

CHAPTER 392

INSURANCE

HOUSE BILL 07-1355

BY REPRESENTATIVE(S) McGihon and Massey, Carroll M., Casso, Gibbs, Green, Jahn, Labuda, Levy, Madden, May M., Merrifield, Primavera, Rice, Todd, Cerbo, Frangas, Pommer, and Soper;
also SENATOR(S) Hagedorn, Boyd, Fitz-Gerald, Keller, Romer, Tapia, Tochtrop, Tupa, and Windels.

AN ACT

CONCERNING THE LIMITATION OF SPECIFIC CASE CHARACTERISTICS THAT MAY BE USED BY AN INSURANCE CARRIER TO DETERMINE THE PREMIUM RATE FOR SMALL EMPLOYERS, AND, IN CONNECTION THEREWITH, CHANGING THE REQUIREMENTS FOR REPORTS BY THE INSURANCE COMMISSIONER TO THE GENERAL ASSEMBLY CONCERNING THE EFFECT OF LIMITATIONS ON CASE CHARACTERISTICS IN THE SMALL GROUP MARKET.

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

SECTION 1. 10-16-102 (10) (b) (IV), (10) (b) (V), (10) (b) (VI), and (10) (b) (VII), Colorado Revised Statutes, are amended to read:

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

(10) (b) "Case characteristics" are limited to the following demographic characteristics:

(IV) Smoking status; AND

(V) ~~Claims experience;~~

(VI) Standard industrial classification. ~~and~~

(VII) ~~Health status;~~

SECTION 2. 10-16-105 (5) (a) and (8) (e), the introductory portion to 10-16-105 (8.5) (a), and 10-16-105 (8.5) (a) (I) (A), (8.5) (a) (V), (8.5) (c), (8.7) (a) (I), (8.7) (a) (III), and (8.7) (b), Colorado Revised Statutes, are amended to read:

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

10-16-105. Small group sickness and accident insurance - guaranteed issue - mandated provisions for basic health benefit plans - rules - benefit design advisory committee - repeal. (5) Each small group sickness and accident insurer or other entity shall make reasonable disclosure in solicitation and sales materials provided to small employers the following information in a form and manner prescribed by the commissioner and upon request of any such small employer shall provide such information in detail:

(a) How premium rates for a specific employer are established or adjusted; ~~due to the experience or health status of employees or dependents of the small employer;~~

(8) (e) The small employer carrier shall not use case characteristics other than age, geographic area, and family ~~composition~~ SIZE, nor shall it use any other rating factors except as provided in this subsection (8) and subsections (13) to (15) of this section.

(8.5) (a) For small group health benefit plans issued to or renewed for a small employer on or after ~~September 1, 2003~~ JANUARY 1, 2009:

(I) (A) An adjustment in rates for ~~claims experience, health status, and~~ standard industrial classification may be made but shall not be charged to the individuals under the plan;

(V) ~~On and after September 1, 2004,~~ A small employer carrier may make an upward adjustment to a small business group's renewal premium, not to exceed fifteen percent annually, due to ~~the claims experience, health status,~~ standard industrial classification or tobacco use for all individuals under the small employer policy pursuant to subparagraph (I) of this paragraph (a).

(c) The small employer carrier shall not use case characteristics other than age, geographic area, family ~~composition~~ SIZE, smoking status, ~~health status,~~ AND standard industrial classification ~~and claims experience, nor shall it use any other rating factors other than actual claims experience~~ on that small employer carrier's health benefit plan, industry, and plan design. ~~without prior approval of the commissioner unless otherwise provided in this subsection (8.5):~~

(8.7) (a) The commissioner shall evaluate how subsection (8.5) of this section affects the small group market. Specifically, the commissioner shall evaluate the impact of the following:

(I) Rating flexibility based on ~~claims experience and~~ application of rating flexibility on small business groups of one to small employers with no more than fifteen employees, as compared to the impact on small employers with sixteen or more employees;

(III) ~~Rating flexibility on the aggregate health status of the small group market, including, but not limited to, whether the risk profile of the small group market improved because of the implementation of subsection (8.5) of this section; and~~

(b) The commissioner shall submit a report of the evaluation pursuant to this

subsection (8.7) to the business affairs and labor committees of the house of representatives and the senate OR THEIR SUCCESSOR COMMITTEES no later than ~~January 15, 2007~~ MARCH 15, 2011. THE COMMISSIONER SHALL CONSULT WITH INTERESTED PARTIES, INCLUDING BUT NOT LIMITED TO EMPLOYERS AND EMPLOYEES IN THE SMALL GROUP MARKET, AND SURVEY THE SMALL EMPLOYER CARRIERS AUTHORIZED TO CONDUCT BUSINESS IN COLORADO. THE REPORT, TO THE GREATEST EXTENT PRACTICABLE, SHALL INCLUDE AN ANALYSIS OF:

(I) THE SMALL GROUP INSURANCE MARKET WITH TREND INFORMATION, AVAILABILITY OF COVERAGE, AVERAGE COST OF COVERAGE, AND NUMBER OF LIVES COVERED IN THE SMALL GROUP MARKET;

(II) ANY COST-SHIFTING THAT MAY OCCUR BECAUSE OF REIMBURSEMENT RATES FROM PUBLICALLY-FUNDED HEALTH COVERAGE PLANS; AND

(III) ANY OTHER FACTOR AFFECTING THE GROWTH OR DECLINE OF THE SMALL GROUP MARKET.

SECTION 3. 10-16-105 (8.5) (a) (II), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH to read:

10-16-105. Small group sickness and accident insurance - guaranteed issue - mandated provisions for basic health benefit plans - rules - benefit design advisory committee - repeal. (8.5) (a) For small group health benefit plans issued to or renewed for a small employer on or after September 1, 2003:

(II) For a small employer's policy, adjustments made pursuant to sub-subparagraph (A) of subparagraph (I) of this paragraph (a) may be made but shall not result in a rate for the small employer that deviates from the carrier's filed rate by more than the amounts set forth in the following schedule:

(C) ON AND AFTER JANUARY 1, 2008, INCREASES MORE THAN TEN PERCENT OR DECREASES MORE THAN TWENTY-FIVE PERCENT FROM THE CARRIER'S FILED RATE; EXCEPT THAT THERE SHALL BE NO INCREASES BASED UPON HEALTH STATUS OR CLAIMS EXPERIENCE. THIS SUB-SUBPARAGRAPH (C) IS REPEALED, EFFECTIVE JANUARY 1, 2009.

SECTION 4. 10-16-108.5 (1), Colorado Revised Statutes, is amended to read:

10-16-108.5. Fair marketing standards. (1) Each small employer carrier shall actively market health benefit plan coverage, including the basic health benefit plan and the standard health benefit plan, to eligible small employers in the state. ~~If a small employer carrier denies coverage to a small employer on the basis of the health status or claims experience of the small employer or its employees or dependents, the carrier shall offer the small employer the opportunity to purchase a basic health benefit plan or a standard health benefit plan.~~

SECTION 5. 10-16-902 (3) (a) and (3) (c), Colorado Revised Statutes, are amended to read:

10-16-902. Authority to self-fund - pilot program - rules - fees - cash fund.

(3) (a) Any MEWA may use the following factors consistent with rating provisions for the small employer carriers for the establishment of rates: FAMILY SIZE, age, ~~family composition~~, geographic location, ~~health status, claims experience~~, and standard industrial code.

~~(c) A self-funded MEWA or the insurance carrier for a fully insured MEWA may adjust premiums for an individual employer within the MEWA based on the health status or age of the employer's employees and their dependents within the MEWA. Such adjustments in rates shall be made on and after May 21, 2004, for health status, claims experience, and standard industrial code but shall not be charged to the individuals under the plan and shall not result in a rate for the MEWA that deviates from the average rate for members of the MEWA by more than the amounts set forth in the following schedule:~~

~~(I) On and after May 21, 2004, until September 29, 2004, decreases more than fifteen percent from the average rate for members of the MEWA;~~

~~(II) On and after September 30, 2004, increases more than ten percent from or decreases more than twenty-five percent from the average rate for members of the MEWA.~~

SECTION 6. Effective date. (1) (a) Section 3 of this act and this section 6 shall take effect January 1, 2008.

(b) Sections 1, 2, 4, and 5 of this act shall take effect January 1, 2009.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-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, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

Approved: June 1, 2007