIPG;

~~13.~~ 14. "Purchaser" means an eligible employer that has contracted with a HIPG for the purchase of health benefits coverage;

~~14.~~ 15. a. "State-mandated health benefits" means coverages for health care services or benefits, required by state law or state regulations, requiring the reimbursement or utilization related to a specific illness, injury, or condition of the covered person, or inclusion of a specific category of licensed health care practitioner to be provided to the covered person in a health benefits plan for a health-related condition of a covered person. Provided, that for the purposes of the options provided by this act, state-mandated health benefits which may be excluded in whole or in part shall not include any health care services or benefits which were mandated by federal law, and

b. "State-mandated health benefits" does not mean standard provisions or rights required to be present in a health benefit plan pursuant to state law or state regulations unrelated to a specific illness, injury or condition of the insured, including, but not limited to, those related to continuation of benefits found in Article 45 of the Oklahoma Insurance Code; and

~~15.~~ 16. "Total eligible employees" means two hundred or more eligible employees.

SECTION 3. AMENDATORY Section 3, Chapter 276, O.S.L. 2002 (36 O.S. Supp. 2005, Section 4523), is amended to read as follows:

Section 4523. A. Each Health Insurance Purchasing Group (HIPG) shall be a nonprofit corporation operated under the direction of a

board of directors, which is composed of five (5) representatives of eligible employers.

B. Each HIPG shall be composed of at least ~~two hundred~~ fifty-one eligible employees from one or more eligible employers.

1. A HIPG shall have twelve (12) months from the time of formation to reach the level of ~~two hundred~~ fifty-one eligible employees.

2. At the time of formation, the HIPG shall have at least ~~fifty-one~~ twenty-five eligible employees.

C. Upon the failure of a HIPG to maintain the required size restrictions described in subsection B of this section, the HIPG shall notify the Commissioner in writing that the HIPG does not comply with the size requirements. The HIPG may then continue to operate the health benefit plan for its members but shall within sixty (60) calendar days comply with the size requirements of this section, or within a time period as determined by the Commissioner.

D. Upon the failure of the HIPG to maintain size requirements as required under subsection C of this section, after sixty (60) calendar days, or after the time period determined by the Commissioner, the HIPG may then be terminated following notice and hearing before the Commissioner.

E. 1. Subject to the provisions of this act, a HIPG shall permit any eligible employer, which meets the membership requirements of the HIPG, to contract with the HIPG for the purchase of a health benefits plan for its eligible employees and dependents of those eligible employees.

2. The HIPG may not vary conditions of eligibility, including premium rates and membership fees, for any employer meeting the membership requirements of the HIPG, nor may it vary conditions of eligibility for any employee to qualify for a HIPG health benefits plan offered to the eligible employer by the HIPG.

3. A HIPG may not require a contract under this subsection between a HIPG and a purchaser to be effective for a period of longer than ~~twelve (12)~~ twenty-four (24) months.

4. This shall not be construed to prevent a contract from being extended for additional ~~twelve-month~~ twenty-four-month periods or preventing the purchaser from voluntarily electing a contract period of longer than ~~twelve (12)~~ twenty-four (24) months.

5. A contract shall provide that the purchaser agrees not to obtain or sponsor a health benefits plan, on behalf of any eligible employees and their dependents, other than through the HIPG. This shall not be construed to apply to an eligible individual who resides in an area for which no coverage is offered by a HIPG health carrier.

F. 1. Under rules established to carry out this act, with respect to an eligible employer that has a purchaser contract with a HIPG, individuals who are eligible employees of an eligible employer may enroll for a health benefits plan offered by a HIPG health carrier.

2. The health benefits plan may include coverage for dependents of the enrolling employees, if this coverage is offered.

3. The employees may enroll for health benefits provided through their employer's contract with a HIPG.

G. A HIPG shall not deny enrollment as a member to an individual who is an eligible employee, or dependent of an employee qualified to be enrolled based on health-status-related factors, except as may be permitted by law.

H. A HIPG shall not limit, restrict, or condition an employer's or employee's membership or choice among benefit plans based on health-status-related factors, duration of coverage, or any similar characteristic related to the health status or experience of a group or of any member of a group.

I. In the case of members enrolled in a health benefits plan offered by a HIPG health carrier, the HIPG shall provide for an annual open enrollment period of thirty (30) calendar days during which the members may change the coverage option in which the members are enrolled.

~~I.~~ J. 1. Nothing in this section shall preclude a HIPG from establishing rules of employee eligibility for enrollment and reenrollment of members during the annual open enrollment period under subsection ~~H~~ I of this section.

2. The rules shall be applied consistently to all purchasers and members within the HIPG and shall not be based in any manner on health-status-related factors and shall not conflict with sections of this act.

~~J.~~ K. 1. Each HIPG shall annually file a report with the Commissioner to be reviewed for approval. The report shall include:

a. a description of its plan of operation including each of the products it intends to sell,

b. a description of its marketing methods and materials, and

c. a description of its membership and disclosure requirements, or other information as required by the Commissioner through rules and regulations.

2. The annual filing required shall be deemed approved upon expiration of a sixty-day waiting period unless, prior to the end of the period, it has been affirmatively approved or disapproved by the Commissioner. The Commissioner may extend the period to approve or disapprove the annual filing by not more than an additional thirty (30) days by giving notice of such extension before expiration of the initial sixty-day period. At the expiration of an extended period, the annual 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 an annual report.

~~K.~~ L. Each HIPG shall be considered a large group for purposes of application of the Oklahoma Insurance Code to the activities and health benefit plans of the HIPG, unless stated otherwise in this act.

SECTION 4. AMENDATORY Section 4, Chapter 276, O.S.L. 2002 (36 O.S. Supp. 2005, 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, nor shall the HIPG health carrier be subject to the requirements of the Health Care Freedom of Choice Act.

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~~ health insurer shall offer at least two types of plans to ~~its members~~ HIPGs applying for coverage, including one plan

providing a choice of deductibles with state-mandated health benefits.

G. The ~~HIPG may~~ health insurer shall 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~~ insurer 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 Oklahoma 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; and

5. A health insurer shall not form or be a member of a HIPG. A health insurer may associate with a sponsoring entity, such as a business association, chamber of commerce, or other organization

representing employers or serving an analogous function, to assist the sponsoring entity in forming a HIPG.

I. A HIPG shall 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.

K. A health insurer shall not, directly or indirectly, encourage or direct a HIPG to refrain from applying for coverage with the carrier because of health status or claim experience of the eligible employees, and their dependents, of the HIPG.

L. A health insurer shall not, directly or indirectly, encourage or direct a HIPG to seek coverage from another health insurer because of health status or claim experience of the eligible employees, and their dependents, of the HIPG.

M. A health insurer shall not, directly or indirectly, encourage or direct a HIPG to apply for a particular health benefit plan because of health status or claim experience of the eligible employees, and their dependents, of the HIPG.

N. A health insurer shall not, directly or indirectly, encourage or direct an employer to become a member or not become a member of a particular HIPG because of the health status or claim experience of the eligible employees, and their dependents, of the employer.

SECTION 5. AMENDATORY Section 8, Chapter 276, O.S.L. 2002 (36 O.S. Supp. 2005, Section 4528), is amended to read as follows:

Section 4528. A. Nothing in this act shall be construed as preventing one or more Health Insurance Purchasing Groups (HIPG) from serving different areas, whether or not contiguous, by providing for some or all of the following through a single administrative organization or otherwise:

1. Coordinating the offering of the same or similar health benefits coverage in different areas served by the different HIPG; or

2. Providing for crediting of deductibles and other cost-sharing for individuals who are provided a health benefits plan through the HIPG or affiliated HIPG after:

a. a change of eligible employers through which the coverage is provided, or

b. a change in place of employment to an area not served by the previous HIPG.

B. No HIPG health carrier shall be required to offer HIPG health benefits plans, or health benefits plans not subject to state-mandated health benefits, to non-HIPG organizations, associations, or employer groups, including but not limited to the small employer health insurance group marketplace in this state.

C. Nothing in this act shall be construed as precluding a HIPG from providing for adjustments in amounts distributed among the HIPG health carriers offering a health benefits plan through the HIPG, based on factors such as the relative health care risk of members enrolled under the coverage offered by the different issuers.

D. Nothing in this act shall be construed as precluding a HIPG from establishing minimum participation and contribution rules for eligible employers that apply to become purchasers in the HIPG, so long as the rules are applied uniformly for all HIPG health carriers. Health insurers may establish minimum participation or contribution rules for the HIPG.

E. The HIPG may determine what rating characteristics it will allow in the health benefit plan including, but not limited to, age, sex, industry, geography, or health.

F. If health is used as a rating characteristic, then the rates for the ~~groups having two through fifty members~~ HIPG will be subject to the small employer group rating law as required in the Small Employer Health Insurance Reform Act but may be considered separate from any small groups sold outside the HIPG.

SECTION 6. This act shall become effective November 1, 2006.

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