

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

**SESSION LAW 2006-154  
HOUSE BILL 1987**

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 is amended by adding a new subsection to read:

"(a1) Both the basic health care plan and the standard health care plan provided for in subsection (a) of this section 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 any changes in deductibles or co-payment levels 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."

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

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

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

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

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

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

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

- (1) The policy forms are designed for, made available or actively marketed to, and actually enroll self-employed individuals and other small employer groups.
- (2) The policy forms meet the requirements of either subsections (b) or (c) of this section, as elected by the small employer carrier.

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

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

- (1) Lower-level coverage policy form. – A policy form is deemed a lower-level coverage policy form if the actuarial value of the benefits under the coverage is at least eighty-five percent (85%), but not greater than one hundred percent (100%) of a weighted average, as described in subdivision (3) of this subsection.
- (2) Higher-level coverage policy form. – A policy form is deemed a higher-level coverage policy form if all of the following apply:
  - a. The actuarial value of the benefits under the coverage is at least fifteen percent (15%) greater than the actuarial value of the coverage described in subdivision (1) of this subsection offered by the small employer carrier.
  - b. The actuarial value of the benefits under the coverage is at least one hundred percent (100%), but not greater than one hundred twenty percent (120%) of a weighted average, as described in subdivision (3) of this subsection.
- (3) Weighted average. – For the purposes of this subsection, a weighted average is the average actuarial value of the benefits provided by all the health insurance coverage issued, as elected by the small employer carrier, either by that small employer carrier or all small employer carriers in this State in the small group market during the previous year, not including coverage issued under this section, weighted by enrollment for the different coverage.

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

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

(f) Discontinuation of Basic or Standard Plans. – If a small employer carrier chooses to offer the plans under this section and discontinues coverage under the basic or standard health benefit plans provided for in G.S. 58-50-125, the carrier shall make available to the insured employer whose coverage is to be discontinued both of the plans

offered under this section. New coverage made available under this section shall constitute replacement coverage and shall be rated in accordance with G.S. 58-50-130(b)(3).

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

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

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

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

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

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

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

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

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

- (1) Small employer carriers shall use an adjusted-community rating methodology in which the premium for each small employer can vary only on the basis of the eligible employee's or dependent's age as determined ~~in accordance with~~ under subdivision (6) of this subsection, the gender of the eligible employee or dependent, number of family members covered, or geographic area as determined under subdivision (7) of this ~~subsection.~~ subsection, or industry as determined under subdivision (9) of this subsection. Premium rates charged during a rating period to small employers with similar case characteristics for same coverage shall not vary from the adjusted community rate by more than ~~twenty percent (20%)~~ twenty-five percent (25%) for any reason, including differences in administrative costs and claims experience.
- (2) Rating factors related to age, gender, number of family members covered, ~~or geographic location, location, or industry~~ may be developed by each carrier to reflect the carrier's experience. The factors used by carriers are subject to the Commissioner's ~~review;~~ review.
- (3) A small employer carrier shall not modify the premium rate charged to a small employer or a small employer group member, including changes in rates related to the increasing age of a group member, for 12 months from the initial issue date or renewal date, unless the group is composite rated and composition of the group changed by twenty percent (20%) or more or benefits are changed. The percentage increase in the premium rate charged to a small employer for a new rating period shall not exceed the sum of all of the following:
  - a. The percentage change in the adjusted community rate as measured from the first day of the prior rating period to the first day of the new rating ~~period,~~ and period.
  - b. Any adjustment, not to exceed fifteen percent (15%) annually, due to claim experience, health status, or duration of coverage of the employees or dependents of the small ~~employer,~~ and employer.

- c. Any adjustment because of change in coverage or change in case characteristics of the small employer group.
- (4), (5) Repealed by Session Laws 1995, c. 238, s. 1.
- (6) ~~For the purposes of subsection (b) of this section, a small employer carrier shall, unless~~ Unless the small employer carrier uses composite rating, the small employer carrier shall use the following age brackets:
  - a. Younger than 15 years;
  - b. 15 to 19 years;
  - c. 20 to 24 years;
  - d. 25 to 29 years;
  - e. 30 to 34 years;
  - f. 35 to 39 years;
  - g. 40 to 44 years;
  - h. 45 to 49 years;
  - i. 50 to 54 years;
  - j. 55 to 59 years;
  - k. 60 to 64 years;
  - l. 65 years.

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

- (7) ~~For the purposes of subsection (b) of this section, a~~ A carrier shall ~~not apply different geographic rating factors to the rates of small employers located within the same county; and define geographic area to mean medical care system. Medical care system factors shall reflect the relative differences in expected costs, shall produce rates that are not excessive, inadequate, or unfairly discriminatory in the medical care system areas, and shall be revenue neutral to the small employer carrier.~~
- (8) The Department may adopt rules to administer this subsection and to assure that rating practices used by small employer carriers are consistent with the purposes of this subsection. Those rules shall include consideration of differences based on all of the following:
  - a. Health benefit plans that use different provider network arrangements may be considered separate plans for the purposes of determining the rating in subdivision (1) of this subsection, provided that the different arrangements are expected to result in substantial differences in claims ~~costs; costs.~~
  - b. Except as provided for in sub-subdivision a. of this subdivision, differences in rates charged for different health benefit plans shall be reasonable and reflect objective differences in plan design, but shall not permit differences in premium rates because of the case characteristics of groups assumed to select particular health benefit ~~plans; and plans.~~
  - c. Small employer carriers shall apply allowable rating factors consistently with respect to all small employers.
- (9) In any case where the small employer carrier uses industry as a case characteristic in establishing premium rates, the rate factor associated with any industry classification divided by the lowest rate factor associated with any other industry classification shall not exceed 1.2."

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

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

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

**SECTION 9.** G.S. 58-50-120, 58-50-125(b), (e), and (g), 58-50-135(a), 58-50-140, and 58-50-145 are repealed.

**SECTION 10.** G.S. 58-50-125(f) reads as rewritten:

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

**SECTION 11.** G.S. 58-50-135(b) reads as rewritten:

"(b) A small employer carrier that ~~elects to stop~~ stops participating as a reinsuring carrier and ~~to become a risk assuming carrier shall not reinsure or continue to reinsure any small employer health benefit plans under G.S. 58 50 145 and G.S. 58 50 150 as soon as the carrier becomes a risk assuming carrier; however, a reinsuring carrier electing to become a risk assuming carrier shall pay a prorated assessment based upon business issued as a reinsuring carrier for any part of the year that the business was reinsured. A small employer carrier that elects to stop participating as a risk assuming carrier and to become a reinsuring carrier may reinsure small employer health benefit plans under the provisions of G.S. 58 50 145 and G.S. 58 50 150. an assessment is made under G.S. 58-50-150."~~

**SECTION 12.** G.S. 58-50-150(a) reads as rewritten:

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

**SECTION 13.** G.S. 58-3-191(b)(1) reads as rewritten:

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

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

**SECTION 14.** G.S. 58-50-125(h) reads as rewritten:

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

**SECTION 15.** This act is effective when it becomes law.  
In the General Assembly read three times and ratified this the 13<sup>th</sup> day of  
July, 2006.

s/ Beverly E. Perdue  
President of the Senate

s/ James B. Black  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 1:46 p.m. this 23<sup>rd</sup> day of July, 2006