HOUSE BILL NO. HB0180

Wyoming health insurance pool.

Sponsored by: Representative(s) Gentile, Berger, Gilmore, Goggles, Martin and Millin and Senator(s) Massie, Meier and Peterson

A BILL

for

AN ACT relating to group disability insurance; providing for the creation of small group insurance pools for individuals; providing for coverage of small groups under provisions applicable to the Small Employer Health Insurance Availability Act; providing premium protection for small group insurance pools; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 26-19-301, 26-19-302(a)(ii), (vi), (vii)(intro), (A)(I), (C), (ix)(D), (xiv) through (xvii), (xx), (xxiii), by creating new paragraphs (xxviii) and (xxix) and by renumbering (xxviii) as (xxx), 26-19-303(a)(intro) and (b), 26-19-304(a)(i), (ii), (iii), (iv), (ix), (b), (c), (d)(intro) and (i), 26-19-305(b), (c)

and by creating a new subsection (e), 26-19-306(a), (c)(intro), (ii), (d)(ii), (iii), by creating a new paragraph (iv), (f)(intro) and by creating a new subsection (k), 26-19-307(a), (j)(ii), (iii), (v), (vi), (k)(intro), (i), (ii) and (m), 26-19-309 and 26-19-310 are amended to read:

26-19-301. Short title.

This act shall be known and may be cited as the "Small Employer and Small Group Health Insurance Availability Act."

26-19-302. Definitions.

(a) As used in this act:

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

(vi) "Case characteristics" means demographic or other objective characteristics of a small employer or small group, as determined by a small employer carrier, that are considered by the small employer carrier in the determination of premium rates for the small employer or small group, provided, however, that claim experience, health status and duration of coverage since issue are not case characteristics for the purposes of this act;

(vii) "Class of business" means all of a distinct grouping of small employers or small groups as shown on the records of the small employer carrier, and provided:

(A) A distinct grouping may only be established by the small employer carrier on the basis that the applicable health benefit plans:

(I) Are marketed and sold through individuals and organizations which are not participating in the marketing or sale of other distinct groupings of small employers or small groups for such small employer carrier;

(C) The commissioner may approve the establishment of additional distinct groupings upon application to the commissioner and a finding by the commissioner that such action would enhance the efficiency and fairness of the small employer or small group marketplace.

(ix) "Dependent" means:

(D) Any other individual defined to be a dependent in the health benefit plan covering the employee or small group policyholder.

(xiv) "Index rate" means, for each class of business or small group as to a rating period for small employers or small groups with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

(xv) "Late enrollee" means an eligible employee, individual or dependent who requests enrollment in a health benefit plan of a small employer or small group following

the initial enrollment period provided under the terms of the health benefit plan, provided that the initial enrollment period shall be a period of at least thirty (30) days. An eligible employee, individual or dependent shall not be considered a late enrollee if:

(xvi) "New business premium rate" means, for each class of business or small group as to a rating period, the lowest premium rate charged or offered, or which could have been charged or offered, by the small employer carrier to small employers or small groups with similar case characteristics for newly issued health benefit plans with the same or similar coverage;

(xvii) "Participating carrier" means all small employer carriers issuing health benefit plans in this state. "Participating carrier" shall also include any carrier that maintains an existing health benefit plan covering eligible employees of one (1) or more small employers or any policyholders of a small group;

(xx) "Program" means the Wyoming small employer and small group health reinsurance program created by W.S. 26-19-307;

(xxiii) "Small employer carrier" means any carrier that offers health benefit plans covering eligible employees of one (1) or more small employers or that offers health benefit plans covering small groups;

(xxviii) "Small group" means a group of eligible individuals who are insured by a health benefit plan issued by a small employer carrier and whose individual plans, when grouped by the small employer carrier, shall be treated as a small employer group;

(xxix) "Eligible individual" means any individual residing within the state of Wyoming who is not covered under an employment based benefit plan because of unemployment or the individual is employed on a part-time, temporary, seasonal or substitute basis or because the individual's employer does not provide health insurance;

~~(xxviii)~~(xxx) "This act" means W.S. 26-19-301 through 26-19-310.

26-19-303. Applicability and scope.

(a) This act shall apply to any health benefit plan which provides coverage to any small group or to two (2) or more employees of a small employer in this state if:

(b) Notwithstanding subsection (a) of this section, W.S. 26-19-305(a) and (c) and 26-19-304(a) shall not apply to individual health benefit policies sold to small employers or eligible individuals which are subject to approval for policy form by the commissioner.

26-19-304. Restrictions relating to premium rates.

(a) Premium rates for health benefit plans subject to this act shall be subject to the following provisions:

(i) The index rate for a rating period for any class of business or small group shall not exceed the index rate for any other class of business or small group by more than twenty percent (20%);

(ii) For a class of business, the premium rates charged during a rating period to small employers or small groups with similar case characteristics for the same or similar coverage, or the rates which could be charged to

employers or individual policyholders under the rating system for that class of business shall not vary from the index rate by more than thirty-five percent (35%) of the index rate;

(iii) The percentage increase in the premium rate charged to a small employer or small group for a new rating period shall not exceed the sum of the following:

(A) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which a small employer carrier is no longer enrolling new small employers or individual small group policyholders, the carrier shall use the percentage change in the base premium rate, provided that the change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the carrier is actively enrolling new small employers or individual small group policyholders;

(B) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating

periods of less than one (1) year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer or small group policyholder or dependents as determined from the small employer carrier's rate manual for the class of business; and

(C) Any adjustment due to change in coverage or change in the case characteristics of the small employer or small group as determined from the small employer carrier's rate manual for the class of business.

(iv) Adjustments in rates for claims experience, health status and duration from issue shall not be charged to individual employees, small group policyholders or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees of the small employer, small group policyholders and dependents; ~~of the small employer;~~

(ix) Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers or small groups in a class of business;

(b) A small employer carrier shall not transfer a small employer or small group involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer or small group into or out of a class of business unless the offer is made to transfer all small employers or small groups in the class of business without regard to case characteristics, claim experience, health status or duration of coverage since issue.

(c) The commissioner may suspend for a specified period the application of paragraph (a)(i) of this section as to the premium rates applicable to one (1) or more small employers or small groups included within a class of business of a small employer carrier for one (1) or more rating periods upon a filing by the small employer carrier and a finding by the commissioner either that the suspension is reasonable in light of financial condition of the small employer carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer or small group health insurance.

(d) In connection with the offering for sale of any health benefit plan to a small employer or eligible individual, the small employer carrier shall make a reasonable disclosure, as part of its solicitation and sales materials, of the following:

(i) The extent to which premium rates for a specified small employer or eligible individual are established or adjusted in part based upon the actual or expected variation in claims costs or actual or expected variation in health condition of the employees and dependents of the small employer or the eligible individual and dependents;

26-19-305. Renewability of coverage.

(b) If the commissioner finds that the carrier may elect not to renew coverage under paragraph (vii) of subsection (a) of this section or paragraph (e)(v) of this section he shall assist affected small employers or small group policyholders in finding replacement coverage.

(c) A carrier that elects not to renew a health benefit plan under paragraph (vi) of subsection (a) of this

section or paragraph (e)(iv) of this section shall be prohibited from writing new business in the small employer market for a period of five (5) years from the date of notice to the commissioner.

(e) A health benefit plan subject to this act shall be renewable with respect to all eligible policyholders or dependents of a small group at the option of the policyholder except in the following cases:

(i) Nonpayment of the required premiums;

(ii) Fraud or misrepresentation of the policyholder of a small group or their representatives;

(iii) Repeated misuse of a provider network provision;

(iv) The carrier elects not to renew all of its health benefit plans issued to small employers in this state. In such a case, the carrier shall:

(A) Provide advanced notice of its decision under this paragraph to the commissioner in each state in which it is licensed; and

(B) Provide notice of the decision not to renew coverage to all affected health benefit plans and to the commissioner in each state in which an affected insured individual is known to reside at least one hundred eighty (180) days prior to the nonrenewal of any health benefit plans by the carrier. Notice to the commissioner under this subparagraph shall be provided at least three (3) working days prior to the notice to the affected health plans.

(v) The commissioner finds that the continuation of the coverage would:

(A) Not be in the best interests of the policyholders or certificate holders; or

(B) Impair the carrier's ability to meet its contractual obligations.

26-19-306. Availability of coverage.

(a) Within one hundred eighty (180) days after the commissioner's approval of the basic health benefit plan and the standard health benefit plan developed pursuant to W.S. 26-19-308, but in no case prior to March 31, 1993, every small employer carrier shall, as a condition of transacting business in this state with small employers, actively offer to small employers or any eligible individual who may qualify for small group coverage all health benefit plans which it actively markets to small employers in this state, including at least two (2) health benefit plans. One (1) plan to be offered by each small employer carrier shall be a basic health benefit plan and one (1) plan shall be a standard health benefit plan. Except as provided in this section, all small employer carriers shall issue any health benefit plan to any eligible small employer or eligible individual who may qualify for small group coverage that applies for the plan and agrees to make the required premium payments and to satisfy the other reasonable provisions of the plan. Carriers or multiple employer welfare associations whose bylaws or charters do not permit them to issue coverage on a marketwide basis shall only be required to guarantee issue to those small employers or individuals which meet

the requirements of the bylaws or charters. Charter or bylaw provisions which prohibit issuance to specific populations based on health status or health risk shall not be considered as exceptions to the requirements of this subsection.

(c) All health benefit plans covering small employers or small groups shall comply with the following provisions:

(ii) In determining whether a preexisting condition provision applies to an eligible employee, eligible individual or dependent, all health benefit plans shall credit the time the person was previously covered by public or private health insurance or other health benefit arrangement if the previous coverage was continuous to a date not more than ninety (90) days prior to the effective date of the new coverage, exclusive of any applicable waiting period under such plan;

(d) No small employer carrier shall be required to offer coverage or accept applications pursuant to subsection (a) of this section in the case of the following:

(ii) To an employer whose employees do not work or reside within the small employer carrier's established geographic service area; ~~or~~

(iii) Within an area where the small employer carrier reasonably anticipates, and demonstrates to the satisfaction of the commissioner, that it will not have the capacity within its established geographic service area to deliver service adequately to the members of such groups because of its obligations to existing group contract holders and enrollees; ~~.~~ or

(iv) To an individual seeking small group coverage who is not a resident of the state of Wyoming or who does not reside within the small employer carrier's established geographic service area.

(f) If any carrier has insured a disproportionate number of small employer groups with employees requiring reinsurance or other small groups with a disproportionate number of individual policyholders requiring reinsurance, the carrier may petition the commissioner to temporarily suspend the requirement to accept every small employer or

individual applying for coverage. The suspension may be granted only if the commissioner finds:

(k) Pursuant to subsection (a) of this section each small employer carrier transacting business in this state shall offer the basic health benefit plan and the standard health benefit plan offered to small employers to eligible individuals who shall comprise a small group. A small group created under this act shall be treated by the small employer carrier as a small employer group for the purposes of this act.

26-19-307. Small employer carrier reinsurance program.

(a) There is hereby created a nonprofit entity to be known as the "Wyoming small employer and small group health reinsurance program."

(j) A participating carrier may reinsure with the program as provided for in this subsection:

(ii) Except in the case of a late enrollee, a participating carrier may reinsure an eligible employee,

eligible individual or dependent within sixty (60) days of the commencement of the coverage of the small employer or small group. A newly eligible employee, newly eligible individual or dependent may be reinsured within sixty (60) days of the commencement of his coverage;

(iii) A participating carrier may reinsure an entire employer group or small group within sixty (60) days of the commencement of the group's coverage under the plan. The carrier may choose to reinsure newly eligible employees, newly eligible individuals and dependents of a reinsured group pursuant to paragraph (ii) of this subsection;

(v) The program shall not reimburse a participating carrier with respect to the claims of a reinsured employee, small group policyholder or dependent until the carrier has paid a deductible of five thousand dollars ($5,000.00) in a calendar year for benefits covered by the program. A participating carrier's liability under this paragraph shall not exceed a maximum limit of five thousand dollars ($5,000.00), in any one (1) calendar year with respect to any one (1) person reinsured. The amounts stated in this paragraph shall be increased in accordance

with inflation adjustments made by the board under paragraph (h)(x) of this section;

(vi) A participating carrier may terminate reinsurance for all of the reinsured employees or dependents of a small employer or any policyholder or dependent of a small group on any plan anniversary;

(k) The board, as part of the plan of operation, shall establish a methodology for determining premium rates to be charged by the program for reinsuring small employers and individuals pursuant to this section. The methodology shall include a system for classification of small employers and small groups that reflects the types of case characteristics commonly used by small employer carriers in the state. The methodology shall provide for the development of base reinsurance premium rates, which shall be multiplied by the factors set forth in paragraphs (i) and (ii) of this subsection to determine the premium rates for the program. The base reinsurance premium rates and number and type of insured groupings shall be established by the board, subject to the approval of the commissioner, and shall be set at levels which reasonably approximate gross premiums charged to small employers or small groups

by small employer carriers. The board periodically shall review the methodology established under this subsection, including the system of classification and any rating factors, to assure that it reasonably reflects the claims experience of the program. The board may propose changes to the methodology which shall be subject to the approval of the commissioner. The board shall take steps to expand the usage of the reinsurance program and to reduce the impacts of high risk individuals on any particular group. Premiums for the program shall be as follows:

(i) An entire small employer group or small group may be reinsured for a rate that is between one and one-tenth (1.1) and one and one-half (1.5) times the base reinsurance premium rate for the group established pursuant to this subsection;

(ii) An eligible employee, eligible individual or dependent may be reinsured for a rate that is between one and one-half (1.5) and five (5) times the base reinsurance premium rate for the individual established pursuant to this subsection;

(m) In any case where a health benefit plan for a small employer or small group is entirely or partially reinsured with the program, the premium charged to the small employer or small group policyholder for any rating period for the coverage issued shall be consistent with the requirements relating to premium rates set forth in W.S. 26-19-304(a).

26-19-309. Periodic market evaluation.

The board shall study and report at least every three (3) years to the commissioner on the effectiveness of this act. The report shall analyze the effectiveness of this act in promoting rate stability, product availability and affordability of coverage and may contain recommendations for actions to improve the overall effectiveness, efficiency and fairness of the small group health insurance marketplace. The report also shall address whether carriers and producers are fairly and actively marketing or issuing health benefit plans to small employers and individuals in fulfillment of the purposes of this act and may contain recommendations for market conduct or other regulatory standards or action.

26-19-310. Administrative procedures.

The commissioner may issue regulations in accordance with W.S. 26-2-110 for the implementation and administration of the Small Employer and Small Group Health Insurance Availability Act.

Section 2. This act is effective July 1, 2007.

(END)