

3 Senate Bill No. 2045

4 SENATE BILL NO. 2045 - By: Brown of the Senate and Sullivan of the
5 House.

6 An Act relating to insurance; amending 36 O.S. 2001, Section
7 6519, which relates to the Small Employer Health Insurance
8 Reform Act; requiring the Insurance Commissioner to develop
9 certain questionnaire for use by small employers applying
10 for certain health insurance coverage; specifying time
11 period when use of the questionnaire shall be required; and
12 providing an effective date.

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

14 SECTION 1. AMENDATORY 36 O.S. 2001, Section 6519, is
15 amended to read as follows:

16 Section 6519. A. 1. As a condition of transacting business in
17 this state with small employers, every small employer carrier shall
18 actively offer to small employers the health benefit plans currently
19 being marketed by the small employer carrier.

20 2. a. A small employer carrier shall issue a health benefit
21 plan to any eligible small employer that applies for
22 ~~such~~ a plan and agrees to make the required premium
23 payments and to satisfy the other reasonable
24 provisions of the health benefit plan not inconsistent
25 with this act.

26 b. In the case of a small employer carrier that
27 establishes more than one class of business pursuant

1 to Section 6514 of Title 36 of the Oklahoma Statutes,
2 the small employer carrier shall maintain and issue to
3 eligible small employers all health benefit plans
4 currently being marketed in each class of business so
5 established. A small employer carrier may apply
6 reasonable criteria to determine the class of business
7 applicable to any small employer, provided that:

8 (1) the criteria are not intended to discourage or
9 prevent acceptance of small employers applying
10 for a health benefit plan,

11 (2) the criteria are not related to the health status
12 or claim experience of the small employer,

13 (3) the criteria are applied consistently to all
14 small employers applying for coverage in the
15 class of business, and

16 (4) the small employer carrier provides for the
17 acceptance of all eligible small employers into
18 one or more classes of business.

19 The provisions of this subparagraph shall not apply to
20 a class of business into which the small employer
21 carrier is no longer enrolling new small businesses.

22 3. A small employer is eligible under paragraph 2 of this
23 subsection if it employed at least two or more eligible employees

1 within this state on at least fifty percent (50%) of its working
2 days during the preceding calendar quarter. This also includes
3 family businesses where employees of the business may be related.
4 The fact that the employees are related shall have no effect on the
5 eligibility for coverage of the small employer.

6 B. 1. A small employer carrier shall file with the
7 Commissioner, in a format and manner prescribed by the Commissioner,
8 all health benefit plans to be used by the carrier. A health
9 benefit plan filed pursuant to this paragraph may be used by a small
10 employer carrier beginning sixty (60) days after it is filed unless
11 the Commissioner disapproves its use.

12 2. The Commissioner at any time may, after providing notice and
13 an opportunity for a hearing to the small employer carrier,
14 disapprove the continued use by a small employer carrier of any
15 health benefit plan on the grounds that the plan does not meet the
16 requirements of this act.

17 C. Health benefit plans covering small employers shall comply
18 with the following provisions:

19 1. A health benefit plan shall not deny, exclude or limit
20 benefits for a covered individual for losses incurred more than
21 twelve (12) months following the effective date of the individual's
22 coverage due to a preexisting condition. A health benefit plan
23 shall not define a preexisting condition more restrictively than:

- 1 a. a condition that would have caused an ordinarily
2 prudent person to seek medical ~~advise~~ advice,
3 diagnosis, care or treatment during the six (6) months
4 immediately preceding the effective date of coverage,
5 or
6 b. a condition for which medical advice, diagnosis, care
7 or treatment was recommended or received during the
8 six (6) months immediately preceding the effective
9 date of coverage;

10 2. A health benefit plan may exclude coverage for late
11 enrollees for the greater of eighteen (18) months or for an
12 eighteen-month preexisting condition exclusion; provided that if
13 both a period of exclusion from coverage and a preexisting condition
14 exclusion are applicable to a late enrollee, the combined period
15 shall not exceed eighteen (18) months from the date the individual
16 enrolls for coverage under the health benefit plan;

17 3. a. Except as provided in subparagraph d of this
18 paragraph, requirements used by a small employer
19 carrier will be limited to requirements for minimum
20 participation of eligible employees and minimum
21 employer contributions. These requirements shall be
22 applied uniformly among all small employers with the
23 same number of eligible employees applying for

1 coverage or receiving coverage from the small employer
2 carrier.

3 b. A small employer carrier may vary application of
4 minimum participation requirements and minimum
5 employer contribution requirements only by the size of
6 the small employer group.

7 c. (1) Except as provided in division (2) of this
8 subparagraph, in applying minimum participation
9 requirements with respect to a small employer, a
10 small employer carrier shall not consider
11 employees or dependents who have qualifying
12 existing coverage in determining whether the
13 applicable percentage of participation is met.

14 (2) With respect to a small employer, a small
15 employer carrier may consider employees or
16 dependents who have coverage under another health
17 benefit plan sponsored by ~~such~~ a small employer
18 in applying minimum participation requirements.

19 d. A small employer carrier shall not increase any
20 requirement for minimum employee participation or any
21 requirement for minimum employer contribution
22 applicable to a small employer at any time after the
23 small employer has been accepted for coverage; and

1 4. a. If a small employer carrier offers coverage to a small
2 employer, the small employer carrier shall offer
3 coverage to all of the eligible employees of a small
4 employer and their dependents. A small employer
5 carrier shall not offer coverage to only certain
6 individuals in a small employer group or to only part
7 of the group, except in the case of late enrollees as
8 provided in paragraph 2 of this subsection.

9 b. Except as permitted under paragraphs 1 and 2 of this
10 subsection, a small employer carrier shall not modify
11 a health benefit plan with respect to a small employer
12 or any eligible employee or dependent, through riders,
13 endorsements or otherwise, to restrict or exclude
14 coverage or benefits for specific diseases, medical
15 conditions or services otherwise covered by the plan.

16 D. The Commissioner shall develop, by rule, a uniform health
17 questionnaire for use by small employers applying for health
18 insurance coverage under group health plans offered by small
19 employer carriers. Small employer carriers shall be required to
20 accept and use the uniform health questionnaire not more than six
21 (6) months after the rules adopting the questionnaire become
22 effective.

1 E. 1. A small employer carrier shall not be required to offer
2 coverage or accept applications pursuant to subsection A of this
3 section in the case of the following:

4 a. to a small employer, where the small employer is not
5 physically located in the ~~carrier's~~ established
6 geographic service area of the carrier,

7 b. to an employee, when the employee does not work or
8 reside within the ~~carrier's~~ established geographic
9 service area of the carrier, or

10 c. within an area where the small employer carrier
11 reasonably anticipates, and demonstrates to the
12 satisfaction of the Commissioner, that it will not
13 have the capacity within its established geographic
14 service area to deliver service adequately to the
15 members of such groups because of its obligations to
16 existing group policyholders and enrollees.

17 2. A small employer carrier that cannot offer coverage pursuant
18 to subparagraph c of paragraph 1 of this subsection may not offer
19 coverage in the applicable area to new cases of employer groups with
20 more than fifty (50) eligible employees or to any small employer
21 groups until the later of one hundred eighty (180) days following
22 each ~~such~~ refusal or the date on which the carrier notifies the

1 Commissioner that it has regained capacity to deliver services to
2 small employer groups.

3 SECTION 2. This act shall become effective November 1, 2010.

4 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated
5 2-11-10 - DO PASS, As Coauthored.