

SENATE BILL No. 587

By Senator Lee

2-13

AN ACT concerning group health insurance; relating to the size of a group; amending K.S.A. 40-2209d and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 40-2209d is hereby amended to read as follows: 40-2209d. As used in this act:

(a) "Actuarial certification" means a written statement by a member of the American academy of actuaries or other individual acceptable to the commissioner that a small employer carrier is in compliance with the provisions of K.S.A. 40-2209h and amendments thereto, based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods used by the small employer carrier in establishing premium rates for applicable health benefit plans.

(b) "Approved service area" means a geographical area, as approved by the commissioner to transact insurance in this state, within which the carrier is authorized to provide coverage.

(c) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business, by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage.

(d) "Carrier" or "small employer carrier" means any insurance company, nonprofit medical and hospital service corporation, nonprofit optometric, dental, and pharmacy service corporations, municipal group-funded pool, fraternal benefit society or health maintenance organization, as these terms are defined by the Kansas Statutes Annotated, that offers health benefit plans covering eligible employees of one or more small employers in this state.

(e) "Case characteristics" means, with respect to a small employer, the geographic area in which the employees reside; the age and sex of the individual employees and their dependents; the appropriate industry classification as determined by the carrier, and the number of employees and dependents and such other objective criteria as may be approved family composition by the commissioner. "Case characteristics" shall not include claim experience, health status and duration of coverage since

1 issue.

2 (f) "Class of business" means all or a separate grouping of small em-
3 ployers established pursuant to K.S.A. 40-2209g and amendments
4 thereto.

5 (g) "Commissioner" means the commissioner of insurance.

6 (h) "Department" means the insurance department.

7 (i) "Dependent" means the spouse or child of an eligible employee,
8 subject to applicable terms of the health benefits plan covering such em-
9 ployee and the dependent eligibility standards established by the board.

10 (j) "Eligible employee" means an employee who works on a full-time
11 basis, with a normal work week of 30 or more hours, and includes a sole
12 proprietor, a partner of a partnership or an independent contractor, pro-
13 vided such sole proprietor, partner or independent contractor is included
14 as an employee under a health benefit plan of a small employer but does
15 not include an employee who works on a part-time, temporary or substi-
16 tute basis.

17 (k) "Financially impaired" means a member which, after the effective
18 date of this act, is not insolvent but is:

19 (1) Deemed by the commissioner to be in a hazardous financial con-
20 dition pursuant to K.S.A. 40-222d and amendments thereto; or

21 (2) placed under an order of rehabilitation or conservation by a court
22 of competent jurisdiction.

23 (l) "Health benefit plan" means any hospital or medical expense pol-
24 icy, health, hospital or medical service corporation contract, and a plan
25 provided by a municipal group-funded pool, or a health maintenance
26 organization contract offered by an employer or any certificate issued
27 under any such policies, contracts or plans. "Health benefit plan" does
28 not include policies or certificates covering only accident, credit, dental,
29 disability income, long-term care, hospital indemnity, medicare supple-
30 ment, specified disease, vision care, coverage issued as a supplement to
31 liability insurance, insurance arising out of a workers compensation or
32 similar law, automobile medical-payment insurance, or insurance under
33 which benefits are payable with or without regard to fault and which is
34 statutorily required to be contained in any liability insurance policy or
35 equivalent self-insurance.

36 (m) "Index rate" means, for each class of business as to a rating period
37 for small employers with similar case characteristics, the arithmetic av-
38 erage of the applicable base premium rate and the corresponding highest
39 premium rate.

40 (n) "Initial enrollment period" means the period of time specified in
41 the health benefit plan during which an individual is first eligible to enroll
42 in a small employer health benefit plan. Such period shall be no less
43 favorable than a period beginning on the employee's or member's date

1 of initial eligibility and ending 31 days thereafter.

2 (o) "Late enrollee" means an eligible employee or dependent who
3 requests enrollment in a small employer's health benefit plan following
4 the initial enrollment period provided under the terms of the first plan
5 for which such employee or dependent was eligible through such small
6 employer, however an eligible employee or dependent shall not be con-
7 sidered a late enrollee if:

8 (1) The individual:

9 (A) Was covered under another employer-provided health benefit
10 plan or was covered under section 607(1) of the employee retirement
11 income security act of 1974 (ERISA) at the time the individual was eli-
12 gible to enroll;

13 (B) states in writing, at the time of the initial eligibility, that coverage
14 under another employer health benefit plan was the reason for declining
15 enrollment but only if the group policyholder or the accident and sickness
16 issuer required such a written statement and provided the individual with
17 notice of the requirement for a written statement and the consequences
18 of such written statement;

19 (C) has lost coverage under another employer health benefit plan or
20 under section 607(1) of the employee retirement income security act of
21 1974 (ERISA) as a result of the termination of employment, reduction in
22 the number of hours of employment, termination of employer contribu-
23 tions toward such coverage, the termination of the other plan's coverage,
24 death of a spouse, or divorce or legal separation; and

25 (D) requests enrollment within 63 days after the termination of cov-
26 erage under another employer health benefit plan; or

27 (2) the individual is employed by an employer who offers multiple
28 health benefit plans and the individual elects a different health benefit
29 plan during an open enrollment period; or

30 (3) a court has ordered coverage to be provided for a spouse or minor
31 child under a covered employee's plan.

32 (p) "New business premium rate" means, for each class of business
33 as to a rating period, the lowest premium rate charged or offered, or
34 which could have been charged or offered, by the small employer carrier
35 to small employers with similar case characteristics for newly issued health
36 benefit plans with the same or similar coverage.

37 (q) "Preexisting conditions exclusion" means a policy provision which
38 excludes or limits coverage for charges or expenses incurred during a
39 specified period not to exceed 90 days following the insured's effective
40 date of enrollment as to a condition, whether physical or mental, regard-
41 less of the cause of the condition for which medical advice, diagnosis, care
42 or treatment was recommended or received in the six months immedi-
43 ately preceding the effective date of enrollment.

1 (r) "Premium" means moneys paid by a small employer or eligible
2 employees or both as a condition of receiving coverage from a small em-
3 ployer carrier, including any fees or other contributions associated with
4 the health benefit plan.

5 (s) "Rating period" means the calendar period for which premium
6 rates established by a small employer carrier are assumed to be in effect
7 but any period of less than one year shall be considered as a full year.

8 (t) "Waiting period" means a period of time after full-time employ-
9 ment begins before an employee is first eligible to enroll in any applicable
10 health benefit plan offered by the small employer.

11 (u) "Small employer" means any person, firm, corporation, partner-
12 ship or association eligible for group sickness and accident insurance pur-
13 suant to subsection (a) of K.S.A. 40-2209 and amendments thereto ac-
14 tively engaged in business whose total employed work force consisted of,
15 on at least 50% of its working days during the preceding year, of at least
16 ~~two~~ one and no more than 50 eligible employees, the majority of whom
17 were employed within the state. In determining the number of eligible
18 employees, companies which are affiliated companies or which are eli-
19 gible to file a combined tax return for purposes of state taxation, shall be
20 considered one employer. Except as otherwise specifically provided, pro-
21 visions of this act which apply to a small employer which has a health
22 benefit plan shall continue to apply until the plan anniversary following
23 the date the employer no longer meets the requirements of this
24 definition.

25 (v) "Affiliate" or "affiliated" means an entity or person who directly
26 or indirectly through one or more intermediaries, controls or is controlled
27 by, or is under common control with, a specified entity or person.

28 Sec. 2. K.S.A. 40-2209d is hereby repealed.

29 Sec. 3. This act shall take effect and be in force from and after its
30 publication in the statute book.

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