

## CHAPTER 80

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**INSURANCE**

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**SENATE BILL 99-069**

BY SENATORS Arnold, Lamborn, Nichol, Owen, Tebedo, and Teck;  
also REPRESENTATIVES Johnson, Berry, Gotlieb, Kester, McKay, Scott, Spence, Taylor, and Tool.

**AN ACT**

CONCERNING REQUIREMENTS FOR HEALTH CARE COVERAGE FOR BUSINESS GROUPS OF ONE.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 10-16-102 (6), Colorado Revised Statutes, is amended to read:

**10-16-102. Definitions.** As used in this article, unless the context otherwise requires:

(6) (a) "Business group of one" means, for purposes of ~~initial~~ qualification, an individual, a sole proprietor, or a single full-time employee of a subchapter S corporation, C corporation, nonprofit corporation, limited liability company, or partnership WHO WORKS TWENTY-FOUR HOURS OR MORE A WEEK ON A PERMANENT BASIS AND who has carried on significant business activity for a period of at least one year prior to application for coverage, has taxable income as indicated on federal internal revenue service forms 1040, schedule C, F, or SE, or other forms recognized by the federal internal revenue service for income reporting purposes which generated taxable income in one of the two previous years or from which that individual, sole proprietor, or single full-time employee has derived at least a substantial part of such individual's income for one year out of any consecutive three-year period. ~~This definition shall be met by an individual certifying in an individual affidavit signed under oath that such individual meets the definition set forth in this paragraph (a).~~

(b) "Business group of one" includes a full-time household employee who works twenty-four hours or more a week on a permanent basis as a household employee, if that employee has derived at least a substantial part of such employee's earned income for one year out of the preceding three-year period from household employment, and if the employee's employer, on at least fifty percent of the days in

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

a normal work week during the preceding calendar quarter, employed at least one household employee. ~~Carriers may require whatever information is reasonably necessary to determine whether or not a household employee meets the requirements of this paragraph (b), including employment-related tax and withholding information.~~

(c) FOR PURPOSES OF DETERMINING WHETHER AN APPLICANT MEETS THE REQUIREMENTS OF THE DEFINITION SET FORTH IN THIS SUBSECTION (6), A CARRIER MAY REQUIRE AN APPLICANT TO SUBMIT TO THE CARRIER ANY OF THE FOLLOWING FORMS OF DOCUMENTATION THAT IS APPLICABLE TO THE APPLICANT'S CURRENT BUSINESS OR EMPLOYMENT:

(I) EMPLOYMENT-RELATED TAX AND WITHHOLDING INFORMATION, INCLUDING, BUT NOT LIMITED TO, A FEDERAL INTERNAL REVENUE SERVICE FORM 1099; AND

(II) RELEVANT PORTIONS OF FEDERAL AND STATE TAX RETURNS OR A CERTIFICATION BY AN ATTORNEY OR CERTIFIED PUBLIC ACCOUNTANT THAT FEDERAL AND STATE TAX RETURNS HAVE BEEN FILED AS A BUSINESS.

**SECTION 2.** 10-16-105 (7.3) (a) and (7.3) (c) (I), Colorado Revised Statutes, are amended, and the said 10-16-105 (7.3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**10-16-105. Small group sickness and accident insurance - guaranteed issue - mandated provisions for basic and standard health benefit plans.** (7.3) (a) Except as otherwise provided in this subsection (7.3), effective January 1, 1995, every small employer carrier shall, as a condition of transacting business in this state with small employers, actively offer to such small employers the choice of a basic health benefit plan or a standard health benefit plan. Effective July 1, 1997, every small employer carrier shall also offer to small employers a choice of all the other small group plans the carrier markets in Colorado; except that this requirement shall not apply to a health benefit plan offered by a carrier if such plan is made available in the small group market only through one or more bona fide association plans AND EXCEPT AS PROVIDED IN PARAGRAPH (i) OF THIS SUBSECTION (7.3).

(c) (I) Effective January 1, 1995, a small employer carrier shall issue a basic health benefit plan or a standard health benefit plan to any eligible small employer that applies for such health benefit plan and agrees to make the required premium payments and to satisfy the other reasonable provisions of the health benefit plan that are not inconsistent with this article. Effective July 1, 1997, a small employer carrier shall also issue any of its other small employer plans to any small employer that applies for such a plan; except that this requirement shall not apply to a business group of one where the business group of one does not meet the carrier's normal and actuarially-based underwriting criteria. The requirements of this subparagraph (I) shall not apply to a health benefit plan offered by a carrier if such plan is made available in the small group market only through one or more bona fide association plans AND EXCEPT AS PROVIDED IN PARAGRAPH (i) OF THIS SUBSECTION (7.3).

(i) IN LIEU OF ACCEPTING APPLICATIONS FROM AND GUARANTEE ISSUING THE BASIC AND STANDARD PLANS TO BUSINESS GROUPS OF ONE YEAR ROUND, SMALL EMPLOYER CARRIERS MAY LIMIT THEIR ISSUANCE OF COVERAGE AS PROVIDED IN THIS PARAGRAPH (i). A SMALL EMPLOYER CARRIER MAY ESTABLISH OPEN ENROLLMENT PERIODS FOR

GUARANTEE ISSUED BASIC OR STANDARD PLAN APPLICATIONS FROM BUSINESS GROUPS OF ONE FOR A PERIOD OF THIRTY-ONE DAYS FOLLOWING THE BIRTH DATE OF THE PERSON QUALIFYING AS A BUSINESS GROUP OF ONE. A SMALL EMPLOYER CARRIER MAY ESTABLISH ANNUAL OPEN ENROLLMENT PERIODS FOR BUSINESS GROUPS OF ONE FOR THIRTY-ONE DAYS FOLLOWING THE BIRTH DATE OF THE APPLICANT AND MAY LIMIT ISSUANCE OF A BASIC HEALTH BENEFIT PLAN AND A STANDARD HEALTH BENEFIT PLAN TO SUCH THIRTY-ONE DAY PERIOD. CARRIER MARKETING AND SALES MATERIALS FOR BUSINESS GROUPS OF ONE SHALL CLEARLY DISCLOSE THE OPEN ENROLLMENT PERIOD. IF A PERSON QUALIFYING AS A BUSINESS GROUP OF ONE APPLIES FOR COVERAGE UNDER A PLAN OTHER THAN THE BASIC OR STANDARD PLAN, AND IF THE BUSINESS GROUP OF ONE IS DENIED COVERAGE AS PROVIDED BY LAW, THEN THE SMALL EMPLOYER CARRIER SHALL OFFER THE BUSINESS GROUP OF ONE A CHOICE OF COVERAGE UNDER THE BASIC OR STANDARD PLAN DURING THE APPLICANT'S APPROPRIATE OPEN ENROLLMENT PERIOD. A SMALL EMPLOYER CARRIER SHALL ACCEPT APPLICATIONS FROM BUSINESS GROUPS OF ONE FOR A BASIC OR STANDARD PLAN THROUGH THE THIRTY-FIRST DAY AFTER THE BIRTH DATE OF THE PERSON QUALIFYING AS A BUSINESS GROUP OF ONE. THE DATE UPON RECEIPT OF THE SIGNED APPLICATION AND THE APPLICANT'S BIRTH DATE SHALL BE USED IN DETERMINING WHETHER THE THIRTY-ONE DAY OPEN ENROLLMENT APPLIES TO A PARTICULAR PERSON QUALIFYING AS A BUSINESS GROUP OF ONE. ELIGIBLE DEPENDENTS OF SUCH PERSON MAY ALSO BE COVERED AT THE SAME TIME AS THE APPLICANT. SMALL EMPLOYER CARRIERS THAT USE OPEN ENROLLMENT PERIODS SHALL ALSO ACCEPT APPLICATIONS FROM BUSINESS GROUPS OF ONE AND ISSUE A BASIC OR STANDARD PLAN AS PROVIDED BY LAW IF SUCH APPLICATIONS ARE SUBMITTED WITHIN THIRTY-ONE DAYS OF ANY ONE OF THE FOLLOWING EVENTS:

(I) A PERSON QUALIFYING AS A BUSINESS GROUP OF ONE EXHAUSTS STATE OR FEDERAL CONTINUATION COVERAGE;

(II) THE DATE A PERSON INITIALLY MEETS THE REQUIREMENTS OF SECTION 10-16-102 (6) AND WHOSE BIRTH DATE IS MORE THAN THIRTY-ONE DAYS AFTER SO DOING; OR

(III) A PERSON QUALIFYING AS A BUSINESS GROUP OF ONE INVOLUNTARILY LOSES OTHER CREDITABLE COVERAGE. THIS SUBPARAGRAPH (III) SHALL NOT APPLY IN CASES OF FAILURE TO PAY PREMIUM, FRAUD, OR A VOLUNTARY DECISION ON THE PART OF SUCH PERSON TO TERMINATE OTHER CREDITABLE COVERAGE.

**SECTION 3.** 10-16-105 (7.3) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

**10-16-105. Small group sickness and accident insurance - guaranteed issue - mandated provisions for basic and standard health benefit plans.** (7.3) (b) (V) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (7.3), NO SMALL EMPLOYER CARRIER IS REQUIRED TO OFFER COVERAGE OR ACCEPT APPLICATIONS PURSUANT TO THIS SECTION FROM BUSINESS GROUPS OF ONE IF THE COMMISSIONER FINDS THAT ACCEPTANCE OF AN APPLICATION WOULD PLACE THE SMALL EMPLOYER CARRIER IN A FINANCIALLY IMPAIRED CONDITION. IN ADDITION, A SMALL EMPLOYER CARRIER THAT HAS NOT OFFERED COVERAGE OR ACCEPTED APPLICATIONS PURSUANT TO THIS SUBPARAGRAPH (V) SHALL NOT OFFER COVERAGE OR ACCEPT APPLICATIONS UNTIL A DETERMINATION BY THE COMMISSIONER

THAT THE SMALL EMPLOYER CARRIER IS NO LONGER FINANCIALLY IMPAIRED.

**SECTION 4. Effective date - applicability.** (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to health care coverage policies issued to business groups of one on or after the applicable effective date of this act.

Approved: April 5, 1999