

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

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

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

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

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

22 a. the percentage change in the new business premium rate
23 measured from the first day of the prior rating period

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1 to the first day of the new rating period. In the
2 case of a health benefit plan into which the small
3 employer carrier is no longer enrolling new small
4 employers, the small employer carrier shall use the
5 percentage change in the base premium rate, provided
6 that the change does not exceed, on a percentage
7 basis, the change in the new business premium rate for
8 the most similar health benefit plan into which the
9 small employer carrier is actively enrolling new small
10 employers,

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

18 c. any adjustment due to change in coverage or change in
19 the case characteristics of the small employer, as
20 determined from the rate manual for the class of
21 business of the small employer carrier;

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

3 7. 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 8. 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 the change does not exceed, on a percentage

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1 basis, the change in the new business premium rate for
2 the most similar health benefit plan into which the
3 small employer carrier is actively enrolling new small
4 employers, and

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

9 9. Small employer carriers shall:

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

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

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

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

8 D. Nothing in the Small Employer Health Insurance Reform Act
9 shall prohibit a small employer carrier from including in premium
10 rate development an employer's bona fide wellness program for its
11 employees including, but not limited to, a tobacco cessation
12 program.

13 SECTION 2. AMENDATORY 40 O.S. 2011, Section 500, is
14 amended to read as follows:

15 Section 500. A. It shall be unlawful for an employer to:

16 1. Discharge any individual, or otherwise disadvantage any
17 individual, with respect to compensation, terms, conditions or
18 privileges of employment because the individual is a nonsmoker or
19 smokes or uses tobacco products during nonworking hours; or

20 2. Require as a condition of employment that any employee or
21 applicant for employment abstain from smoking or using tobacco
22 products during nonworking hours.

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1 B. Nothing in this section shall prohibit an employer from
2 offering incentives to an employee to participate in wellness
3 programs, including, but not limited to, smoking cessation programs,
4 in conjunction with the employer providing the employee health
5 insurance coverage.

6 SECTION 3. This act shall become effective November 1, 2013.

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8 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 02/25/2013 - DO
9 PASS, As Coauthored.

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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.