

1 STATE OF OKLAHOMA

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

3 SENATE BILL 2045

By: Brown

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6 AS INTRODUCED

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

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

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

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

22 2. a. A small employer carrier shall issue a health benefit  
23 plan to any eligible small employer that applies for  
24 ~~such~~ a plan and agrees to make the required premium  
payments and to satisfy the other reasonable

1 provisions of the health benefit plan not inconsistent  
2 with this act.

3 b. In the case of a small employer carrier that  
4 establishes more than one class of business pursuant  
5 to Section 6514 of Title 36 of the Oklahoma Statutes,  
6 the small employer carrier shall maintain and issue to  
7 eligible small employers all health benefit plans  
8 currently being marketed in each class of business so  
9 established. A small employer carrier may apply  
10 reasonable criteria to determine the class of business  
11 applicable to any small employer, provided that:

12 (1) the criteria are not intended to discourage or  
13 prevent acceptance of small employers applying  
14 for a health benefit plan,

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

17 (3) the criteria are applied consistently to all  
18 small employers applying for coverage in the  
19 class of business, and

20 (4) the small employer carrier provides for the  
21 acceptance of all eligible small employers into  
22 one or more classes of business.  
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1           The provisions of this subparagraph shall not apply to  
2           a class of business into which the small employer  
3           carrier is no longer enrolling new small businesses.

4           3. A small employer is eligible under paragraph 2 of this  
5 subsection if it employed at least two or more eligible employees  
6 within this state on at least fifty percent (50%) of its working  
7 days during the preceding calendar quarter. This also includes  
8 family businesses where employees of the business may be related.  
9 The fact that the employees are related shall have no effect on the  
10 eligibility for coverage of the small employer.

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

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

22           C. Health benefit plans covering small employers shall comply  
23 with the following provisions:  
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1 1. A health benefit plan shall not deny, exclude or limit  
2 benefits for a covered individual for losses incurred more than  
3 twelve (12) months following the effective date of the individual's  
4 coverage due to a preexisting condition. A health benefit plan  
5 shall not define a preexisting condition more restrictively than:

6 a. a condition that would have caused an ordinarily  
7 prudent person to seek medical ~~advise~~ advice,  
8 diagnosis, care or treatment during the six (6) months  
9 immediately preceding the effective date of coverage,  
10 or

11 b. a condition for which medical advice, diagnosis, care  
12 or treatment was recommended or received during the  
13 six (6) months immediately preceding the effective  
14 date of coverage;

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

22 3. a. Except as provided in subparagraph d of this  
23 paragraph, requirements used by a small employer  
24 carrier will be limited to requirements for minimum

1 participation of eligible employees and minimum  
2 employer contributions. These requirements shall be  
3 applied uniformly among all small employers with the  
4 same number of eligible employees applying for  
5 coverage or receiving coverage from the small employer  
6 carrier.

7 b. A small employer carrier may vary application of  
8 minimum participation requirements and minimum  
9 employer contribution requirements only by the size of  
10 the small employer group.

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

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

23 d. A small employer carrier shall not increase any  
24 requirement for minimum employee participation or any

1 requirement for minimum employer contribution  
2 applicable to a small employer at any time after the  
3 small employer has been accepted for coverage; and

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

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

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

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

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

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

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

19 2. A small employer carrier that cannot offer coverage pursuant  
20 to subparagraph c of paragraph 1 of this subsection may not offer  
21 coverage in the applicable area to new cases of employer groups with  
22 more than fifty (50) eligible employees or to any small employer  
23 groups until the later of one hundred eighty (180) days following  
24 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.

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