

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1987
Committee Substitute Favorable 6/26/06

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

Sponsors:

Referred to:

May 16, 2006

A BILL TO BE ENTITLED

1
2 AN ACT TO MAKE CHANGES TO THE STATUTORY BASIC AND STANDARD
3 HEALTH PLANS FOR SMALL EMPLOYERS, AS RECOMMENDED BY THE
4 HOUSE SELECT COMMITTEE ON HEALTH CARE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 58-50-125 is amended by adding a new subsection to
7 read:

8 "(a1) Both the basic health care plan and the standard health care plan provided for
9 in subsection (a) of this section may have optional deductible and co-payment levels as
10 may be determined by the small employer carrier, including high deductible options. A
11 small employer carrier shall file any changes in deductibles or co-payment levels with
12 the Commissioner for the Commissioner's approval prior to implementing the changes
13 in this State. The Commissioner may periodically review and update the benefits
14 provided by these plans to address trends in the small group market. The Commissioner
15 shall consult with small employer carriers and representatives of the insurance agent and
16 small employer communities as part of that periodic review."

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

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

20 As a condition of transacting business as a small employer carrier in this State, the
21 carrier shall either offer small employers at least one basic and one standard health care
22 plan. plan or the alternative coverages provided in G.S. 58-50-126. Every small
23 employer that elects to be covered under such a plan and agrees to make the required
24 premium payments and to satisfy the other provisions of the plan shall be issued such a
25 plan by the small employer carrier. The premium payment requirements used in
26 connection with basic and standard health care plans may address the potential credit
27 risk of small employers that elect coverage in accordance with this subsection by means
28 of payment security provisions that are reasonably related to the risk and are uniformly
29 applied.

1 If a small employer carrier offers coverage to a small employer, the small employer
2 carrier shall offer coverage to all eligible employees of a small employer and their
3 dependents. A small employer carrier shall not offer coverage to only certain
4 individuals in a small employer group except in the case of late enrollees as provided in
5 ~~G.S. 58-50-130(a)(4)~~. G.S. 58-50-130(a)(4b). A small employer carrier shall not modify
6 any health benefit plan with respect to a small employer, any eligible employee, or
7 dependent through riders, endorsements, or otherwise, in order to restrict or exclude
8 coverage for certain diseases or medical conditions otherwise covered by the health
9 benefit plan. In the case of an eligible employee or dependent of an eligible employee
10 who, before the effective date of the plan, was excluded from coverage or denied
11 coverage by a small employer carrier in the process of providing a health benefit plan to
12 an eligible small employer, the small employer carrier shall provide an opportunity for
13 the eligible employee or dependent of an eligible employee to enroll in the health
14 benefit plan currently held by the small employer."

15 **SECTION 3.** Article 50 of Chapter 58 of the General Statutes is amended by
16 adding a new section to read:

17 **"§ 58-50-126. Alternative coverage permitted.**

18 (a) In General. – In the case of health insurance coverage offered in this State, a
19 small employer carrier may elect to limit the coverage offered under G.S. 58-50-125(d)
20 if the carrier offers at least two different policy forms of health insurance coverage and
21 both policy forms meet all of the following:

22 (1) The policy forms are designed for, made available or actively
23 marketed to, and actually enroll self-employed individuals and other
24 small employer groups.

25 (2) The policy forms meet the requirements of either subsections (b) or (c)
26 of this section, as elected by the small employer carrier.

27 (b) Choice of Most Popular Policy Forms. – The requirements of this section are
28 met for health insurance coverage policy forms offered by a small employer carrier if
29 the carrier offers the policy forms for small group health insurance coverage with the
30 two highest premium volume numbers of all the policy forms offered by the carrier in
31 this State or in applicable marketing or service areas in the period involved.

32 (c) Choice of Two Policy Forms with Representative Coverage. – The
33 requirements of this section are met for health insurance coverage policy forms offered
34 by a small employer carrier in the small group market if the small employer carrier
35 offers both policy forms described in this subsection and each policy form includes
36 benefits substantially similar to other small group health insurance coverage offered by
37 the small employer carrier in this State.

38 (1) Lower-level coverage policy form. – A policy form is deemed a
39 lower-level coverage policy form if the actuarial value of the benefits
40 under the coverage is at least eighty-five percent (85%), but not greater
41 than one hundred percent (100%) of a weighted average, as described
42 in subdivision (3) of this subsection.

43 (2) Higher-level coverage policy form. – A policy form is deemed a
44 higher-level coverage policy form if all of the following apply:

1 a. The actuarial value of the benefits under the coverage is at least
2 fifteen percent (15%) greater than the actuarial value of the
3 coverage described in subdivision (1) of this subsection offered
4 by the small employer carrier.

5 b. The actuarial value of the benefits under the coverage is at least
6 one hundred percent (100%), but not greater than one hundred
7 twenty percent (120%) of a weighted average, as described in
8 subdivision (3) of this subsection.

9 (3) Weighted average. – For the purposes of this subsection, a weighted
10 average is the average actuarial value of the benefits provided by all
11 the health insurance coverage issued, as elected by the small employer
12 carrier, either by that small employer carrier or all small employer
13 carriers in this State in the small group market during the previous
14 year, not including coverage issued under this section, weighted by
15 enrollment for the different coverage.

16 (d) Election. – The small employer carrier elections of the policies to be offered
17 under this section shall apply uniformly to all small employers in this State for that
18 small employer carrier. The election shall be effective for a period of not less than two
19 years.

20 (e) Assumptions. – For the purposes of subsection (c) of this section, the
21 actuarial value of benefits provided under small group insurance coverage shall be
22 calculated based on a standardized population and a set of standardized utilization and
23 cost factors.

24 (f) Discontinuation of Basic or Standard Plans. – If a small employer carrier
25 chooses to offer the plans under this section and discontinues coverage under the basic
26 or standard health benefit plans provided for in G.S. 58-50-125, the carrier shall make
27 available to the insured employer whose coverage is to be discontinued both of the plans
28 offered under this section. New coverage made available under this section shall
29 constitute replacement coverage and shall be rated in accordance with
30 G.S. 58-50-130(b)(3).

31 (g) Different Policy Forms. – For purposes of this section only, policy forms that
32 have different cost-sharing arrangements or different riders shall be considered to be
33 different policy forms."

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

35 "(2) A self-employed individual as defined in G.S. 58-50-110(21a), except
36 as otherwise provided for the basic and standard health care plans or
37 other plans under G.S. 58-50-126 under the North Carolina Small
38 Employer Group Health Coverage Reform Act."

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

40 "(5a) 'Case characteristics' means the demographic factors age, gender,
41 family size, ~~and geographic location~~, location, and industry."

42 **SECTION 6.** G.S. 58-50-110 is amended by adding the following
43 subdivision to read:

1 "(12a) "Industry" means a demographic factor used to reflect the financial
2 risk associated with a specific industry."

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

4 "(b) For all small employer health benefit plans that are subject to this section, the
5 ~~premium rates for health benefit plans subject to this section~~ are subject to all of the
6 following provisions:

7 (1) Small employer carriers shall use an adjusted-community rating
8 methodology in which the premium for each small employer can vary
9 only on the basis of the eligible employee's or dependent's age as
10 determined ~~in accordance with~~ under subdivision (6) of this
11 subsection, the gender of the eligible employee or dependent, number
12 of family members covered, or geographic area as determined under
13 subdivision (7) of this ~~subsection.~~ subsection, or industry as
14 determined under subdivision (9) of this subsection. Premium rates
15 charged during a rating period to small employers with similar case
16 characteristics for same coverage shall not vary from the adjusted
17 community rate by more than ~~twenty percent (20%)~~ twenty-five
18 percent (25%) for any reason, including differences in administrative
19 costs and claims experience.

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

24 (3) A small employer carrier shall not modify the premium rate charged to
25 a small employer or a small employer group member, including
26 changes in rates related to the increasing age of a group member, for
27 12 months from the initial issue date or renewal date, unless the group
28 is composite rated and composition of the group changed by twenty
29 percent (20%) or more or benefits are changed. The percentage
30 increase in the premium rate charged to a small employer for a new
31 rating period shall not exceed the sum of all of the following:

32 a. The percentage change in the adjusted community rate as
33 measured from the first day of the prior rating period to the first
34 day of the new rating ~~period,~~ and period.

35 b. Any adjustment, not to exceed fifteen percent (15%) annually,
36 due to claim experience, health status, or duration of coverage
37 of the employees or dependents of the small ~~employer,~~ and
38 employer.

39 c. Any adjustment because of change in coverage or change in
40 case characteristics of the small employer group.

41 (4), (5) Repealed by Session Laws 1995, c. 238, s. 1.

42 (6) ~~For the purposes of subsection (b) of this section, a small employer~~
43 ~~carrier shall, unless~~ Unless the small employer carrier uses composite
44 rating, the small employer carrier shall use the following age brackets:

- 1 a. Younger than 15 years;
- 2 b. 15 to 19 years;
- 3 c. 20 to 24 years;
- 4 d. 25 to 29 years;
- 5 e. 30 to 34 years;
- 6 f. 35 to 39 years;
- 7 g. 40 to 44 years;
- 8 h. 45 to 49 years;
- 9 i. 50 to 54 years;
- 10 j. 55 to 59 years;
- 11 k. 60 to 64 years;
- 12 l. 65 years.

13 Carriers may combine, but shall not split, complete age brackets for
 14 the purposes of determining rates under ~~subsection (b) of this section.~~
 15 this subsection. Small employer carriers shall be permitted to develop
 16 separate rates for individuals aged 65 years and older for coverage for
 17 which Medicare is the primary payor and coverage for which Medicare
 18 is not the primary payor.

19 (7) ~~For the purposes of subsection (b) of this section, a~~ A carrier shall ~~not~~
 20 ~~apply different geographic rating factors to the rates of small~~
 21 ~~employers located within the same county; and~~ define geographic area
 22 to mean medical care system. Medical care system factors shall reflect
 23 the relative differences in expected costs, shall produce rates that are
 24 not excessive, inadequate, or unfairly discriminatory in the medical
 25 care system areas, and shall be revenue neutral to the small employer
 26 carrier.

27 (8) The Department may adopt rules to administer this subsection and to
 28 assure that rating practices used by small employer carriers are
 29 consistent with the purposes of this subsection. Those rules shall
 30 include consideration of differences based on all of the following:

- 31 a. Health benefit plans that use different provider network
 32 arrangements may be considered separate plans for the purposes
 33 of determining the rating in subdivision (1) of this subsection,
 34 provided that the different arrangements are expected to result
 35 in substantial differences in claims ~~costs;~~ costs.
- 36 b. Except as provided for in sub-subdivision a. of this subdivision,
 37 differences in rates charged for different health benefit plans
 38 shall be reasonable and reflect objective differences in plan
 39 design, but shall not permit differences in premium rates
 40 because of the case characteristics of groups assumed to select
 41 particular health benefit ~~plans; and~~ plans.
- 42 c. Small employer carriers shall apply allowable rating factors
 43 consistently with respect to all small employers.

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

5 **SECTION 8.** G.S. 58-50-149 reads as rewritten:

6 "**§ 58-50-149. Limit on cessions to the Reinsurance Pool.**

7 In addition to any individual or group previously reinsured in accordance with
8 G.S. 58-50-150(g)(1), the Pool shall only reinsure a health benefit plan issued or
9 delivered for original issue by a reinsuring carrier on or after October 1, 1995, if the
10 health benefit plan provides coverage to a small employer with no more than 25 eligible
11 employees, including self-employed individuals. Notwithstanding any other provision
12 of law, the Pool shall cease to reinsure any individual or group on January 1, 2007.
13 Reinsuring carriers as of that date shall continue to be governed by G.S. 58-50-135(b)
14 and G.S. 58-50-150 until and through the termination of the Pool under
15 G.S. 58-50-157."

16 **SECTION 9.** Article 50 of Chapter 58 of the General Statutes is amended by
17 adding the following new section to read:

18 "**§ 58-50-157. Termination of the North Carolina Small Employer Health**
19 **Reinsurance Pool.**

20 The Pool shall continue in existence subject to the provisions of G.S. 58-50-149 and
21 all other applicable State and federal laws. If the Board and the Commissioner
22 determine that a law results in the termination of the Pool, the Pool shall terminate and
23 conclude its affairs in a manner to be determined by the Board with the approval of the
24 Commissioner. Any funds or assets of any nature held by the Pool following
25 termination and the payment of all claims and expenses of the Pool shall be distributed
26 to the Pool Member small employer carriers existing at that time in accordance with the
27 then-existing assessment formula found in the Pool's Plan of Operation. The Pool may
28 also assess members in accordance with the then-existing assessment formula should
29 there be claims and expenses of the Pool for which current assessments or funds do not
30 provide adequate resources to cover."

31 **SECTION 10.** G.S. 58-50-120, 58-50-125(b), (e), and (g), 58-50-135(a),
32 58-50-140, and 58-50-145 are repealed.

33 **SECTION 11.** G.S. 58-50-125(f) reads as rewritten:

34 "~~Every~~ To the extent it is required under this section and G.S. 58-68-40, every
35 small employer carrier shall fairly market the basic and standard health care plan all of
36 its small group health benefit plans it offers on a guaranteed issue basis to all small
37 employers in the geographic areas in which the carrier makes coverage available or
38 provides benefits."

39 **SECTION 12.** G.S. 58-50-135(b) reads as rewritten:

40 "~~(b) A small employer carrier that elects to stop stops participating as a reinsuring~~
41 carrier and to become a risk-assuming carrier shall not reinsure or continue to reinsure
42 any small employer health benefit plans under G.S. 58 50 145 and G.S. 58 50 150 as
43 soon as the carrier becomes a risk-assuming carrier; however, a reinsuring carrier
44 electing to become a risk-assuming carrier shall pay a prorated assessment based upon

1 business issued as a reinsuring carrier for any part of the year that ~~the business was~~
2 ~~reinsured. A small employer carrier that elects to stop participating as a risk assuming~~
3 ~~carrier and to become a reinsuring carrier may reinsure small employer health benefit~~
4 ~~plans under the provisions of G.S. 58-50-145 and G.S. 58-50-150. an assessment is~~
5 ~~made under G.S. 58-50-150."~~

6 **SECTION 13.** G.S. 58-50-150(a) reads as rewritten:

7 "(a) There is created a nonprofit entity to be known as the North Carolina Small
8 Employer Health Reinsurance Pool. All carriers issuing or providing health benefit
9 plans in this State ~~on and after~~ from January 1, 1992, 1992, until the termination of the
10 Pool under G.S. 158-50-157, except any small employer carrier electing to be a
11 risk-assuming carrier, are members of the Pool."

12 **SECTION 14.** G.S. 58-3-191(b)(1) reads as rewritten:

13 "(b) Disclosure requirements. – Each health benefit plan shall provide the
14 following applicable information to plan participants and bona fide prospective
15 participants upon request:

16 (1) The evidence of coverage (G.S. 58-67-50), subscriber contract
17 (G.S. 58-65-60, 58-65-140), health insurance policy (G.S. 58-51-80,
18 58-50-125, 58-50-126, 58-50-55), or the contract and benefit summary
19 of any other type of health benefit plan;"

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

21 "(h) The provisions of ~~subsections (b), (d), and (g) and subdivision (e)(2)~~
22 subsection (d) of this section apply to every health benefit plan delivered, issued for
23 delivery, renewed, or continued in this State or covering persons residing in this State
24 on or after the date the plan becomes operational, as determined by the Commissioner.
25 For purposes of this subsection, the date a health benefit plan is continued is the
26 anniversary date of the issuance of the health benefit plan."

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