

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1969

By: Gumm

4  
5  
6 AS INTRODUCED

7 An Act relating to insurance; amending 36 O.S. 2001,  
8 Section 4402, which relates to accident and health  
9 policies; requiring certain insurers to file new  
10 rates under certain circumstances; requiring rate  
11 filings to demonstrate certain findings; defining  
12 term; amending 36 O.S. 2001, Section 6515, which  
13 relates to the Small Employer Health Insurance Reform  
14 Act; increasing certain percentage; and providing an  
15 effective date.

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

17 SECTION 1. AMENDATORY 36 O.S. 2001, Section 4402, is  
18 amended to read as follows:

19 Section 4402. A. On and after the effective date of this Code  
20 no policy of insurance against loss or expense from the sickness, or  
21 from the bodily injury or death of the insured by accident shall be  
22 issued or delivered to any person in this state, nor shall any  
23 application, rider or endorsement be used in connection therewith  
24 until a copy of the form thereof, and of the classification of  
risks, and the premium rates pertaining thereto, have been filed  
with the Insurance Commissioner. If the Insurance Commissioner  
disapproves the policy, application, rider or endorsement form, said

1 Commissioner shall make a written decision stating the reason or  
2 reasons therefor, and shall deliver a copy thereof to the company,  
3 and it shall be unlawful for any such insurer to use any such form  
4 in the state. Any such insurer shall have twenty (20) days from the  
5 date of receipt of the notice of disapproval in which to request a  
6 hearing on such disapproval.

7 B. Any insurer subject to the provisions of subsection A of  
8 this section shall be required to file new premium rates with the  
9 Insurance Commissioner if its loss ratio is less than seventy-five  
10 percent (75%). All rate filings pursuant to this subsection shall  
11 include a demonstration that the premium rates are not excessive if  
12 the anticipated loss ratio and the lifetime anticipated loss ratio  
13 meet or exceed the minimum loss ratio standard provided in this  
14 section.

15 C. As used in this section, "loss ratio" means the ratio of  
16 direct claims incurred for the calendar year to direct premiums  
17 earned for the same calendar year, expressed as a percentage.

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

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

23 1. The rate manual developed for use by a small employer  
24 carrier shall be filed and approved by the Insurance Commissioner

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

18 2. A small employer health benefit plan shall not be delivered  
19 or issued for delivery unless the policy form or certificate form  
20 can be expected to return to policyholders and certificate holders  
21 in the form of aggregate benefits provided under the policy form or  
22 certificate form at least ~~sixty percent (60%)~~ seventy-five percent  
23 (75%) of the aggregate amount of premiums earned. The rate of  
24 return shall be estimated for the entire period for which rates are

1 computed to provide coverage. The rate of return shall be  
2 calculated on the basis of incurred claims experience or incurred  
3 health care expenses where coverage is provided by a health  
4 maintenance organization on a service rather than reimbursement  
5 basis and earned premiums for the period in accordance with accepted  
6 actuarial principles and practices;

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

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

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

19 a. the percentage change in the new business premium rate  
20 measured from the first day of the prior rating period  
21 to the first day of the new rating period. In the  
22 case of a health benefit plan into which the small  
23 employer carrier is no longer enrolling new small  
24 employers, the small employer carrier shall use the

1 percentage change in the base premium rate, provided  
2 that such change does not exceed, on a percentage  
3 basis, the change in the new business premium rate for  
4 the most similar health benefit plan into which the  
5 small employer carrier is actively enrolling new small  
6 employers,

7 b. any adjustment, not to exceed fifteen percent (15%)  
8 annually and adjusted pro rata for rating periods of  
9 less than one year, due to the claim experience,  
10 health status or duration of coverage of the employees  
11 or dependents of the small employer as determined from  
12 the small employer carrier's rate manual for the class  
13 of business, and

14 c. any adjustment due to change in coverage or change in  
15 the case characteristics of the small employer, as  
16 determined from the small employer carrier's rate  
17 manual for the class of business;

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

23 7. Premium rates for health benefit plans shall comply with the  
24 requirements of this section notwithstanding any assessments paid or

1 payable by small employer carriers pursuant to Section 6523 of this  
2 title;

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

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

16 a. the percentage change in the new business premium rate  
17 measured from the first day of the prior rating period  
18 to the first day of the new rating period. In the  
19 case of a health benefit plan into which the small  
20 employer carrier is no longer enrolling new small  
21 employers, the small employer carrier shall use the  
22 percentage change in the base premium rate, provided  
23 that such change does not exceed, on a percentage  
24 basis, the change in the new business premium rate for

1 the most similar health benefit plan into which the  
2 small employer carrier is actively enrolling new small  
3 employers, and

- 4 b. any adjustment due to change in coverage or change in  
5 the case characteristics of the small employer, as  
6 determined from the carrier's rate manual for the  
7 class of business;

8 10. Small employer carriers shall:

- 9 a. apply rating factors, including case characteristics,  
10 consistently with respect to all small employers in a  
11 class of business. Rating factors shall produce  
12 premiums for identical groups within the same class of  
13 business which differ only by amounts attributable to  
14 plan design and do not reflect differences due to  
15 claims experience, health status and duration of  
16 coverage,

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

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

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

5           a. assuring that differences in rates charged for health  
6 benefit plans by small employer carriers are  
7 reasonable and reflect objective differences in plan  
8 design, not including differences due to claims  
9 experience, health status or duration of coverage, and

10          b. prescribing the manner in which case characteristics  
11 may be used by small employer carriers.

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

19          C. The Commissioner may suspend for a specified period the  
20 application of paragraph 3 of subsection A of this section as to the  
21 premium rates applicable to one or more small employers included  
22 within a class of business of a small employer carrier for one or  
23 more rating periods upon a filing by the small employer carrier and  
24 a finding by the Commissioner either that the suspension is

1 reasonably necessary in light of the financial condition of the  
2 small employer carrier or that the suspension would enhance the  
3 efficiency and fairness of the marketplace for small employer health  
4 insurance.

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

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