



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

TESTIMONY ON HOUSE BILL No. 2717

COMMITTEE ON TAXATION February 29, 2012

Chairman Carlson and Members of the Committee:

Thank you for the opportunity to present written testimony on behalf of the Kansas Insurance Department regarding House Bill No. 2717 pertaining to health reimbursement arrangements and individually underwritten health insurance policies.

As you may know, under the existing Kansas small employer health care act, K.S.A. 40-2209b through 40-2209p, employers with 2-50 full time employees have the opportunity to purchase health insurance for their employees on a guaranteed-issue basis, which means that a policy must be issued regardless of the employer's or an employee's claims history, pre-existing conditions, or health status. Therefore, every small employer that applies may purchase a policy at some price that will provide coverage for all of the company's employees. Under K.S.A. 40-2209e, "any *individual* or group health benefit plan issued to a group" is subject to the provisions of the act if "[a]ny portion of the premium is paid by a small employer, or any covered individual, whether through wage adjustments, reimbursement, withholding or otherwise . . ."

Based on our understanding of this bill, the provisions of the small employer health care act will no longer apply if a small employer contributes to the premium of an employee's individual underwritten health insurance policy through the establishment of a health reimbursement arrangement (HRA). We believe HB 2717 may result in negative consequences for some employees

in the small employer marketplace, and the small employer marketplace as a whole, in a number of ways.

First, HB 2717 does not prohibit small employers who currently provide group insurance for their employees from terminating that group coverage in favor of contributing to the cost of individual coverage for their employees through an HRA. If that were to occur, some of those employees who previously had coverage would lose that coverage and may then be unable to obtain individually underwritten coverage for the amount contributed by the employer, or at any price, depending on their age and/or health status. Under the provisions of the federal Affordable Care Act, beginning in 2014 all individuals, regardless of age and/or health status, will be able to obtain individual health insurance coverage but that protection is currently not available and may not become available if the Act is found to be unconstitutional or is repealed through an act of Congress.

This bill would also permit an employee who already has individually underwritten coverage to retain that coverage rather than enrolling in their small employer's health plan, presumably with the employer contributing to the cost of that individual coverage. Currently, one of the criteria used by health insurers when they are marketing small employer health plans is the percentage of participation by the employees. This requirement, which is established by the insurers, permits the health insurer to spread the risk across all of the small employer's employees and impacts the cost of the coverage provided. If some employees elect to retain their own individually underwritten coverage paid for, in part, by their small employer, the employer may be unable to obtain or retain small group coverage for the remaining employees because they no longer have a sufficient number of eligible employees willing to participate in the small group plan. Again, if that were to occur, some of the remaining employees may be able to obtain individual coverage but others may not.

Finally, HB 2717 could eventually weaken or destroy the small group market as it currently exists because of the potential impact on premiums for those employers who choose to remain in the small group market. The premium rate structure for small employer groups has two major components: the index premium base rate and adjustments to that premium required because of specific characteristics of a small group. That index premium base rate is calculated based upon an insurance company's overall claims experience for all of the participants in the company's small employer "block" or "class" of business. That block or class generally includes all of the small employer groups that the company insures in Kansas. The more small groups and their employees in that block of business, with good and bad claims experience, the more reasonable the index premium base rate. If individual healthier employees are no longer required to participate in their small employer's group plan, over time a couple of things will occur: (1) the number of small groups, and their employees in the small group market, over which to spread the risk, will be reduced, and (2) the small group employees who do remain in the small group market will most likely be those individuals unable to obtain individual coverage and who generate the highest number of claims. When this occurs the result will be a significantly higher index premium base rate for those small employers who choose to remain in the small group market and a continuing loss of small employer groups in the market due to increasing premiums. With the cost of group health insurance already a burden on many small employers this increased expense could very well lead to even more uninsured Kansans.

This information is provided to assist the committee in their deliberations on HB 2717.

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