

1 ENGROSSED SENATE  
2 BILL NO. 553

By: Justice of the Senate  
and  
Osborn of the House

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5  
6 [ insurance - Health Insurance High Risk Pool Act -  
7 emergency ]  
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10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. AMENDATORY 36 O.S. 2001, Section 6532, as  
12 last amended by Section 18, Chapter 274, O.S.L. 2004 (36 O.S. Supp.  
13 2008, Section 6532), is amended to read as follows:

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

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

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

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

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1 4. "Church plan" has the meaning given such term under Section  
2 3(33) of the Employee Retirement Income Security Act of 1974;

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

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

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

- 22 a. for whom, as of the date on which the individual seeks  
23 coverage under the Health Insurance High Risk Pool  
24 Act, the aggregate of the periods of creditable

1 coverage, as defined in Section 1D of the Employee  
2 Retirement Income Security Act of 1974, is eighteen  
3 (18) or more months,

4 b. whose most recent prior creditable coverage was under  
5 a group health plan, governmental plan, church plan or  
6 health insurance coverage offered in conjunction with  
7 any such plan, and

8 c. who is not eligible for coverage under a group health  
9 plan, part A or B of Title XVIII of the Social  
10 Security Act, or a state plan under Title XIX of such  
11 Act or any successor program and who does not have  
12 other health insurance coverage, except that a person  
13 who has exhausted COBRA coverage shall be, for the  
14 purposes of the Health Insurance High Risk Pool Act, a  
15 federally defined individual

16 ~~d. with respect to whom the most recent coverage under a~~  
17 ~~COBRA continuation provision or under a similar state~~  
18 ~~program, elected such coverage, and~~

19 ~~e. who has exhausted such continuation coverage under~~  
20 ~~such provision or program, if the individual elected~~  
21 ~~the continuation coverage described in this paragraph~~  
22 ~~of this section, however, if the individual is~~  
23 ~~eligible for the credit for health insurance costs~~  
24 ~~under Section 35 of the Internal Revenue Code of 1986,~~

1           ~~the requirement for exhaustion of any available COBRA~~  
2           ~~or state continuation benefits is waived;~~

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

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

14           9. "Health insurance" means any individual or group hospital or  
15 medical expense-incurred policy or health care benefits plan or  
16 contract. The term does not include any policy governing short-term  
17 accidents only, a fixed-indemnity policy, a limited benefit policy,  
18 a specified accident policy, a specified disease policy, a Medicare  
19 supplement policy, a long-term care policy, medical payment or  
20 personal injury coverage in a motor vehicle policy, coverage issued  
21 as a supplement to liability insurance, a disability policy, or  
22 workers' compensation;

23           10. "Insurer" means any individual, corporation, association,  
24 partnership, fraternal benefit society, or any other entity engaged

1 in the health insurance business, except insurance agents and  
2 brokers. This term shall also include not-for-profit hospital  
3 service and medical indemnity plans, health maintenance  
4 organizations, preferred provider organizations, prepaid health  
5 plans, the State and Education Employees Group Health Insurance  
6 Plan, and any reinsurer reinsuring health insurance in this state,  
7 which shall be designated as engaged in the business of insurance  
8 for the purposes of Section 6531 et seq. of this title;

9 11. "Medical care" means amounts paid for:

- 10 a. the diagnosis, care, mitigation, treatment or  
11 prevention of disease, or amounts paid for the  
12 purpose of affecting any structure or function of  
13 the body,
- 14 b. transportation primarily for and essential to  
15 medical care referred to in subparagraph a of  
16 this paragraph, and
- 17 c. insurance covering medical care referred to in  
18 subparagraphs a and b of this paragraph;

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

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

23 14. "Physician" means a doctor of medicine and surgery, doctor  
24 of osteopathic medicine, doctor of chiropractic, doctor of podiatric

1 medicine, doctor of optometry, and, for purposes of oral and  
2 maxillofacial surgery only, a doctor of dentistry, each duly  
3 licensed by this state;

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

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

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

14 SECTION 2. AMENDATORY 36 O.S. 2001, Section 6534, as  
15 last amended by Section 2, Chapter 404, O.S.L. 2008 (36 O.S. Supp.  
16 2008, Section 6534), is amended to read as follows:

17 Section 6534. A. Except as otherwise provided in this section,  
18 any person who maintains a primary residence in this state for at  
19 least one (1) year, or who is legally domiciled in this state on the  
20 date of application and who is eligible for the credit for health  
21 insurance costs under Section 35 of the Internal Revenue Code of  
22 1986, or is a federally defined eligible individual shall be  
23 eligible for coverage under any of the plans of the Health Insurance  
24 High Risk Pool including:

1 1. The spouse of the insured; and

2 2. Any dependent unmarried child of the insured, from the  
3 moment of birth. Such coverage shall terminate at the end of the  
4 premium period in which the child marries, ceases to be a dependent  
5 of the insured, or attains the age of nineteen (19) years, whichever  
6 occurs first. However, if the child is a full-time student at an  
7 accredited institution of higher learning, the coverage may continue  
8 while the child remains unmarried and a full-time student, but not  
9 beyond the premium period in which the child reaches the age of  
10 twenty-three (23) years.

11 B. 1. ~~No~~ Except as provided in this paragraph, no person is  
12 eligible for coverage under any of the Pool plans unless such person  
13 has been rejected by at least two insurers for coverage  
14 substantially similar to the primary plan coverage. As used in this  
15 paragraph, rejection includes an offer of coverage with a material  
16 underwriting restriction or an offer of coverage at a rate equal to  
17 or greater than the primary Pool plan rates. No person is eligible  
18 for coverage under any of the plans if such person has, on the date  
19 of issue of coverage under any of the plans, coverage equivalent to  
20 the primary plan under another health insurance contract or policy.  
21 This paragraph shall not apply to federally defined eligible  
22 individuals or an individual who is eligible for the credit for  
23 health insurance costs under Section 35 of the Internal Revenue Code  
24 of 1986 except for a person who has exhausted COBRA coverage as

1 provided for in subparagraph c of paragraph 6 of Section 6532 of  
2 this title.

3 2. No person who is currently receiving, or is entitled to  
4 receive, health care benefits under any federal or state program  
5 providing financial assistance or preventive and rehabilitative  
6 social services is eligible for coverage under any of the plans.

7 3. No person who is covered under any of the plans and who  
8 terminates coverage is again eligible for coverage unless twelve  
9 (12) months has elapsed since the coverage was terminated; provided,  
10 however, this provision shall not apply to an applicant who is a  
11 federally defined eligible individual. The Board of Directors of  
12 the Health Insurance High Risk Pool may waive the twelve-month  
13 waiting period under circumstances to be determined by the Board.

14 4. No person on whose behalf any of the plans have paid out an  
15 aggregate from any or all offered plans of One Million Dollars  
16 (\$1,000,000.00) in covered benefits is eligible for coverage under  
17 any of the plans.

18 5. No inmate incarcerated in any state penal institution or  
19 confined to any narcotic detention, treatment, and rehabilitation  
20 facility shall be eligible for coverage under any of the plans;  
21 provided, however, this provision shall not apply with respect to an  
22 applicant who is a federally defined eligible individual.

23 C. The Board may establish an annual enrollment cap if the  
24 Board determines it is necessary to limit costs to the plans.

1 However, federally defined eligible individuals shall be guaranteed  
2 access to the Pool without regard to any enrollment caps that are  
3 set for nonfederally defined eligible individuals.

4 D. The coverage of any person who ceases to meet the  
5 eligibility requirements of this section may be terminated at the  
6 end of the month in which an individual no longer meets the  
7 eligibility requirements.

8 E. Nothing in this section shall be construed to deny  
9 eligibility to a person who has exhausted COBRA coverage. Any  
10 person who has exhausted COBRA coverage must apply for coverage  
11 under any of the Pool plans within sixty (60) days after exhausting  
12 such COBRA coverage in order to have a preexisting condition  
13 covered.

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

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