

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 71

By: Wilson

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5
6 AS INTRODUCED

7 An Act relating to health insurance premium rates;
8 amending 36 O.S. 2001, Section 4402, which relates to
9 accident and health policies; requiring certain
10 insurers to file new rates under certain
11 circumstances; requiring rate filings to demonstrate
12 certain findings; defining term; amending 36 O.S.
13 2001, Section 6515, as amended by Section 44, Chapter
14 222, O.S.L. 2010 (36 O.S. Supp. 2010, Section 6515),
15 which relates to the Small Employer Health Insurance
16 Reform Act; increasing certain percentage; and
17 providing an effective date.

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

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

21 Section 4402. A. On and after ~~the effective date of this Code~~
22 July 1, 1957, no policy of insurance against loss or expense from
23 the sickness, or from the bodily injury or death of the insured by
24 accident shall be issued or delivered to any person in this state,
nor shall any application, rider or endorsement be used in
connection therewith until a copy of the form thereof, and of the
classification of risks, and the premium rates pertaining thereto,

1 have been filed with the Insurance Commissioner. If the Insurance
2 Commissioner disapproves the policy, application, rider or
3 endorsement form, ~~said~~ the Commissioner shall make a written
4 decision stating the reason or reasons therefor, and shall deliver a
5 copy thereof to the company, and it shall be unlawful for any such
6 insurer to use any such form in the state. Any such insurer shall
7 have twenty (20) days from the date of receipt of the notice of
8 disapproval in which to request a hearing on such disapproval.

9 B. Any insurer subject to the provisions of subsection A of
10 this section shall be required to file new premium rates with the
11 Insurance Commissioner if its loss ratio is less than eighty-five
12 percent (85%). All rate filings pursuant to this subsection shall
13 include a demonstration that the premium rates are not excessive if
14 the anticipated loss ratio and the lifetime anticipated loss ratio
15 meet or exceed the minimum loss ratio standard provided in this
16 section.

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

20 SECTION 2. AMENDATORY 36 O.S. 2001, Section 6515, as
21 amended by Section 44, Chapter 222, O.S.L. 2010 (36 O.S. Supp. 2010,
22 Section 6515) is amended to read as follows:
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1 Section 6515. A. Premium rates for health benefit plans
2 subject to the Small Employer Health Insurance Reform Act shall be
3 subject to the following provisions:

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

23 2. A small employer health benefit plan shall not be delivered
24 or issued for delivery unless the policy form or certificate form

1 can be expected to return to policyholders and certificate holders
2 in the form of aggregate benefits provided under the policy form or
3 certificate form at least ~~sixty percent (60%)~~ eighty-five percent
4 (85%) of the aggregate amount of premiums earned. The rate of
5 return shall be estimated for the entire period for which rates are
6 computed to provide coverage. The rate of return shall be
7 calculated on the basis of incurred claims experience or incurred
8 health care expenses where coverage is provided by a health
9 maintenance organization on a service rather than reimbursement
10 basis and earned premiums for the period in accordance with accepted
11 actuarial principles and practices;

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

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

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

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- 1 a. the percentage change in the new business premium rate
2 measured from the first day of the prior rating period
3 to the first day of the new rating period. In the
4 case of a health benefit plan into which the small
5 employer carrier is no longer enrolling new small
6 employers, the small employer carrier shall use the
7 percentage change in the base premium rate, provided
8 that the change does not exceed, on a percentage
9 basis, the change in the new business premium rate for
10 the most similar health benefit plan into which the
11 small employer carrier is actively enrolling new small
12 employers,
- 13 b. any adjustment, not to exceed fifteen percent (15%)
14 annually and adjusted pro rata for rating periods of
15 less than one year, due to the claim experience,
16 health status or duration of coverage of the employees
17 or dependents of the small employer as determined from
18 the rate manual for the class of business of the small
19 employer carrier, and
- 20 c. any adjustment due to change in coverage or change in
21 the case characteristics of the small employer, as
22 determined from the rate manual for the class of
23 business of the small employer carrier;
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1 6. Adjustments in rates for claim experience, health status and
2 duration of coverage shall not be charged to individual employees or
3 dependents. Any adjustment shall be applied uniformly to the rates
4 charged for all employees and dependents of the small employer;

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

10 8. In the case of health benefit plans issued prior to the
11 effective date of the Small Employer Health Insurance Reform Act, a
12 premium rate for a rating period may exceed the ranges set forth in
13 paragraphs 3 and 4 of this subsection for a period of three (3)
14 years following ~~the effective date of the Small Employer Health~~
15 ~~Insurance Reform Act~~ September 1, 1992. In such case, the
16 percentage increase in the premium rate charged to a small employer
17 for a new rating period shall not exceed the sum of the following:

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

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

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

10 9. Small employer carriers shall:

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

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

22 10. For the purposes of this subsection, a health benefit plan
23 that utilizes a restricted provider network shall not be considered
24 similar coverage to a health benefit plan that does not utilize such

1 a network, provided that utilization of the restricted provider
2 network results in substantial differences in claims costs;

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

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

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

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

21 C. The Commissioner may suspend for a specified period the
22 application of paragraph 3 of subsection A of this section as to the
23 premium rates applicable to one or more small employers included
24 within a class of business of a small employer carrier for one or

1 more rating periods upon a filing by the small employer carrier and
2 a finding by the Commissioner either that the suspension is
3 reasonably necessary in light of the financial condition of the
4 small employer carrier or that the suspension would enhance the
5 efficiency and fairness of the marketplace for small employer health
6 insurance.

7 SECTION 3. This act shall become effective November 1, 2011.

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