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By: **Delegate Mitchell**

Introduced and read first time: January 28, 2000

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance - Small Group Market - Modifications**

3 FOR the purpose of altering the number of eligible employees that a person may  
4 employ to be considered a small employer for the purpose of small group market  
5 health insurance; eliminating certain self-employed individuals from being  
6 considered small employers; altering the rate a carrier may charge above or  
7 below the community rate; limiting the amount of coverage for prescription  
8 drugs that may be offered in the Standard Plan; altering certain definitions; and  
9 generally relating to small group market health insurance.

10 BY repealing and reenacting, with amendments,

11 Article - Insurance

12 Section 15-1201(e) and (g), 15-1203, 15-1205, 15-1207, and 15-1210(a)

13 Annotated Code of Maryland

14 (1997 Volume and 1999 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Insurance**

18 15-1201.

19 (e) (1) "Eligible employee" means:

20 (i) an individual who:

21 1. is an employee, [sole proprietor, self-employed  
22 individual,] partner of a partnership, or independent contractor who is included as an  
23 employee under a health benefit plan; and

24 2. works on a full-time basis and has a normal workweek of

25 at least 30 hours; or

1 (ii) a sole employee of a nonprofit organization that has been  
2 determined by the Internal Revenue Service to be exempt from taxation under §  
3 501(c)(3), (4), or (6) of the Internal Revenue Code who:

4 1. has a normal workweek of at least 20 hours; and

5 2. is not covered under a public or private plan for health  
6 insurance or other health benefit arrangement.

7 (2) "Eligible employee" does not include an individual who works:

8 (i) on a temporary or substitute basis; or

9 (ii) except for an individual described in paragraph (1)(ii) of this  
10 subsection, for less than 30 hours in a normal workweek.

11 (g) "Late enrollee" means[:

12 (1)] an eligible employee or dependent who requests enrollment in a  
13 health benefit plan after the initial enrollment period provided under the health  
14 benefit plan[: or

15 (2) a self-employed individual described in § 15-1203(c) or (d) of this  
16 subtitle or dependent who requests enrollment in a health benefit plan after an  
17 annual open enrollment period for self-employed individuals established by the  
18 carrier in accordance with regulations adopted by the Commissioner].

19 15-1203.

20 (a) A small employer under this subtitle is a person that meets the criteria  
21 specified in any subsection of this section.

22 (b) (1) A person is considered a small employer under this subtitle if the  
23 person:

24 (i) is an employer that on at least 50% of its working days during  
25 the preceding calendar year, employed at least two but not more than [50] 100 eligible  
26 employees, the majority of whom are employed in the State; and

27 (ii) is a person actively engaged in business or is the governing body  
28 of:

29 1. a charter home-rule county established under Article  
30 XI-A of the Maryland Constitution;

31 2. a code home-rule county established under Article XI-F of  
32 the Maryland Constitution;

33 3. a commission county established or operating under  
34 Article 25 of the Code; or



1 (iii) for whom a copy of the appropriate Internal Revenue form or  
2 forms and schedule has been filed with the carrier.

3 (d) An individual is considered a small employer under this subtitle if the  
4 individual is a self-employed individual who is engaged in a licensed profession  
5 through a professional corporation organized in accordance with Title 5, Subtitle 1 of  
6 the Corporations and Associations Article and who received health benefits through a  
7 professional association on or before June 30, 1994.]

8 [(e)] (C) A person is considered a small employer under this subtitle if the  
9 person is a nonprofit organization that has been determined by the Internal Revenue  
10 Service to be exempt from taxation under § 501(c)(3), (4), or (6) of the Internal  
11 Revenue Code and has at least one eligible employee.

12 [(f)] (D) Notwithstanding subsection (b)(3)(ii)1 of this section, in otherwise  
13 satisfying the requirements of subsection (b)(1) of this section, a person is considered  
14 a small employer under this subtitle if:

15 (1) all but one of its eligible employees are covered under another public  
16 or private health benefit plan or other health benefit arrangement; and

17 (2) only one of its eligible employees is not covered under any public or  
18 private health benefit plan or other health benefit arrangement.

19 15-1205.

20 (a) (1) In establishing a community rate for a health benefit plan, a carrier  
21 shall use a rating methodology that is based on the experience of all risks covered by  
22 that health benefit plan without regard to health status or occupation or any other  
23 factor not specifically authorized under this subsection.

24 (2) A carrier may adjust the community rate only for:

25 (i) age; and

26 (ii) geography based on the following contiguous areas of the State:

27 1. the Baltimore metropolitan area;

28 2. the District of Columbia metropolitan area;

29 3. Western Maryland; and

30 4. Eastern and Southern Maryland.

31 (3) Rates for a health benefit plan may vary based on family composition  
32 as approved by the Commissioner.

33 (b) A carrier shall apply all risk adjustment factors under subsection (a) of this  
34 section consistently with respect to all health benefit plans that are issued, delivered,  
35 or renewed in the State.

1 (c) Based on the adjustments allowed under subsection (a)(2) of this section, a  
2 carrier may charge a rate that is [40%] 50% above or below the community rate.

3 (d) A carrier shall base its rating methods and practices on commonly accepted  
4 actuarial assumptions and sound actuarial principles.

5 15-1207.

6 (a) In accordance with Title 19, Subtitle 1 of the Health - General Article, the  
7 Commission shall adopt regulations that specify:

8 (1) the Comprehensive Standard Health Benefit Plan to apply under this  
9 subtitle; and

10 (2) a modified health benefit plan for medical savings accounts that  
11 qualify under the federal Health Insurance Portability and Accountability Act of 1996,  
12 including:

13 (i) a waiver of deductibles as permitted under federal law;

14 (ii) minimum funding standards for medical savings accounts; and

15 (iii) authorization for offering the modified plan only by those  
16 persons who offer the Comprehensive Standard Health Benefit Plan adopted in  
17 accordance with item (1) of this subsection.

18 (b) The Commission shall require that the minimum benefits allowed to be  
19 offered in the Standard Plan:

20 (1) by a health maintenance organization, shall include at least the  
21 actuarial equivalent of the minimum benefits required to be offered by a federally  
22 qualified health maintenance organization; and

23 (2) by an insurer or nonprofit health service plan on an  
24 expense-incurred basis, shall be actuarially equivalent to at least the minimum  
25 benefits required to be offered under item (1) of this subsection.

26 (c) (1) Subject to paragraph (2) of this subsection, the Commission shall  
27 exclude or limit benefits or adjust cost-sharing arrangements in the Standard Plan if  
28 the average rate for the Standard Plan exceeds 12% of the average annual wage in the  
29 State.

30 (2) The Commission annually shall determine the average rate for the  
31 Standard Plan by using the average rate submitted by each carrier that offers the  
32 Standard Plan.

33 (d) In establishing benefits, the Commission shall judge preventive services,  
34 medical treatments, procedures, and related health services based on:

35 (1) their effectiveness in improving the health status of individuals;

1 (2) their impact on maintaining and improving health and on reducing  
2 the unnecessary consumption of health care services; and

3 (3) their impact on the affordability of health care coverage.

4 (e) The Commission may exclude:

5 (1) a health care service, benefit, coverage, or reimbursement for covered  
6 health care services that is required under this article or the Health - General Article  
7 to be provided or offered in a health benefit plan that is issued or delivered in the  
8 State by a carrier; or

9 (2) reimbursement required by statute, by a health benefit plan for a  
10 service when that service is performed by a health care provider who is licensed under  
11 the Health Occupations Article and whose scope of practice includes that service.

12 (f) The Standard Plan shall include uniform deductibles and cost-sharing  
13 associated with its benefits, as determined by the Commission.

14 (g) In establishing cost-sharing as part of the Standard Plan, the Commission  
15 shall:

16 (1) include cost-sharing and other incentives to help prevent consumers  
17 from seeking unnecessary services;

18 (2) balance the effect of cost-sharing in reducing premiums and in  
19 affecting utilization of appropriate services; and

20 (3) limit the total cost-sharing that may be incurred by an individual in  
21 a year.

22 (H) IN ESTABLISHING BENEFITS UNDER THE STANDARD PLAN, ANY  
23 COVERAGE FOR PRESCRIPTION DRUGS OFFERED IN THE STANDARD PLAN MAY NOT  
24 EXCEED \$4,000 PER INDIVIDUAL PER YEAR.

25 15-1210.

26 (a) [(1)] A carrier that offers coverage to a small employer shall:

27 [(i)] (1) offer coverage to all of its eligible employees and all of  
28 their eligible dependents;

29 [(ii)] (2) at the election of the small employer, offer coverage to all  
30 of its part-time employees who have a normal workweek of at least 17 1/2 but less  
31 than 30 hours per week and have been continuously employed for at least 4  
32 consecutive months; AND

33 [(iii)] (3) at the election of the small employer, offer coverage to all  
34 of its employees who are covered under another public or private plan of health  
35 insurance or another health benefit arrangement[]; and

1                   (iv)       establish an annual open enrollment period for self-employed  
2 individuals for at least 30 consecutive days in each 6-month period.

3                   (2)       Notwithstanding any other provision of this section and §§ 15-1209,  
4 15-1211, and 15-1213 of this subtitle, a carrier may deny coverage to a self-employed  
5 individual who applies for a health benefit plan at a time other than the carrier's  
6 annual open enrollment period].

7       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2000.