SENATE FLOOR VERSION
April 11, 2011

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2075 By: Mulready of the House

and

Brown of the Senate

An Act relating to insurance; amending Section 2, Chapter 276, O.S.L. 2002, as amended by Section 34, Chapter 176, O.S.L. 2009, and Sections 3, 4, 6, 7 and 8, Chapter 276, O.S.L. 2002 (36 O.S. Supp. 2010, Sections 4522, 4523, 4524, 4526, 4527 and 4528), which relate to the Employer Health Insurance Purchasing Group Act; modifying definitions; modifying board of directors membership requirement; modifying composition of a Health Insurance Purchasing Group; modifying employer eligibility requirements; modifying contract periods; authorizing extension of certain contract period; specifying rules shall not apply to certain individual factors; specifying that certain annual filings shall be deemed approved unless expressly disapproved; specifying each Health Insurance Purchasing Group shall be considered a large group for certain purposes; modifying Health Insurance Purchasing Group benefit plan requirements; specifying marketing requirements for certain plan; removing requirement that Health Insurance Purchasing Groups comply with the Small Employer Health Insurance Reform Act; modifying administrative services requirements; prohibiting employees from being associated with certain organizations; modifying board of directors membership affiliation prohibition; modifying definition; modifying offerings made by a Health Insurance Purchasing Group health carrier; allowing for adjustments based on certain factors; modifying rating characteristics requirements; specifying certain groups shall be subject to the Small Employer

Health Insurance Reform Act; and providing an effective date.

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

SECTION 1. AMENDATORY Section 2, Chapter 276, O.S.L. 2002, as amended by Section 34, Chapter 176, O.S.L. 2009 (36 O.S. Supp. 2010, Section 4522), is amended to read as follows:

Section 4522. As used in the Employer Health Insurance Purchasing Group Act:

1. "Bona fide association" means an association that:

a. has been actively in existence for at least five (5) years,

b. has a constitution and by laws,

c. the primary business location and the majority of the eligible employees are located in this state,

d. has been formed and maintained in good faith for purposes other than obtaining health insurance, and

e. does not make health insurance offered through the association other than in connection with a member of the association;

2. "Commissioner" means the Oklahoma Insurance Commissioner;

3. "Eligible employee" means an employee or individual who works the number of hours per week designated by the employer as

full-time employment and is qualified to enroll in a health benefit plan offered through a HIPG;

~~3.~~ 4. "Eligible employer" means an employer ~~employing no more than one hundred eligible~~ with two or more employees;

~~4.~~ 5. "Employer", "employee", and "dependent", unless otherwise defined in this section, shall have the meaning applied to the terms with respect to the coverage under the laws of the state relating to the coverage and the issuer;

~~5.~~ 6. "Full time" shall be defined by the employer, but in no event shall it be less than twenty-four (24) hours per week;

~~6.~~ 7. "Health benefits plan" means a group plan, group policy, or group contract for health care services, issued or delivered by a HIPG health carrier, excluding plans, policies, or contracts providing health care benefits or health care services pursuant to the Workers' Compensation Laws and mandatory liability laws;

~~7.~~ 8. "Health insurer" means any entity which provides health insurance in this state. For the purposes of the Employer Health Insurance Purchasing Group Act, "health insurer" includes a licensed insurance company, not-for-profit hospital service or medical indemnity corporation, or a health maintenance organization. For the purposes of the Employer Health Insurance Purchasing Group Act, a health insurer shall be required to have at least a B+ rating by the A.M. Best Company Inc.;

~~8.~~ 9. "HIPG" means a Health Insurance Purchasing Group meeting the requirements of this act and composed of one or more bona fide associations;

~~9.~~ 10. "HIPG health carrier" means a health insurer as defined in this act;

~~10.~~ 11. "Large group" means a combination of two or more eligible employers belonging to a HIPG;

~~11.~~ 12. "Limited benefit contract" means, for the purposes of this act, a policy or certificate that does not contain state-mandated health benefits;

~~12.~~ 13. "Member" means an individual enrolled for health benefits coverage in a HIPG;

~~13.~~ 14. "Purchaser" means an eligible employer that has contracted with a HIPG for the purchase of health benefits coverage;

~~14.~~

15. a. "State-mandated health benefits" means coverages for health care services or benefits, required by state law or state regulations, requiring the reimbursement or utilization related to a specific illness, injury, or condition of the covered person, or inclusion of a specific category of licensed health care practitioner to be provided to the covered person in a health benefits plan for a health-related condition of a covered person. Provided, that for the purposes of

the options provided by this act, state-mandated health benefits which may be excluded in whole or in part shall not include any health care services or benefits which were mandated by federal law, and

b. "State-mandated health benefits" does not mean standard provisions or rights required to be present in a health benefit plan pursuant to state law or state regulations unrelated to a specific illness, injury or condition of the insured, including, but not limited to, those related to continuation of benefits found in Article 45 of the Oklahoma Insurance Code; and

~~15.~~ 16. "Total eligible employees" means two hundred or more eligible employees.

SECTION 2. AMENDATORY Section 3, Chapter 276, O.S.L. 2002 (36 O.S. Supp. 2010, Section 4523), is amended to read as follows:

Section 4523. A. Each Health Insurance Purchasing Group (HIPG) shall be a nonprofit corporation operated under the direction of a board of directors, which is composed of at least five (5) representatives of eligible employers.

B. Each HIPG shall be composed of at least two hundred eligible employees from ~~one~~ two or more eligible employers.

1. A HIPG shall have twelve (12) months from the time of formation to reach the level of two hundred eligible employees.

2. At the time of formation, the HIPG shall have at least fifty-one eligible employees.

C. Upon the failure of a HIPG to maintain the required size restrictions described in subsection B of this section, the HIPG shall notify the Commissioner in writing that the HIPG does not comply with the size requirements. The HIPG may then continue to operate the health benefit plan for its members but shall within sixty (60) calendar days comply with the size requirements of this section, or within a time period as determined by the Commissioner.

D. Upon the failure of the HIPG to maintain size requirements as required under subsection C of this section, after sixty (60) calendar days, or after the time period determined by the Commissioner, the HIPG may then be terminated following notice and hearing before the Commissioner.

E. 1. Subject to the provisions of this act, a HIPG shall permit any eligible employer, which meets the membership requirements of the HIPG, to contract with the HIPG for the purchase of a health benefits plan for its eligible employees and dependents of those eligible employees.

2. The HIPG may not vary conditions of eligibility~~, including premium rates and membership fees,~~ for any employer meeting the membership requirements of the HIPG, nor may it vary conditions of

eligibility for any employee to qualify for a HIPG health benefits plan offered to the eligible employer by the HIPG.

3. A HIPG may not require a contract under this subsection between a HIPG and a purchaser to be effective for a period of longer than ~~twelve (12) months~~ two (2) years.

4. This shall not be construed to prevent a contract from being extended for additional twelve-month periods or preventing the purchaser from voluntarily electing a contract period of longer than ~~twelve (12) months~~ two (2) years.

5. A contract shall provide that the purchaser agrees not to obtain or sponsor a health benefits plan, on behalf of any eligible employees and their dependents, other than through the HIPG. This shall not be construed to apply to an eligible individual who resides in an area for which no coverage is offered by a HIPG health carrier.

F. 1. Under rules established to carry out this act, with respect to an eligible employer that has a purchaser contract with a HIPG, individuals who are eligible employees of an eligible employer may enroll for a health benefits plan offered by a HIPG health carrier.

2. The health benefits plan may include coverage for dependents of the enrolling employees, if this coverage is offered.

3. The employees may enroll for health benefits provided through their employer's contract with a HIPG.

G. A HIPG shall not deny enrollment as a member to an individual who is an eligible employee, or dependent of an employee qualified to be enrolled based on health-status-related factors, except as may be permitted by law.

H. In the case of members enrolled in a health benefits plan offered by a HIPG health carrier, the HIPG shall provide for an annual open enrollment period of thirty (30) calendar days during which the members may change the coverage option in which the members are enrolled.

I. 1. Nothing in this section shall preclude a HIPG from establishing rules of employee eligibility for enrollment and reenrollment of members during the annual open enrollment period under subsection H of this section.

2. The rules shall be applied consistently to all purchasers and members within the HIPG and shall not be based in any manner on individual health-status-related factors and shall not conflict with sections of this act.

J. 1. Each HIPG shall annually file a report with the Commissioner to be reviewed for approval. The report shall include:

a. a description of its plan of operation including each of the products it intends to sell,

b. a description of its marketing methods and materials, and

c. a description of its membership and disclosure requirements, or other information as required by the Commissioner through rules and regulations.

2. The annual filing required shall be deemed approved upon expiration of a sixty-day waiting period unless, prior to the end of the period, it has been ~~affirmatively approved or~~ expressly disapproved by the Commissioner. The Commissioner may extend the period to approve or disapprove the annual filing by not more than an additional thirty (30) days by giving notice of such extension before expiration of the initial sixty-day period. At the expiration of an extended period, the annual filing shall be deemed approved unless ~~otherwise approved or~~ expressly disapproved by the Commissioner. The Commissioner may at any time, after notice and for cause shown, withdraw approval of an annual report.

K. Each HIPG shall be considered a large group for purposes of application of the Oklahoma Insurance Code to the activities and health benefit plans of the HIPG~~, unless stated otherwise in this act~~.

SECTION 3. AMENDATORY Section 4, Chapter 276, O.S.L. 2002 (36 O.S. Supp. 2010, Section 4524), is amended to read as follows:

Section 4524. A. Each Health Insurance Purchasing Group (HIPG), in conjunction with a HIPG health carrier, shall make available a health benefits plan in the manner described in this

section to all eligible employers and eligible employees at rates, including employers' and employees' shares, on a policy- or product-specific basis which may vary only as permitted under law.

B. Subject to subsection C of this section, a HIPG shall not offer a health benefit plan which ~~unfairly discriminates against eligible employees~~ denies enrollment as a member to an individual who is an eligible employee, or a dependent of an employee qualified to be enrolled based on health-status-related factors.

C. Nothing in this act shall be construed as requiring a HIPG health carrier to provide coverage outside the service area of the insurer or organization.

D. Each HIPG shall provide a health benefits plan only through contracts with HIPG health carriers and shall not assume insurance risk with respect to the coverage.

E. ~~Except as provided in this act, the~~ The HIPG ~~may develop or~~ shall offer ~~a~~ its members one or more health benefits plans, one plan ~~for its members, in whole or in part, not subject to~~ of which shall contain state-mandated health benefits with a choice of deductibles. The HIPG may also offer a health benefits plan that does not contain state-mandated health benefits in whole or in part.

F. ~~The HIPG shall offer at least two types of plans to its members, including one plan providing a choice of deductibles with state-mandated health benefits.~~

~~G. The HIPG may also offer a health benefits plan not subject to state mandated health benefits which does not contain standard provisions or rights required to be present in a health benefits plan pursuant to law or regulations unrelated to a specific illness, injury or condition of the insured, for the provisions as may be determined by rules and regulations of the Commissioner.~~

~~H.~~ Every health benefits plan offered through a HIPG shall:

1. Be underwritten by a HIPG health carrier that:

   a. is licensed or otherwise regulated under state law,

   b. meets all applicable state standards relating to consumer protection, including, but not limited to, state solvency and market conduct, and

   c. offers the coverage under an approved contract with the HIPG;

2. Be approved or otherwise permitted to be offered under law;

3. Provide full portability of creditable coverage for individuals who remain members of the same HIPG notwithstanding that they change the eligible employer through which they are members; ~~and~~

4. Comply with the provisions of the Oklahoma Insurance Code in their sales and solicitation of insurance including, but not limited to, the Trade Practices Act, and to the degree that an agent is involved in the solicitation, sale or purchase of a health benefits

plan offered to a HIPG, that agent must be duly licensed by the State Insurance Department and hold a valid license to transact the business of insurance; and

5. Be available to be marketed and sold by all licensed agents and brokers of a HIPG carrier, at the HIPG health carrier's standard commission and fee schedule effective for the calendar year.

~~I. A HIPG shall be subject to the requirements of the Small Employer Health Insurance Reform Act.~~

~~J.~~ G. Nothing in this act shall be construed as precluding a HIPG health carrier from offering a health benefits plan through a HIPG by establishing premium discounts for members, or from modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention, so long as the programs are agreed to in advance by the HIPG and comply with all other provisions of this act and do not discriminate among similarly situated members.

SECTION 4. AMENDATORY Section 6, Chapter 276, O.S.L. 2002 (36 O.S. Supp. 2010, Section 4526), is amended to read as follows:

Section 4526. A. Each Health Insurance Purchasing Group (HIPG) may provide administrative services for its members. The services may include, but are not limited to, accounting, billing, enrollment information, and employee coverage status reports.

B. The HIPG may delegate or contract its billing and other administrative duties to a third-party administrator as defined under Article 14B of the Oklahoma Insurance Code.

~~C. 1. Nothing in this section shall be construed as preventing a HIPG from serving as an administrative service organization to any entity.~~

~~2. Each HIPG shall collect and disseminate or arrange for the collection and dissemination of consumer oriented information on the scope, cost, and enrollee satisfaction of all coverage options offered through the HIPG to its members.~~

~~3. The information shall be defined by the HIPG and shall be in a manner appropriate to the type of coverage offered.~~

~~4. To the extent practicable, the information shall include information on provider performance, locations, and hours of operation of providers, outcomes, and similar matters.~~

~~5. Nothing in this section shall be construed as preventing the dissemination of the information or other information by the HIPG or by the health care insurer through electronic or other means.~~

~~D. The contract between a HIPG and a HIPG health carrier shall provide that the HIPG may collect premiums on behalf of the issuer for coverage, less a predetermined administrative charge negotiated by the HIPG and the issuer.~~

SECTION 5. AMENDATORY Section 7, Chapter 276, O.S.L. 2002 (36 O.S. Supp. 2010, Section 4527), is amended to read as follows:

Section 4527. A. A member of a board of directors of a Health Insurance Purchasing Group (HIPG) shall not serve as an employee or paid consultant to the HIPG, but may receive reasonable reimbursement for travel expenses for purposes of attending meetings of the board or committees thereof.

B. ~~An individual is not eligible to serve in a paid or unpaid capacity on the board of directors of a HIPG or as an employee of the HIPG, if the individual is employed by, represents in any capacity, owns, or controls any ownership interest in an organization from whom the HIPG receives contributions, rents, or other funds not connected with a contract for coverage through the HIPG~~ A person cannot be an employee of a HIPG or a member of the board of directors of a HIPG if that person is associated with an organization that pays the HIPG contributions, rents or any other funds, except for funds connected with a contract for coverage through the HIPG. For purposes of this subsection, a person is associated with an organization if that person is an employee of the organization, represents the organization in any capacity, or owns or controls any ownership interest in an organization.

C. ~~An individual~~ A person who is serving on a board of directors of a HIPG ~~as a representative described in subsection B of~~

~~this section~~ shall not be employed by or affiliated with a HIPG health carrier. For purposes of this subsection, the term "affiliated" does not include ~~membership~~ a person who is a member in a health benefits plan or ~~the obtaining of~~ a person who obtains health benefits coverage offered by a HIPG health carrier.

SECTION 6. AMENDATORY Section 8, Chapter 276, O.S.L. 2002 (36 O.S. Supp. 2010, Section 4528), is amended to read as follows:

Section 4528. A. Nothing in this act shall be construed as preventing one or more Health Insurance Purchasing Groups (HIPG) from serving different areas, whether or not contiguous, by providing for some or all of the following through a single administrative organization or otherwise:

1. Coordinating the offering of the same or similar health benefits coverage in different areas served by the different HIPG; or

2. Providing for crediting of deductibles and other cost-sharing for individuals who are provided a health benefits plan through the HIPG or affiliated HIPG after:

a. a change of eligible employers through which the coverage is provided, or

b. a change in place of employment to an area not served by the previous HIPG.

B. No HIPG health carrier ~~shall be required to~~ may offer HIPG health benefits plans~~,~~ or ~~health benefits plans not subject to state-mandated health benefits,~~ limited benefit contracts to non-HIPG organizations, associations, ~~or~~ employer groups, ~~including but not limited to~~ or the small employer health insurance group marketplace in this state.

C. Nothing in this act shall be construed as precluding a HIPG from providing for adjustments in amounts ~~distributed among the HIPG health carriers offering a health benefits plan through the HIPG,~~ based on factors such as the relative health care risk of ~~members enrolled under the coverage offered by the different issuers~~ purchasers.

D. Nothing in this act shall be construed as precluding a HIPG from establishing minimum participation and contribution rules for eligible employers that apply to become purchasers in the HIPG, so long as the rules are applied uniformly for all HIPG health carriers.

E. The HIPG may determine what rating characteristics it will allow in the health benefit plan including, but not limited to, age, sex, industry, geography, or relative health care risk of purchasers.

F. If ~~health is~~ individual health-status-related factors are used as a rating characteristic, then the rates for the groups having two through fifty members will be subject to the small

employer group rating law as required in the Small Employer Health Insurance Reform Act but may be considered separate from any small groups sold outside the HIPG.

SECTION 7. This act shall become effective November 1, 2011.

COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated 4-7-11 - DO PASS, As Amended.