

Approved February 12, 1988
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by Sen. Neil H. Arasmith at
Chairperson

9:00 a.m./~~pm~~ on February 11, 1988 in room 529-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research
Bill Edds, Revisor of Statutes

Conferees appearing before the committee:

Ron Todd, Kansas Insurance Department
Bill Pitsenberger, Blue Cross/Blue Shield
Jerry Banaka, Kansas Farm Bureau Life Insurance Company
Bud Cornish, Kansas Life Association
Larry Magill, Independent Insurance Agents of Kansas

The minutes of February 10 were approved.

The hearing began on SB 539 concerning eligibility for coverage under group sickness and accident insurance. Ron Todd, Kansas Insurance Department, testified in support of the bill. He said that in the past, insurance companies took the whole risk or none at all for group coverage, but recently problems have occurred when insurance companies seek to individually underwrite insurance in groups. When policies are transferred to another company, the problems occur. The Department was not able to make the bill apply to all groups so it limited it to groups of 25 or more persons to allow the group theory to work as it is supposed to. Mr. Todd realizes that some will object to parts of the bill, but he feels that anything that can be done to cut down on the problem will be in the interest of the public.

Sen. Werts asked for a definition of "group". Mr. Todd said it is in Section 1 of the bill. Sen. Werts asked further if there could be more than one employer. Mr. Todd answered that there could be, and that is what is causing part of the problem. Generally, "group" applies to one master policy, but there could be a trust issued to more than one employer which causes the problem; and also there are association groups.

Bill Pitsenberger, Blue Cross/Blue Shield, followed with testimony in support of SB 539 with some amendments. (See Attachment I.) Sen. Karr asked if the striking of the number to be in a group is all that Mr. Pitsenberger needs to fully support the bill, and Mr. Pitsenberger answered, "Yes". Sen. Werts asked Mr. Pitsenberger where the second observation in his testimony would apply in the bill. Mr. Pitsenberger said that he would insert it in Section 1 on the first page.

Jerry Banaka, Kansas Farm Bureau Life Insurance Company, testified in support of SB 539 with an amendment. (See Attachment II.) The chairman questioned Mr. Banaka with regard to his objection to multiple employers being required to come under the bill. Mr. Banaka's objection centered around his company not being able to underwrite in this situation. Sen. Strick asked why the numbers two to fourteen have been used by his company, and Mr. Banaka said it relates to a problem they would have with coming under COBRA.

Bud Cornish, Kansas Life Association, stood to testify in support of Mr. Banaka's testimony.

Larry Magill, Independent Insurance Agents of Kansas, testified in opposition to SB 539 as it was introduced. (See Attachment III.) He noted that, basically, he

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
room 529-S, Statehouse, at 9:00 a.m./p.~~h.~~ on Feburary 11, 1988.

supports Mr. Banaka's testimony. The chairman had questions regarding the single employer status mentioned in Mr. Magill's testimony to which Mr. Magill explained that separate employers are lumped together for them now. Sen. Karr asked Mr. Magill's opinion of other suggested amendments for what should be considered as "groups". Mr. Magill feels "association" creates an ambiguity. Mr. Magill then answered questions from Sen. Gannon regarding COBRA's relationship to this bill, and the hearing was concluded.

The chairman asked the committee for a consensus as to if they would want to pursue this proposal. Sen. Karr asked if there is really a serious need for the bill. Sen. Reilly commented that the Department must have some strong feeling about the bill or they wouldn't have had it introduced. The chairman added that the need arises out of the Department's feeling that they do not want individual underwriting in group policies. Staff informed the committee of a 1986 interim study of the growing problem of how to address the uninsurable in which one of the Department's points was that the growing tendency to underwrite individuals in groups was leading to a growing number of uninsurables. Mr. Todd emphasized that there is a problem even though some may not be aware of it. This bill will not resolve it completely, but it would be a step better than the way it is at present. Also, he would not object to the suggested amendments. Mr. Magill said he would support the bill with the suggested amendments with a little more work on them. The chairman asked him to work with staff on the wording of the amendments.

Sen. Gordon questioned if the group number could be reduced from 25 to 10. Mr. Todd said the reason for 25 being used is because 25 is generally considered the number to have a group experience rate. Mr. Todd said he would be glad to confer with the conferees that testified on the number. Staff added that much of the problem is eliminated by limiting it to single employers.

There being no further time, the meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

| DATE | NAME | ADDRESS | REPRESENTING |
|---------|-------------------|-------------|--|
| 2/11/88 | Jerry Bonaka | Waukegan | Kings Farm Bureau Life Ins. Co. |
| 2/11/88 | LM CORNSH | Topeka | Ks Life Assoc |
| 2/11/88 | Steven D. Waage | Coffeyville | Leadership Coffeyville / Funk mfg. |
| 2/11/88 | Johnnie Nordin | Coffeyville | Leadership Coffeyville / 71-88446 |
| | Ron Todd | Topeka | Gas Dept |
| | M. Hawco | " | Capital-Journal |
| | Barbara Walton | Coffeyville | Leadership Coffeyville |
| | Judy Spitzer | Coffeyville | Leadership Coffeyville / CSMC |
| | Ken Baker | Topeka | Kaiser Permanente |
| | Steve Care | Coffeyville | Leadership Coffeyville / 1st BAPT CH |
| | Ken Birston | Coffeyville | Leadership Coffeyville (Central Insurance) |
| | Tom Palace | Topeka | SLSI |
| | JACK ROBERTS | " | BC-BS |
| | Bill Pitsenberger | " | Blue Cross Blue Shield |
| | LARRY MAGAL | " | IAK |
| | JOE A. MORRIS | TOPEKA | KLSI |
| | Ruth Weckert | Topeka | AACT |

TESTIMONY BY WILLIAM PITSENBURGER
GENERAL COUNSEL, BLUE CROSS AND BLUE SHIELD OF KANSAS

SENATE BILL 539
SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

February 11, 1988

Blue Cross and Blue Shield of Kansas supports Senate Bill 539 as one part of the solution to the growing problem of access to health care and health care coverage.

According to the Employee Benefit Research Institute, the number of employed persons without employer-sponsored coverage rose 18% between 1982 and 1984, the latest year studied. In that period, the percentage of employed persons covered by employer sponsored plans dropped from 78% to 76%. Some sources estimate that there are as many as 19 million workers without insurance.

It seems to us that Senate Bill 539 is an insurance access bill which at least assures that a person in a job where insurance coverage is available won't be rejected from such coverage because of his health.

While it's true that if a small employer group insurance plan rejects the ill and takes only the healthy, its insurance rates are going to be lower, we wonder whether that isn't getting pretty far away from the principals of group insurance. Those healthy persons could equally qualify for non-group coverage, but where can the unhealthy workers turn?

We have two observations about Senate Bill 539 in terms of drafting or philosophical issues:

1. We see no reason for limiting its application to groups of 25 or more; the problem it is dealing with would in fact be more likely to occur in very small groups than in large groups. We would therefore suggest deleting the phrase "consisting of 25 or more persons" at line 29.
2. We agree with the Independent Insurance Agents of Kansas that some safeguards are necessary to prevent blatant antiselection -- that is, to prevent an employee from not enrolling in the policy, even though eligible, until he becomes ill. The traditional way to guard against this is to use a waiting period for pre-existing conditions -- for example limiting coverage for 240 days from the date of enrollment for any condition treated or diagnosed in the 90 days prior to the date of enrollment. As the language stands right now, the phrase about not being "excluded from...coverage" may be interpreted to ^{mean} even such a limited safeguard against antiselection as a waiting period for pre-existing conditions.

Attachment I



Kansas Farm Bureau Life Insurance Company, Inc.

2321 Anderson Avenue, Manhattan, Kansas 66502 / (913) 537-2261

M E M O R A N D U M

TO: The Honorable Neil Arasmith, Chairman, and
Honorable Members, Senate Financial Institutions and
Insurance Committee

FROM: Jerry Banaka
Kansas Farm Bureau Life Insurance Company, Inc.

DATE: February 11, 1988

RE: Senate Bill 539

We appreciate the opportunity to appear before your committee today concerning Senate Bill 539.

We are presently involved in a pilot program whereby we are marketing group health insurance to employers with two to fourteen employees. This program is being conducted pursuant to KSA 40-2209(A)(3) which allows two or more employers to join together for the purpose of obtaining group insurance for their employees by establishing a trust to which the group master contract is issued. All insured employees of the employers joining the trust are issued certificates of insurance under the group master contract.

Although we are actually writing insurance for employer units of less than 25, all employees covered under the one master contract issued to the trust would be considered one group under Senate Bill 539, and we would be prohibited from underwriting any of this business inasmuch as the total number of employees covered under the master contract at the time of issue exceeded 25. Because we are insuring employer units that are very small, it is necessary that we underwrite this business simply because we do not have much spread or diversity of risk in each employer unit.

We would respectfully suggest the bill be amended to exempt from the underwriting prohibition any business written under the provisions of KSA 40-2209(A)(3) and have set out below, for your consideration, appropriate language to provide this exemption.

Amendment starting on line 31

from eligibility or coverage under a policy issued to such a group comprised of the employees or members of any single employer, association, or labor union upon the following basis:

Thank you for your consideration and for the opportunity to express our views on this bill.

JB/jn

Attachment II

Testimony by Larry W. Magill, Jr., Executive Vice President
Independent Insurance Agents of Kansas
on SB 539
Before the Senate Financial Institutions
and Insurance Committee
February 10, 1988

The Independent Insurance Agents of Kansas are opposed to SB 539 as it was introduced because of the certain and devastating impact it will have on association-sponsored group insurance and multi-employer trusts. Both association-sponsored plans and multi-employer trusts are designed primarily for the benefit of small employers, beginning with firms of one employee on up.

We would have no problem with SB 539 if the proposal simply prohibited single employers of 25 or more employees from medically underwriting new employees. From what we have been able to determine, it would be rare that an employer or group carrier with 25 or more employees would want new entrants medically underwritten. One of the concepts of group insurance is to save administration expenses. One of the ways to save those costs is to avoid medical underwriting with a sufficiently large number of employees to spread the risk. And most employers want to be able to provide coverage for all their employees.

But this proposal has the potential to destroy many association-sponsored plans and multi-employer (or industry) trusts. There are two problems created by SB 539 in the areas of individual eligibility and firm eligibility requirements.

We will use the provisions of our association-sponsored plan as the basis for our comments, since we know the specifics and feel it is representative of most similar plans. Our plan is administered by Dorth Coombs Insurance in Wichita, a member of our association and one of the

biggest group administrators in Kansas. Most of these comments are based on discussions with Dorth Coombs.

Our group insurance program has been struggling over the last two years to remain competitive and grow in the face of stiff competition. If we begin losing participants, then adverse selection will set in (only the "sick" ones remain), our rates will go up faster than the market in general, the adverse selection will worsen and a vicious cycle is created that will eventually spell the end of the plan.

To combat this in the last year and a half we have gone to age rating by brackets, territory rating (urban vs. rural), changed plan benefits and begun medically underwriting all new member firms of the association under 10 employees.

In the past, we allowed new members to join the group insurance plan within 30 days of joining the association with no medical underwriting. We no longer feel we can expose the larger group, of mostly other small employers, to the risks of no medical underwriting on their plan's experience.

If an existing member who has 10 or more employees decides to join the group at any time, there is no medical underwriting.

But if a member with less than 10 employees decides to join the group health plan or an existing employee with a participating employer first decides not to participate and later decides to join the group plan, they are all subject to medical underwriting and must be for the group to survive.

Further, most plans contain provisions requiring a certain percentage of eligible employees must participate, usually 75%, requiring that employees must work at least 30 hours per week and

requiring that they be actively at work when coverage goes into force would all probably be disallowed under this wording. The wording in lines 26-31 does not define employee, does not allow for participation percentages and makes no mention of whether they are actively at work, or in the hospital, for example, when coverage should go into force.

Without the ability to medically underwrite in the situations outlined above and without the ability for groups to define eligibility requirements, small employers and individual employees of any size group would be free to join and leave plans as their medical needs dictated. Young, healthy employees would opt not to participate, especially where there is a cost to the employee, until a medical problem arose.

Adverse selection, a process where small employers with health problems would migrate to association-sponsored or multi-employer trust plans, would cause deteriorating loss experience, would drive up rates and drive away the healthy firms, leaving the plans as residual markets for those who could not escape.

Under these circumstances, eventually the experience and rates will deteriorate for these groups to the point where the plan is discontinued. The provisions of SB 539 are comparable to a mandatory "open enrollment" on a continuous basis.

For many small employers, an association-sponsored or multi-employer trust plan is the only way they will enjoy the benefits of broader group coverage at competitive rates. This proposal could conceivably take that option away.

It would be possible, but not practical, to circumvent the bill by issuing separate master policies to each small employer. They might be one-and-one-half inches thick and would necessitate that each time a

change is made in coverage, each master policyholder must sign the amendment. One of the major cost-saving elements of group insurance would be lost.

Attached to our testimony is a "balloon" copy of the bill with a proposed amendment. With this change, the bill would do no damage to multi small employer plans. Without the amendment, we urge the committee to not act favorably on the bill.

SENATE BILL No. 539

By Committee on Financial Institutions and Insurance

1-28

0016 AN ACT relating to insurance; concerning eligibility for cover-
0017 age under group sickness and accident insurance; amending
0018 K.S.A. 1987 Supp. 40-2209 and repealing the existing section.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. K.S.A. 1987 Supp. 40-2209 is hereby amended to
0021 read as follows: 40-2209. (A) Group sickness and accident insur-
0022 ance is declared to be that form of sickness and accident insur-
0023 ance covering groups of persons, with or without one or more
0024 members of their families or one or more dependents, or one or
0025 more members of their families or one or more dependents; ~~and~~
0026 *except at the option of the employee or member and except*
0027 *employees or members enrolling in a group policy after the close*
0028 *of an open enrollment opportunity, no individual employee or*
0029 *member of ~~an~~ insured group consisting of 25 or more persons*
0030 *and no individual dependent or family member may be excluded*
0031 *from eligibility or coverage under a policy issued to such group*
0032 upon the following basis:

0033 (1) Under a policy issued to an employer or trustees of a fund
0034 established by an employer, who is the policyholder, insuring at
0035 least five employees of such employer, for the benefit of persons
0036 other than the employer. The term "employees" shall include
0037 the officers, managers, employees and retired employees of the
0038 employer, the partners, if the employer is a partnership, the
0039 proprietor, if the employer is an individual proprietorship, the
0040 officers, managers and employees and retired employees of
0041 subsidiary or affiliated corporations of a corporation employer,
0042 and the individual proprietors, partners, employees and retired
0043 employees of individuals and firms, the business of which and of
0044 the insured employer is under common control through stock

a single employer