

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 1987

Short Title: Health Plans/Changes to Basic and Std. (Public)

Sponsors: Representatives Holliman, Underhill (Primary Sponsors); Bordsen, Faison, Grady, Goforth, McGee, Sherrill, Nye, Wright, England, Current, Tucker, and Insko.

Referred to: Insurance.

May 16, 2006

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE STATUTORY BASIC AND STANDARD HEALTH PLANS FOR SMALL EMPLOYERS, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON HEALTH CARE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-50-125(a) reads as rewritten:

"(a) To improve the availability and affordability of health benefits coverage for small employers, the Committee shall recommend to the Commissioner two plans of coverage, one of which shall be a basic health care plan and the second of which shall be a standard health care plan. Each plan of coverage shall be in two forms, one of which shall be in the form of insurance and the second of which shall be consistent with the basic method of operation and benefit plans of HMOs, including federally qualified HMOs. On or before January 1, 1992, the Committee shall file a progress report with the Commissioner. The Committee shall submit the recommended plans to the Commissioner for approval within 180 days after the appointment of the Committee under G.S. 58-50-120. The Committee shall take into consideration the levels of health benefit plans provided in North Carolina, and appropriate medical and economic factors, and shall establish benefit levels, cost sharing, exclusions, and limitations. On or after October 1, 2006, both plans may have optional deductible and co-payment levels as may be determined by the small employer carrier, including high deductible options. A small employer carrier shall file such changes with the Commissioner for the Commissioner's approval prior to implementing the changes in this State. The Commissioner may periodically review and update the benefits provided by these plans to address trends in the small group market. The Commissioner shall consult with small employer carriers and representatives of the insurance agent and small employer communities as part of that periodic review. Notwithstanding subsection (c) of this section, in developing and approving the plans, the Committee and the Commissioner

1 shall give due consideration to cost-effective and life-saving health care services and to
2 cost-effective health care providers. The Committee shall file with the Commissioner its
3 findings and recommendations, and reasons for the findings and recommendations, if it
4 does not provide for coverage by any type of health care provider specified in
5 G.S. 58-50-30. The recommended plans may include cost containment features such as,
6 but not limited to: preferred provider provisions; utilization review of medical necessity
7 of hospital and physician services; case management benefit alternatives; or other
8 managed care provisions."

9 **SECTION 2.** G.S. 58-50-125(d) reads as rewritten:

10 "(d) ~~Within 180 days after the Commissioner's approval under subsection (b) of~~
11 ~~this section, every small employer carrier shall, as~~

12 As a condition of transacting business as a small employer carrier in this State, the
13 carrier shall either offer small employers at least one basic and one standard health care
14 plan. plan or the alternative coverages as provided in subsection (d1) of this section.

15 Every small employer that elects to be covered under such a plan and agrees to make
16 the required premium payments and to satisfy the other provisions of the plan shall be
17 issued such a plan by the small employer carrier. The premium payment requirements
18 used in connection with basic and standard health care plans may address the potential
19 credit risk of small employers that elect coverage in accordance with this subsection by
20 means of payment security provisions that are reasonably related to the risk and are
21 uniformly applied.

22 If a small employer carrier offers coverage to a small employer, the small employer
23 carrier shall offer coverage to all eligible employees of a small employer and their
24 dependents. A small employer carrier shall not offer coverage to only certain
25 individuals in a small employer group except in the case of late enrollees as provided in
26 G.S. 58-50-130(a)(4). A small employer carrier shall not modify any health benefit plan
27 with respect to a small employer, any eligible employee, or dependent through riders,
28 endorsements, or otherwise, in order to restrict or exclude coverage for certain diseases
29 or medical conditions otherwise covered by the health benefit plan. In the case of an
30 eligible employee or dependent of an eligible employee who, before the effective date
31 of the plan, was excluded from coverage or denied coverage by a small employer carrier
32 in the process of providing a health benefit plan to an eligible small employer, the small
33 employer carrier shall provide an opportunity for the eligible employee or dependent of
34 an eligible employee to enroll in the health benefit plan currently held by the small
35 employer."

36 **SECTION 3.** G.S. 58-50-125 is amended by adding the following new
37 subsection to read:

38 "(d1) Alternative Coverage Permitted. –

39 (1) In general. – In the case of health insurance coverage offered in this
40 State, a small employer carrier may elect to limit the coverage offered
41 under subsection (d) of this section as long as it offers at least two
42 different policy forms of health insurance coverage both of which:

- 1 a. Are designed for, made generally available to, and actively
2 marketed to, and enroll self-employed individuals and other
3 small employer groups; and
4 b. Meet the requirement of subdivision (2) or (3) of this
5 subsection, as elected by the small employer carrier.
- 6 (2) Choice of most popular policy forms. – The requirement of this
7 subdivision is met, for health insurance coverage policy forms offered
8 by a small employer carrier, if the small employer carrier offers the
9 policy forms for small group health insurance coverage with the two
10 highest premium volume numbers of all the policy forms offered by
11 the small employer carrier in this State or applicable marketing or
12 service area, as may be prescribed by rules or regulations, by the small
13 employer carrier in the small group market in the period involved.
- 14 (3) Choice of two policy forms with representative coverage. –
15 a. In general. – The requirement of this subdivision is met for
16 health insurance coverage policy forms offered by a small
17 employer carrier in the small group market if the small
18 employer carrier offers a lower-level coverage policy form, as
19 described in sub-subdivision b. of this subdivision, and a
20 higher-level coverage policy form, as described in
21 sub-subdivision c. of this subdivision, each of which includes
22 benefits substantially similar to other small group health
23 insurance coverage offered by the small employer carrier in this
24 State.
- 25 b. Lower-level coverage policy form. – A policy form is deemed a
26 lower-level coverage policy form for this subdivision if the
27 actuarial value of the benefits under the coverage is at least
28 eighty-five percent (85%) but not greater than one hundred
29 percent (100%) of a weighted average, as described in
30 sub-subdivision d. of this subdivision.
- 31 c. Higher-level coverage policy form. – A policy form is deemed a
32 higher-level coverage policy form for this subdivision if:
33 1. The actuarial value of the benefits under the coverage is
34 at least fifteen percent (15%) greater than the actuarial
35 value of the coverage described in sub-subdivision b. of
36 this subdivision offered by the small employer carrier;
37 and
38 2. The actuarial value of the benefits under the coverage is
39 at least one hundred percent (100%) but not greater than
40 one hundred twenty percent (120%) of a weighted
41 average, as described in sub-subdivision d. of this
42 subdivision.
- 43 d. Weighted average. – For the purposes of this subdivision, the
44 weighted average described in this sub-subdivision is the

1 average actuarial value of the benefits provided by all the health
2 insurance coverage issued, as elected by the small employer
3 carrier, either by that small employer carrier or all small
4 employer carriers in this State in the small group market during
5 the previous year, not including coverage issued under this
6 section, weighted by enrollment for the different coverage.

7 (4) Election. – The small employer carrier elections of the policies to be
8 offered under this subsection shall apply uniformly to all small
9 employers in this State for that small employer carrier. The election
10 shall be effective for a period of not less than two years.

11 (5) Assumptions. – For the purposes of subdivision (3) of this subsection,
12 the actuarial value of benefits provided under small group insurance
13 coverage shall be calculated based on a standardized population and a
14 set of standardized utilization and cost factors.

15 (6) If a small employer carrier chooses to offer the plans under this
16 subsection and discontinues coverage under the basic or standard
17 health benefit plans, the carrier shall make available to the insured
18 employer whose coverage is to be discontinued both of the plans
19 offered under this subsection. New coverage made available pursuant
20 to this subsection shall constitute replacement coverage and shall be
21 rated in accordance with G.S. 58-50-130(b)(3).

22 (7) The Commissioner may adopt rules to carry out the purposes and
23 provisions of this subsection.

24 For purposes of this subsection only, policy forms that have different cost-sharing
25 arrangements or different riders shall be considered to be different policy forms."

26 **SECTION 4.** G.S. 58-68-40(e)(2) reads as rewritten:

27 "(2) A self-employed individual as defined in G.S. 58-50-110(21a), except
28 as otherwise provided for the basic and standard health care plans or
29 other plans as provided under G.S. 58-50-125(d1) under the North
30 Carolina Small Employer Group Health Coverage Reform Act."

31 **SECTION 5.** G.S. 58-50-130(b)(1) reads as rewritten:

32 "(b) For all small employer health benefit plans that are subject to this section,
33 premium rates for health benefit plans subject to this section are subject to the following
34 provisions:

35 (1) Small employer carriers shall use an adjusted-community rating
36 methodology in which the premium for each small employer can vary
37 only on the basis of the eligible employee's or dependent's age as
38 determined in accordance with subdivision (6) of this subsection, the
39 gender of the eligible employee or dependent, number of family
40 members covered, or geographic area as determined under subdivision
41 (7) of this ~~subsection~~ subsection, or industry as determined under
42 subdivision (9) of this subsection. Premium rates charged during a
43 rating period to small employers with similar case characteristics for
44 same coverage shall not vary from the adjusted community rate by

1 more than ~~twenty percent (20%)~~ twenty-five percent (25%) for any
2 reason, including differences in administrative costs and claims
3 experience."

4 **SECTION 6.** G.S. 58-50-110(5a) reads as rewritten:

5 "(5a) 'Case characteristics' means the demographic factors age, gender,
6 family size, ~~and geographic location,~~ location, and industry."

7 **SECTION 7.** G.S. 58-50-110 is amended by adding the following
8 subdivision to read:

9 "(12a) 'Industry' means a demographic factor used to reflect the financial risk
10 associated with a specific industry."

11 **SECTION 8.** G.S. 58-50-130(b)(2) reads as rewritten:

12 "(2) Rating factors related to age, gender, number of family members
13 covered, ~~or geographic location,~~ location, or industry may be developed
14 by each carrier to reflect the carrier's experience. The factors used by
15 carriers are subject to the Commissioner's review;"

16 **SECTION 9.** G.S. 58-50-130(b) is amended by adding the following new
17 subdivision to read:

18 "(9) In any case where the small employer carrier uses industry as a case
19 characteristic in establishing premium rates, the rate factor associated
20 with any industry classification divided by the lowest rate factor
21 associated with any other industry classification shall not exceed 1.2."

22 **SECTION 10.** G.S. 58-50-130(f) reads as rewritten:

23 "(f) Each small employer carrier shall file with the Commissioner annually on or
24 before March 15 an actuarial certification certifying that it is in compliance with this
25 Act and that its rating methods are actuarially sound. The small employer carrier shall
26 retain a copy of the certification at its principal place of business. The Commissioner
27 may adopt rules to carry out the purposes and provisions of this subsection and
28 subsection (b) of this section, including rules establishing the language, content, and
29 format of actuarial certifications."

30 **SECTION 11.** G.S. 58-50-130(b)(7) reads as rewritten:

31 "(7) For the purposes of subsection (b) of this section, a carrier shall ~~not~~
32 ~~apply different geographic rating factors to the rates of small~~
33 ~~employers located within the same county; and~~ define geographic area
34 to mean medical care system. Medical care system factors shall reflect
35 the relative differences in expected costs, shall produce rates that are
36 not excessive, inadequate, or unfairly discriminatory in such medical
37 care system areas, and shall be revenue neutral to the small employer
38 carrier; and".

39 **SECTION 12.** G.S. 58-50-149 reads as rewritten:

40 "**§ 58-50-149. Limit on cessions to the Reinsurance Pool.**

41 In addition to any individual or group previously reinsured in accordance with
42 G.S. 58-50-150(g)(1), the Pool shall only reinsure a health benefit plan issued or
43 delivered for original issue by a reinsuring carrier on or after October 1, 1995, if the
44 health benefit plan provides coverage to a small employer with no more than 25 eligible

1 employees, including self-employed individuals. Notwithstanding any other provision
2 of law, the Pool shall cease to reinsure any individual or group unless that individual or
3 group is reinsured by the Pool on January 1, 2007."

4 **SECTION 13.** Article 50 of Chapter 58 of the General Statutes is amended
5 by adding the following new section to read:

6 "**§ 58-50-157. Termination of the North Carolina Small Employer Health**
7 **Reinsurance Pool.**

8 The Pool shall continue in existence subject to the provisions of G.S. 58-50-149 and
9 to termination in accordance with the requirements of a law or laws of the State of
10 North Carolina or the United States of America. In case of enactment of a law or laws
11 that in the determination of the Board and the Commissioner shall result in the
12 termination of the Pool, the Pool shall terminate and conclude its affairs in a manner to
13 be determined by the Board with the approval of the Commissioner. Any funds or assets
14 of any nature held by the Pool following termination and the payment of all claims and
15 expenses of the Pool shall be distributed to the Pool Member small employer carriers
16 existing at that time in accordance with the then-existing assessment formula found in
17 the Pool's Plan of Operation. The Pool may also assess members in accordance with the
18 then-existing assessment formula should there be claims and expenses of the Pool for
19 which current assessments or funds do not provide adequate resources to cover."

20 **SECTION 14.** G.S. 58-50-120, 58-50-125(b), and 58-50-125(e) and (g) are
21 repealed.

22 **SECTION 15.** G.S. 58-50-125(f) reads as rewritten:

23 "(f) Every small employer carrier shall fairly market ~~the basic and standard health~~
24 ~~care plan~~ all health benefit plans it sells in the small group market to all small
25 employers in the geographic areas in which the carrier makes coverage available or
26 provides benefits."

27 **SECTION 16.** This act is effective when it becomes law.