

SENATE BILL No. 235

February 27, 2003, Introduced by Senators PATTERSON, JACOBS, CHERRY,
HAMMERSTROM and GOSCHKA and referred to the Committee on Health Policy.

A bill to provide for certain premium rates and standards
for certain health benefit plans; to provide for certain coverage
provisions; and to provide for certain disclosures.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "small employer health market reform act".

3 Sec. 3. As used in this act:

4 (a) "Actuarial certification" means a written statement by a
5 member of the American academy of actuaries or other individual
6 acceptable to the commissioner that a small employer carrier is
7 in compliance with the provisions of section 6, based upon the
8 person's examination, including a review of the appropriate
9 records and of the actuarial assumptions and methods utilized by
10 the carrier in establishing premium rates for applicable health
11 benefit plans.

1 (b) "Carrier" means a person that provides health insurance
2 in this state. For the purposes of this act, carrier includes a
3 health insurance company authorized to do business in this state,
4 a nonprofit health care corporation, a health maintenance
5 organization, a multiple employer welfare arrangement, or any
6 other person providing a plan of health insurance subject to
7 state insurance regulation.

8 (c) "Case characteristics" means industry, age, gender, group
9 size, claim experience, participation, health status, and
10 wellness of a small employer that are considered by the carrier
11 in the determination of premium rates for the small employer.

12 (d) "Commissioner" means the commissioner of the office of
13 financial and insurance services.

14 (e) "Geographic area" means an area in this state that
15 includes not less than 1 county, established by a carrier
16 pursuant to section 6 and used for adjusting rates for a health
17 benefit plan subject to this act.

18 (f) "Health benefit plan" or "plan" means an expense-incurred
19 hospital, medical, or surgical policy or certificate, nonprofit
20 health care corporation certificate, or health maintenance
21 organization contract. Health benefit plan does not include
22 accident-only, credit, dental, or disability income insurance;
23 coverage issued as a supplement to liability insurance; worker's
24 compensation or similar insurance; or automobile medical-payment
25 insurance.

26 (g) "Index rate" means the arithmetic average of the premium
27 rates in a health benefit plan for all small employers located in

1 a geographic area.

2 (h) "Premium" means all money paid by a small employer,
3 eligible employees, or eligible persons as a condition of
4 receiving coverage from a carrier subject to this act, including
5 any fees or other contributions associated with the health
6 benefit plan.

7 (i) "Rating period" means the calendar period for which
8 premium rates established by a small employer carrier are assumed
9 to be in effect, as determined by the small employer carrier.

10 (j) "Small employer" means any person, firm, corporation,
11 partnership, limited liability company, or association actively
12 engaged in business who, on at least 50% of its working days
13 during the preceding calendar year, operated as a sole proprietor
14 or employed 99 or fewer eligible employees. In determining the
15 number of eligible employees, companies that are affiliated
16 companies or that are eligible to file a combined tax return for
17 state taxation purposes shall be considered 1 employer.

18 (k) "Small employer carrier" means a carrier that offers
19 health benefit plans covering the employees of a small employer.

20 (l) "Sole proprietor" means an individual who is a sole
21 proprietor or sole shareholder in a trade or business through
22 which he or she earns at least 50% of his or her taxable income
23 and for which he or she has filed the appropriate internal
24 revenue service form 1040, schedule C or F, for the previous
25 taxable year; who is a resident of this state; and who is
26 actively employed in the operation of the business, working at
27 least 30 hours per week, at least 40 weeks out of the calendar

1 year.

2 (m) "Wellness" means a health promotion program offered by an
3 employer to his or her employees.

4 Sec. 5. (1) Except as provided in subsection (2), this act
5 applies to any health benefit plan that provides coverage to a
6 sole proprietor or 1 or more employees of a small employer.

7 (2) This act does not apply to individual health insurance
8 policies that are subject to policy form and premium rate
9 approval by the commissioner.

10 Sec. 6. (1) For adjusting rates for health benefit plans
11 subject to this act, a carrier may establish up to 10 geographic
12 areas in this state.

13 (2) Premium rates for a health benefit plan subject to this
14 act are subject to the following:

15 (a) For a geographic area, the premium rates charged for a
16 health benefit plan during a rating period to small employers
17 located in that geographic area shall not vary from the index
18 rate for that health benefit plan by more than 25% of the index
19 rate. Only case characteristics shall be used for determining
20 the rate differentials within a geographic area for a small
21 employer.

22 (b) For a sole proprietor, a carrier may charge an
23 additional premium of up to 25% above the premium rate in
24 subdivision (a).

25 (c) The percentage increase in the premium rate charged to a
26 small employer in a geographic area for a new rating period shall
27 not exceed the sum of the annual percentage adjustment in the

1 geographic area's index rate for the health benefit plan plus an
2 adjustment, not to exceed 15% annually and adjusted pro rata for
3 rating periods of less than 1 year, due to case characteristics
4 of the small employer. This subdivision does not prohibit an
5 adjustment due to change in coverage.

6 (d) For a health benefit plan issued prior to the effective
7 date of this act, a premium rate for a rating period may exceed
8 the ranges described in subdivisions (a) and (b) for a period of
9 2 years following the effective date of this act.

10 (e) For a small employer who had been self-insured for
11 health benefits immediately preceding application for a health
12 benefit plan subject to this act, a carrier may charge an
13 additional premium of up to 50% above the premium rate in
14 subdivision (a) for no more than 2 years.

15 (3) Except as provided in subsection (4), a carrier shall
16 not apply case characteristics to an individual in a small
17 employer group that would result in 1 or more employees being
18 charged a higher premium than another employee.

19 (4) Health benefit plan options, number of family members,
20 and medicare eligibility may be used in establishing a small
21 employer's premium.

22 (5) A small employer carrier shall apply rating factors,
23 including case characteristics, consistently with respect to all
24 small employers in a geographic area and shall bill a small
25 employer group only with a composite rate.

26 Sec. 7. (1) A small employer carrier is not required to
27 offer or provide to a sole proprietor all health benefit plans

1 available to small employers who are not sole proprietors. A
2 small employer carrier shall offer to a sole proprietor not less
3 than 1 health benefit plan that provides at least catastrophic
4 coverage and such other coverage as the commissioner may require
5 as being in the best interests of both sole proprietors and small
6 employer carriers.

7 (2) A small employer carrier may apply at least annually an
8 open enrollment period for sole proprietors that is at least 1
9 month long.

10 (3) A small employer carrier may exclude or limit coverage
11 for a condition only if the exclusion or limitation relates to a
12 condition for which medical advice, diagnosis, care, or treatment
13 was recommended or received within 6 months before enrollment and
14 the exclusion or limitation does not extend for more than 6
15 months after the effective date of the health benefit plan.

16 Sec. 8. A small employer carrier may deny coverage to a
17 small employer if the small employer fails to enroll enough of
18 its employees to meet the minimum participation rules established
19 by the carrier pursuant to sound underwriting requirements. A
20 minimum participation rule may require a small employer group to
21 enroll a certain number or percentage of employees with the small
22 employer carrier as a condition of coverage. A minimum
23 participation rule for small employers of 6 or more employees
24 shall not require enrollment of more than 75% of the small
25 employer's employees who are receiving health care coverage from
26 the small employer. A minimum participation rule for small
27 employers of fewer than 6 employees may require enrollment of up

1 to 100% of the small employer's employees who are receiving
2 health care coverage from the small employer.

3 Sec. 9. (1) Except as provided in subsection (2), a health
4 benefit plan subject to this act shall be renewable to all
5 eligible employees and dependents at the option of the small
6 employer, except for any of the following reasons:

7 (a) Nonpayment of required premiums.

8 (b) Fraud or misrepresentation of the small employer, or for
9 coverage of an insured individual, fraud, or misrepresentation by
10 the insured individual or the individual's representative.

11 (c) Violation of participation or contribution rules.

12 (d) Movement outside the geographic area.

13 (e) Termination of association membership if the coverage was
14 made available only through a bona fide association.

15 (2) If a small employer carrier ceases to renew all health
16 benefit plans in a geographic area, the carrier shall provide
17 notice to all affected small employers and to the commissioner at
18 least 90 days prior to termination of coverage. A carrier that
19 exercises its right to cease to renew all health benefit plans in
20 a geographic area shall not provide health care benefits under
21 this act in that geographic area for a period of 5 years after
22 the nonrenewal of the health benefit plans without prior approval
23 of the commissioner.

24 Sec. 11. Each small employer carrier shall make reasonable
25 disclosure in solicitation and sales materials provided to small
26 employers of all of the following:

27 (a) The extent to which premium rates for a specific small

1 employer are established or adjusted due to case characteristics
2 of the employees or dependents of the small employer.

3 (b) The provisions concerning the carrier's right to change
4 premium rates and the factors, including case characteristics,
5 that affect changes in premium rates.

6 (c) The provisions relating to renewability of coverage.

7 Sec. 13. (1) Each small employer carrier shall maintain at
8 its principal place of business a complete and detailed
9 description of its rating practices and renewal underwriting
10 practices, including information and documentation that
11 demonstrate that its rating methods and practices are based upon
12 commonly accepted actuarial assumptions and are in accordance
13 with sound actuarial principles.

14 (2) Each small employer carrier shall file each March 1 with
15 the commissioner an actuarial certification that the carrier is
16 in compliance with this section and that the rating methods of
17 the carrier are actuarially sound. A copy of the actuarial
18 certification shall be retained by the carrier at its principal
19 place of business.

20 (3) A small employer carrier shall make the information and
21 documentation described in subsection (1) available to the
22 commissioner upon request. The information shall be considered
23 proprietary and trade secret information and is not subject to
24 disclosure by the commissioner to persons outside of the office
25 of financial and insurance services except as agreed to by the
26 carrier or as ordered by a court of competent jurisdiction.

27 Sec. 15. The commissioner may suspend all or any part of

1 section 6 as to the premium rates applicable to 1 or more small
2 employers for 1 or more rating periods upon a filing by the small
3 employer carrier and a finding by the commissioner that either
4 the suspension is reasonable in light of the financial condition
5 of the carrier or that the suspension would enhance the
6 efficiency and fairness of the marketplace for small employer
7 health insurance.

8 Sec. 17. The provisions of this act apply to each health
9 benefit plan for a small employer that is delivered, issued for
10 delivery, renewed, or continued in this state on or after the
11 effective date of this act. For purposes of this section, the
12 date a plan is continued is the first rating period that begins
13 on or after the effective date of this act.

14 Enacting section 1. This amendatory act does not take
15 effect unless Senate Bill No. 234
16 of the 92nd Legislature is enacted into
17 law.