

CHAPTER 236

INSURANCE

SENATE BILL 06-036

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also REPRESENTATIVE(S) Marshall, Berens, Borodkin, Coleman, Jahn, Merrifield, Paccione, Riesberg, Garcia, Green, Madden, and McGihon.

AN ACT**CONCERNING THE TYPES OF HEALTH BENEFIT PLANS REQUIRED TO BE OFFERED BY SMALL EMPLOYER CARRIERS TO SMALL EMPLOYERS IN THE STATE.**

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) The rising cost of health care and health insurance premiums has made it increasingly difficult for small employers to provide health insurance coverage to their employees.

(b) Employees of small employers are experiencing great difficulty in affording their portion of employer-sponsored health insurance premiums for coverage for themselves and their families.

(c) Given the financial difficulties small employers experience in offering health insurance coverage to their employees as well as the increasing inability of employees of small employers to afford premiums when health insurance coverage is provided by the employer, employees of small businesses are nearly twice as likely to be uninsured than employees who work for larger employers.

(d) Employees of small businesses make up nearly two-thirds of all uninsured adults in Colorado.

(e) Uninsured individuals are more likely to have unpaid medical bills, which is the number one reason for declaring personal bankruptcy in the United States.

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

(f) Insurers offering health insurance plans for small employers need more flexibility in the components of the plans that are required to be offered in order to reduce the costs of such plans and increase the affordability of the plans to small employers and their employees.

(g) Medical evidence can be used to enhance a health insurance plan that covers catastrophic medical care by covering limited preventive services and chronic disease care, which are proven to be the most cost-effective, thereby lowering the cost of such plans and making them more affordable for small employers and their employees.

(h) It is in the best interest of the state to assure that small business employees have access to affordable health insurance with coverage based on the latest medical evidence.

(i) It is the intent of the general assembly to require small employer health insurance carriers to offer an affordable health insurance plan with coverage based on the latest medical evidence in an effort to increase the number of small business employees who are insured through a small employer health benefit plan and reduce the number of Coloradans declaring personal bankruptcy due to the inability to pay outstanding medical bills.

SECTION 2. The introductory portion to 10-16-105 (7.2) and 10-16-105 (7.2) (b) and (11), Colorado Revised Statutes, are amended, and the said 10-16-105 is further amended BY THE ADDITION OF A NEW SUBSECTION, 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. (7.2) The commissioner shall promulgate rules to implement a basic health benefit plan and a standard health benefit plan to be offered by each small employer carrier as a condition of transacting business in this state. The commissioner shall survey small group carriers to determine the range of health benefit plans available annually. The commissioner shall implement a basic plan that approximates the lowest level of coverage offered in small group health benefit plans. ~~and A BASIC HEALTH BENEFIT PLAN MAY BE BASED ON THE LATEST MEDICAL EVIDENCE. THE COMMISSIONER shall implement a standard plan that approximates the average level of coverage offered in small group health benefit plans. In determining such levels of coverage, the commissioner shall consider such factors SUCH as coinsurance, copayments, deductibles, out-of-pocket maximums, and covered benefits. The commissioner shall amend the rules to implement the basic and standard plans HEALTH BENEFIT PLANS no more frequently than once every two years. Such THE rules shall be in conformity with the provisions of article 4 of title 24, C.R.S., and shall incorporate the following STANDARD HEALTH BENEFIT PLAN DESIGN DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (7.2) AND THE VARIOUS OPTIONS FOR THE BASIC HEALTH BENEFIT PLAN DESIGN DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (7.2):~~

(b)(I) A basic health benefit plan may reflect a basic health benefit plan that does not include coverage pursuant to the mandatory coverage provisions of section 10-16-104 (4), (5), (8), (9), (10), and (12);

(II) A basic health benefit plan may reflect a health benefit plan that is a high deductible plan that would qualify for a health savings account pursuant to 26 U.S.C. sec. 223. ~~except that~~ A carrier may apply deductible amounts for mandatory health benefits for mammography, prostate screening, child supervision services, or prosthetic devices pursuant to section 10-16-104 (4), (10), (11), and (14) if such mandatory benefits are not considered by the federal department of treasury to be preventive or to have an acceptable deductible amount; or

(III) A basic health benefit plan may reflect a basic health benefit plan that does not include coverage pursuant to the mandatory coverage provisions of section 10-16-104 (4), (5), (8), (9), (10), and (12), ~~and~~ is a high deductible plan that would qualify for a health savings account pursuant to 26 U.S.C. sec. 223. ~~except that~~ A carrier may apply deductible amounts for mandatory health benefits for ~~mammography, prostate screening,~~ child supervision services or prosthetic devices pursuant to section 10-16-104 ~~(4), (10),~~ (11) and (14) if such mandatory benefits are not considered by the federal department of treasury to be preventive or to have an acceptable deductible amount.

(IV) ON AND AFTER JANUARY 1, 2008, A BASIC HEALTH BENEFIT PLAN MAY REFLECT A MEDICAL EVIDENCE-BASED HEALTH BENEFIT PLAN THAT:

(A) DOES NOT INCLUDE COVERAGE PURSUANT TO THE MANDATORY COVERAGE PROVISIONS OF SECTION 10-16-104 (5), (8), (9), (10), AND (12);

(B) IS A HIGH DEDUCTIBLE PLAN THAT WOULD QUALIFY FOR A HEALTH SAVINGS ACCOUNT PURSUANT TO 26 U.S.C. SEC. 223;

(C) COVERS LIMITED PREVENTION AND SCREENING BASED ON THE LATEST MEDICAL EVIDENCE EMBODIED IN RECOMMENDATIONS OF AN INDEPENDENT PANEL OF EXPERTS IN PRIMARY CARE AND PREVENTION THAT SYSTEMATICALLY REVIEWS THE EVIDENCE OF EFFECTIVENESS AND DEVELOPS RECOMMENDATIONS FOR CLINICAL PREVENTIVE SERVICES; EXCEPT THAT A CARRIER MAY APPLY DEDUCTIBLE AMOUNTS FOR MANDATORY HEALTH BENEFITS FOR MAMMOGRAPHY, CHILD SUPERVISION SERVICES, OR PROSTHETIC DEVICES PURSUANT TO SECTION 10-16-104 (4), (11), AND (14) IF SUCH MANDATORY BENEFITS ARE NOT CONSIDERED BY THE FEDERAL DEPARTMENT OF TREASURY TO BE PREVENTIVE OR TO HAVE AN ACCEPTABLE DEDUCTIBLE AMOUNT;

(D) COVERS LIMITED ELECTIVE INPATIENT AND SURGICAL CARE;

(E) COVERS LIMITED MEDICATIONS USED PRIMARILY FOR COST-EFFECTIVE CHRONIC DISEASE MANAGEMENT; AND

(F) COVERS MATERNITY CARE.

~~(11) The requirements contained in this section for small employer carriers to issue basic and standard health benefit plans shall terminate July 1, 2006, unless the general assembly acts by bill to extend such requirements beyond said date after conducting the review required in section 10-16-120.~~

(16) (a) THE COMMISSIONER SHALL APPOINT A BENEFIT DESIGN ADVISORY

COMMITTEE TO PROVIDE RECOMMENDATIONS ON THE DEVELOPMENT OF THE MEDICAL EVIDENCE-BASED HEALTH BENEFIT PLAN DESCRIBED IN SUBPARAGRAPH (IV) OF PARAGRAPH (b) OF SUBSECTION (7.2) OF THIS SECTION. THE ADVISORY COMMITTEE SHALL CONSIST OF ACTUARIES; FOR-PROFIT AND NONPROFIT HEALTH INSURERS; HEALTH INSURANCE BROKERS; HEALTH CARE CONSUMERS; REPRESENTATIVES OF HEALTH CARE PROVIDERS; HEALTH CARE PROFESSIONALS; SMALL BUSINESS OWNERS, INCLUDING OWNERS OF BUSINESS GROUPS OF ONE; AND PERSONS HAVING EXPERTISE IN HEALTH CARE FINANCE, POLICY, AND EVIDENCE-BASED MEDICINE. THE COMMISSIONER SHALL APPOINT THE MEMBERS OF THE ADVISORY COMMITTEE BY JULY 1, 2006.

(b) THE DIVISION MAY ACCEPT GIFTS, GRANTS, AND DONATIONS MADE FOR THE PURPOSE OF FUNDING THE FUNCTIONS OF THE BENEFIT DESIGN ADVISORY COMMITTEE. MEMBERS OF THE ADVISORY COMMITTEE SHALL SERVE WITHOUT COMPENSATION AND SHALL NOT BE REIMBURSED FOR EXPENSES INCURRED WHILE SERVING ON THE ADVISORY COMMITTEE.

(c) THIS SUBSECTION (16) IS REPEALED, EFFECTIVE JULY 1, 2011. PRIOR TO SUCH REPEAL, THE ADVISORY COMMITTEE SHALL BE REVIEWED PURSUANT TO SECTION 2-3-1203, C.R.S.

SECTION 3. 10-16-104 (15), Colorado Revised Statutes, is amended to read:

10-16-104. Mandatory coverage provisions. (15) Notwithstanding any provision to the contrary, a small employer may purchase health benefit coverage that does not include the coverage for benefits pursuant to subsections (4), (5), (8), (9), (10), and (12) of this section through a basic health benefit plan pursuant to section 10-16-105 (7.2) (b) ~~(4)~~ OR THAT DOES NOT INCLUDE COVERAGE FOR BENEFITS PURSUANT TO SUBSECTIONS (5), (8), (9), (10), AND (12) OF THIS SECTION THROUGH A MEDICAL EVIDENCE-BASED HEALTH BENEFIT PLAN AUTHORIZED IN SECTION 10-16-105 (7.2) (b) (IV).

SECTION 4. Repeal. 10-16-120, Colorado Revised Statutes, is repealed as follows:

10-16-120. Legislative review of requirements for guaranteed issue of basic and standard health benefit plans. ~~(1) During the regular session of the general assembly in the year 2001, the legislative council of the general assembly shall conduct a review of the operation of requirements contained in section 10-16-105 for small employer carriers to issue basic and standard health benefit plans. Such review shall consider, but not be limited to, the effect of such requirement on the availability and affordability of health care coverage to residents of Colorado. As a result of the review required by this subsection (1), the legislative council may recommend to the general assembly any legislation determined to be necessary based on such review.~~

~~(2) The requirements contained in section 10-16-105 for small employer carriers to issue basic and standard health benefit plans shall terminate July 1, 2006, unless the general assembly acts by bill to extend said requirements beyond July 1, 2006.~~

SECTION 5. 10-16-107.2 (2) (b) (I), Colorado Revised Statutes, is amended to

read:

10-16-107.2. Filing of health policies. (2) (b) (I) The commissioner shall develop a uniform employee application form for health ~~coverage~~ BENEFIT PLANS and shall require all small group sickness and accident insurers, health maintenance organizations, nonprofit hospital and health service corporations, and other entities providing small group health care coverage authorized by the commissioner to conduct business in Colorado to exclusively use such uniform employee application form for the conduct of business in this state. On and after January 1, 2007, all small group sickness and accident insurers, health maintenance organizations, nonprofit hospital and health service corporations, and other entities that provide small group health care coverage shall use the uniform employee application form for small group sickness and accident health ~~coverage~~ BENEFIT PLANS.

SECTION 6. 26-19-107 (1) (a) (I), Colorado Revised Statutes, is amended to read:

26-19-107. Duties of the department - schedule of services - premiums - copayments - subsidies. (1) In addition to any other duties pursuant to this article, the department shall have the following duties:

(a) (I) To design, ~~on or after April 21, 1998,~~ and from time to time revise, a schedule of health care services included in the plan and to propose said schedule to the medical services board for approval or modification. The schedule of health care services as proposed by the department and approved by the medical services board shall include, but shall not be limited to, preventive care, physician services, prenatal care and postpartum care, inpatient and outpatient hospital services, prescription drugs and medications, and other services that may be medically necessary for the health of enrollees. The department shall design and revise this schedule of health care services included in the plan to be based upon the basic and standard health benefit plans defined in section 10-16-102 (4) ~~and (42)~~ AND (43), C.R.S.; except that the department may modify the basic and the standard health benefit plans to meet specific federal requirements or to accommodate those changes necessary for a program designed specifically for children.

SECTION 7. 2-3-1203 (3) (x), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(x) July 1, 2011:

(VI) THE BENEFIT DESIGN ADVISORY COMMITTEE, APPOINTED PURSUANT TO SECTION 10-16-105 (16), C.R.S.

SECTION 8. Effective date - applicability. (1) Except as provided in subsection (2) of this section, this act shall take effect January 1, 2007, and shall apply to health benefit plans offered by small employer carriers on or after said date.

(2)(a) Section 10-16-105 (11), Colorado Revised Statutes, as amended in section 2 of this act, and section 4 of this act shall take effect July 1, 2006, and shall apply to health benefit plans issued by small employer carriers on or after said date.

(b) Section 10-16-105 (16), Colorado Revised Statutes, as enacted in section 2 of this act, shall take effect upon passage.

(c) Section 10-16-105 (7.2) (b) (IV), Colorado Revised Statutes, as enacted in section 2 of this act, shall take effect January 1, 2008, and shall apply to health benefit plans offered by small employer carriers on or after said date.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 25, 2006