

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1941

By: Kern

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5
6 AS INTRODUCED

7 An Act relating to insurance; amending 36 O.S. 2001,
8 Sections 6513 and 6515, which relate to the Small
9 Employer Health Insurance Reform Act; providing for
10 inclusion of certain persons in act; requiring
11 certain issuance by small employer carriers of health
12 insurance coverage to sole proprietors; and providing
13 an effective date.

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

15 SECTION 1. AMENDATORY 36 O.S. 2001, Section 6513, is
16 amended to read as follows:

17 Section 6513. A. The Small Employer Health Insurance Reform
18 Act shall apply to any group health benefit plan that provides
19 coverage to sole proprietors, two ~~(2)~~ or more eligible employees of
20 a small employer in this state, and to individual health benefits
21 plans providing coverage for a sole proprietor or the eligible
22 employees of a small employer which may include the employer when
23 three ~~(3)~~ or more of such individual plans are sold to a small
24 employer if any of the following conditions are met:

1 1. Any portion of the premium or benefits is paid by the sole
2 proprietor or on behalf of the small employer;

3 2. ~~An~~ A sole proprietor or an eligible employee or dependent is
4 reimbursed, whether through wage adjustments or otherwise, by or on
5 behalf of the small employer for any portion of the premium; or

6 3. The health benefit plan is treated by the sole proprietor or
7 employer or any of the eligible employees or dependents as part of a
8 plan or program for the purposes of Section 162 or Section 106 of
9 the United States Internal Revenue Code.

10 B. 1. Except as provided in paragraph 2 of this subsection,
11 for the purposes of the Small Employer Health Insurance Reform Act,
12 carriers that are affiliated companies or that are eligible to file
13 a consolidated tax return shall be treated as one carrier and any
14 restrictions or limitations imposed by the Small Employer Health
15 Insurance Reform Act shall apply as if all health benefit plans
16 issued to sole proprietors or small employers in this state by such
17 affiliated carriers were issued by one carrier, unless on or before
18 July 1, 1992, the respective affiliate carriers operated with
19 separate books of business as insurers of health benefit plans in
20 which event each such affiliate carrier shall be treated as a
21 separate carrier.

22 2. An affiliated carrier that is a health maintenance
23 organization having a license or certificate of authority under
24 ~~Section 2501 et seq.~~ Sections 6901 through 6936 of Title ~~63~~ 36 of

1 the Oklahoma Statutes may be considered to be a separate carrier for
2 the purposes of the Small Employer Health Insurance Reform Act.

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

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

8 1. The rate manual developed for use by a small employer
9 carrier shall be filed and approved by the Insurance Commissioner
10 prior to use. Any changes to the rate manual shall be filed and
11 approved by the Insurance Commissioner prior to use. Every filing
12 shall be made not less than thirty (30) days prior to the date the
13 small employer carrier intends to implement the rates. The rate
14 manual so filed shall be deemed approved upon expiration of the
15 thirty-day waiting period unless, prior to the end of the period, it
16 has been affirmatively approved or disapproved by order of the
17 Commissioner. Approval of a rate manual by the Commissioner shall
18 constitute a waiver of any unexpired portion of the thirty-day
19 waiting period. The Commissioner may extend the period to approve
20 or disapprove a rate manual by not more than an additional thirty
21 (30) days by giving notice of such extension before expiration of
22 the initial thirty-day period. At the expiration of an extended
23 period, the rate filing shall be deemed approved unless otherwise
24 approved or disapproved by the Commissioner. The Commissioner may

1 at any time, after notice and for cause shown, withdraw approval of
2 a filed rate;

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

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

19 4. For a class of business, the premium rates charged during a
20 rating period to small employers or sole proprietors with similar
21 case characteristics for the same or similar coverage, or the rates
22 that could be charged to such employers under the rating system for
23 that class of business, shall not vary from the index rate by more
24 than twenty-five percent (25%) of the index rate;

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

4 a. the percentage change in the new business premium rate
5 measured from the first day of the prior rating period
6 to the first day of the new rating period. In the
7 case of a health benefit plan into which the small
8 employer carrier is no longer enrolling new small
9 employers or sole proprietors, the small employer
10 carrier shall use the percentage change in the base
11 premium rate, provided that such change does not
12 exceed, on a percentage basis, the change in the new
13 business premium rate for the most similar health
14 benefit plan into which the small employer carrier is
15 actively enrolling new small employers or sole
16 proprietors,

17 b. any adjustment, not to exceed fifteen percent (15%)
18 annually and adjusted pro rata for rating periods of
19 less than one year, due to the claim experience,
20 health status or duration of coverage of the sole
21 proprietor or the employees or dependents of the small
22 employer as determined from the small employer
23 carrier's rate manual for the class of business, and
24

1 c. any adjustment due to change in coverage or change in
2 the case characteristics of the small employer or sole
3 proprietor, as determined from the small employer
4 carrier's rate manual for the class of business;

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

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

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

20 9. In the case of health benefit plans issued prior to the
21 effective date of the Small Employer Health Insurance Reform Act, a
22 premium rate for a rating period may exceed the ranges set forth in
23 paragraphs 3 and 4 of this subsection for a period of three (3)
24 years following the effective date of the Small Employer Health

1 Insurance Reform Act. In such case, the percentage increase in the
2 premium rate charged to a sole proprietor or small employer for a
3 new rating period shall not exceed the sum of the following:

- 4 a. the percentage change in the new business premium rate
5 measured from the first day of the prior rating period
6 to the first day of the new rating period. In the
7 case of a health benefit plan into which the small
8 employer carrier is no longer enrolling new small
9 employers or sole proprietors, the small employer
10 carrier shall use the percentage change in the base
11 premium rate, provided that such change does not
12 exceed, on a percentage basis, the change in the new
13 business premium rate for the most similar health
14 benefit plan into which the small employer carrier is
15 actively enrolling new small employers or sole
16 proprietors, and
- 17 b. any adjustment due to change in coverage or change in
18 the case characteristics of the small employer or sole
19 proprietor, as determined from the carrier's rate
20 manual for the class of business;

21 10. Small employer carriers shall:

- 22 a. apply rating factors, including case characteristics,
23 consistently with respect to all small employers or
24 sole proprietors in a class of business. Rating

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

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

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

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

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

1 B. A small employer carrier shall not transfer a small employer
2 or sole proprietor involuntarily into or out of a class of business.
3 A small employer carrier shall not offer to transfer a small
4 employer or sole proprietor into or out of a class of business
5 unless such offer is made to transfer all small employers or sole
6 proprietors in the class of business without regard to case
7 characteristics, claim experience, health status or duration of
8 coverage.

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

19 SECTION 3. This act shall become effective November 1, 2009.
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