

SENATE BILL 801

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2000 Regular Session
(01r2843)

ENROLLED BILL
-- Finance/Economic Matters --

Introduced by ~~Senator Bromwell~~ Senators Bromwell, Hooper, DeGrange,
Hafer, Teitelbaum, and Della

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Health Insurance - Small Group Market - Eligibility Requirements**

3 FOR the purpose of altering certain criteria for determining when a person is
4 considered a small employer for purposes of small group market health
5 insurance; altering certain criteria for determining when an employee is
6 considered to be an eligible employee; ~~eliminating certain self-employed~~
7 ~~individuals from being considered small employers~~; altering certain minimum
8 participation requirements; ~~providing for a certain health benefit plan with a~~
9 ~~high deductible; authorizing a carrier to impose a preexisting condition~~
10 ~~provision under certain circumstances; altering certain definitions; requiring~~
11 ~~the Maryland Health Care Commission to submit a certain report to the~~
12 ~~Economic Matters Committee and the Finance Committee on or before a certain~~
13 ~~date; requiring the Maryland Health Care Commission to study the feasibility~~
14 ~~and desirability of developing a high deductible health benefit plan for small~~
15 ~~employers; requiring the Department of Budget and Management to conduct a~~
16 ~~certain study on the feasibility and cost and benefit to the State of creating~~

1 ~~certain tax incentives and to report its findings to the General Assembly on or~~
 2 ~~before a certain date; requiring that a carrier renew the health benefit plan of~~
 3 ~~certain small employers that satisfied certain criteria on a certain date;~~ and
 4 generally relating to eligibility of small employers and employees under small
 5 group market health insurance.

6 BY repealing and reenacting, without amendments,

7 Article - Insurance

8 Section 15-1201(e) and (g), 15-1207(a), 15-1208, and 15-1210(a)

9 Annotated Code of Maryland

10 (1997 Volume and 1999 Supplement)

11 BY repealing and reenacting, with amendments,

12 Article - Insurance

13 Section ~~15-1201(e) and (g), 15-1203, and 15-1206(c), 15-1207(a), 15-1208, and~~

14 ~~15-1210(a)~~

15 Annotated Code of Maryland

16 (1997 Volume and 1999 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Insurance**

20 15-1201.

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

22 (i) an individual who:

23 1. is an employee, {sole proprietor, self-employed
 24 individual,} partner of a partnership, or independent contractor who is included as an
 25 employee under a health benefit plan; and

26 2. works on a full-time basis and has a normal workweek of
 27 at least 30 hours; or

28 (ii) a sole employee of a nonprofit organization that has been
 29 determined by the Internal Revenue Service to be exempt from taxation under §
 30 501(c)(3), (4), or (6) of the Internal Revenue Code who:

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

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

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

1 (i) on a temporary or substitute basis; or
2 (ii) except for an individual described in paragraph (1)(ii) of this
3 subsection, for less than 30 hours in a normal workweek.

4 (g) "Late enrollee" means:

5 (1) an eligible employee or dependent who requests enrollment in a
6 health benefit plan after the initial enrollment period provided under the health
7 benefit plan; or

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

12 15-1203.

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

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

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

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

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

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

26 3. a commission county established or operating under
27 Article 25 of the Code; or

28 4. a municipal corporation established or operating under
29 Article XI-E of the Maryland Constitution.

30 (2) Notwithstanding paragraph (1)(i) of this subsection:

31 (i) a person is considered a small employer under this subtitle if
32 the employer did not exist during the preceding calendar year but on at least 50% of
33 the working days during its first year the employer employs at least two but not more
34 than 50 eligible employees and otherwise satisfies the conditions of paragraph (1)(i) of
35 this subsection; and

1 (ii) if the federal Employee Retirement Income Security Act
2 (ERISA) is amended to exclude employee groups under a specific size, this subtitle
3 shall apply to any employee group size that is excluded from that Act.

4 (3) In determining the group size specified under paragraph (1)(i) of this
5 subsection:

6 (i) companies that are affiliated companies or that are eligible to
7 file a consolidated federal income tax return shall be considered one employer; and

8 (ii) an employee may not be counted who is[:

9 1. otherwise covered under a public or private health
10 insurance plan or other health benefit arrangement; or

11 2.] a part-time employee as described in § ~~{15-1210(a)(1)(ii)}~~
12 ~~15-1210(A)(2)~~ 15-1210(a)(1)(ii) of this subtitle.

13 (4) A carrier may request documentation to verify that a person meets
14 the criteria under this subsection to be considered a small employer under this
15 subtitle.

16 (5) Notwithstanding paragraph (1)(i) of this subsection, a person is
17 considered to continue to be a small employer under this subtitle if the person met the
18 conditions of paragraph (1)(i) of this subsection and purchased a health benefit plan
19 in accordance with this subtitle, and subsequently eliminated all but one employee.

20 (c) An individual is considered a small employer under this subtitle if the
21 individual:

22 (1) ~~lives, works, or~~ WORKS AND resides in the State; and

23 (2) is a self-employed individual organized as a sole proprietorship or in
24 any other legally recognized manner that a self-employed individual may organize:

25 (i) a substantial part of whose income derives from a trade or
26 business through which the individual has attempted to earn taxable income;

27 (ii) who has filed the appropriate Internal Revenue form for the
28 previous taxable year; and

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

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

1 ~~{(e)}~~ ~~(E)~~ A person is considered a small employer under this subtitle if the
2 person is a nonprofit organization that has been determined by the Internal Revenue
3 Service to be exempt from taxation under § 501(c)(3), (4), or (6) of the Internal
4 Revenue Code and has at least one eligible employee.

5 [(f) Notwithstanding subsection (b)(3)(ii)1 of this section, in otherwise
6 satisfying the requirements of subsection (b)(1) of this section, a person is considered
7 a small employer under this subtitle if:

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

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

12 15-1206.

13 (c) (1) Subject to the approval of the Commissioner and as provided under
14 this subsection and § 15-1209(d) of this subtitle, a carrier may impose reasonable
15 minimum participation requirements.

16 (2) A carrier may not impose a requirement for minimum participation
17 by the eligible employees of a small employer that is greater than 75%.

18 (3) In applying a minimum participation requirement to determine
19 whether the applicable percentage of participation is met, a carrier may not consider
20 as eligible employees those who have GROUP SPOUSAL coverage under a public or
21 private plan of health insurance or another EMPLOYER'S health benefit arrangement,
22 including Medicare, Medicaid, and CHAMPUS, that provides benefits similar to or
23 exceeding the benefits provided under the Standard Plan.

24 (4) A carrier may not impose a minimum participation requirement for a
25 small employer group if any member of the group participates in a medical savings
26 account.

27 15-1207.

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

30 (1) the Comprehensive Standard Health Benefit Plan to apply under this
31 subtitle; ~~{and}~~

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

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

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

1 (iii) authorization for offering the modified plan only by those
2 persons who offer the Comprehensive Standard Health Benefit Plan adopted in
3 accordance with item (1) of this subsection; ~~AND~~

4 ~~(3) A MODIFIED HEALTH BENEFIT PLAN WITH A HIGH DEDUCTIBLE,~~
5 ~~WHICH IS NOT OFFERED IN COMBINATION WITH A MEDICAL SAVINGS ACCOUNT~~
6 ~~UNDER ITEM (2) OF THIS SUBSECTION.~~

7 15-1208.

8 (a) (1) ~~{A} EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (E) OF THIS~~
9 ~~SECTION,~~ A carrier may not limit coverage under a health benefit plan for a
10 preexisting condition.

11 (2) An exclusion of coverage for preexisting conditions may not be
12 applied to health care services furnished for pregnancy or newborns.

13 (b) (1) This subsection does not apply to a late enrollee if:

14 (i) the individual requests enrollment within 30 days after
15 becoming an eligible employee;

16 (ii) a court has ordered coverage to be provided for a spouse or
17 minor child under a covered employee's health benefit plan; or

18 (iii) a request for enrollment is made within 30 days after the
19 eligible employee's marriage or the birth or adoption of a child.

20 (2) Notwithstanding subsection (a) of this section, a late enrollee may be
21 subject to a 12-month preexisting condition provision or a waiting period until the
22 next open enrollment period not to exceed a 12-month period.

23 (c) A health benefit plan that does not use a preexisting condition provision
24 may impose on enrollees:

25 (1) a waiting period not to exceed 90 days; or

26 (2) for 1 year, a surcharge not to exceed 1.5 times the community rate
27 established in accordance with § 15-1205 of this subtitle.

28 (d) For a period not to exceed 6 months after the date an individual becomes
29 an eligible employee, a health benefit plan may require deductibles and cost-sharing
30 for benefits for a preexisting condition of the eligible employee in amounts not
31 exceeding 1.5 times the amount of the standard deductibles and cost-sharing of other
32 eligible employees if:

33 (1) the employee was not previously covered by a public or private plan
34 of health insurance or another health benefit arrangement; and

35 (2) the employee was not previously employed by that employer.

1 ~~(E)~~ A CARRIER MAY IMPOSE A PREEXISTING CONDITION PROVISION ON AN
2 ELIGIBLE EMPLOYEE WHO IS A NEW ENROLLEE IF:

3 ~~(1)~~ THE SMALL EMPLOYER HAS NO MORE THAN NINE ELIGIBLE
4 EMPLOYEES;

5 ~~(2)~~ THE PREEXISTING CONDITION OF THE NEW ENROLLEE HAS EXISTED
6 FOR 6 MONTHS OR LESS; AND

7 ~~(3)~~ THE PREEXISTING CONDITION PROVISION IS IMPOSED ON THE NEW
8 ENROLLEE FOR A PERIOD NOT TO EXCEED 12 MONTHS.

9 15-1210.

10 (a) ~~{(1)}~~ A carrier that offers coverage to a small employer shall:

11 ~~{(i)}~~ ~~(1)~~ offer coverage to all of its eligible employees and all of
12 their eligible dependents;

13 ~~{(ii)}~~ ~~(2)~~ at the election of the small employer, offer coverage to all
14 of its part-time employees who have a normal workweek of at least 17 1/2 but less
15 than 30 hours per week and have been continuously employed for at least 4
16 consecutive months; ~~AND~~

17 ~~{(iii)}~~ ~~(3)~~ at the election of the small employer, offer coverage to all
18 of its employees who are covered under another public or private plan of health
19 insurance or another health benefit arrangement; and

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

22 (2) Notwithstanding any other provision of this section and §§ 15-1209,
23 15-1211, and 15-1213 of this subtitle, a carrier may deny coverage to a self-employed
24 individual who applies for a health benefit plan at a time other than the carrier's
25 annual open enrollment period}.

26 SECTION 2. AND BE IT FURTHER ENACTED, That:

27 (a) On or before January 1, 2001, the Maryland Health Care Commission, in
28 consultation with the Maryland Insurance Administration, health insurance carriers,
29 small employers, insurance agents and insurance brokers, shall report, in accordance
30 with § 2-1246 of the State Government Article, to the House Economic Matters
31 Committee and the Senate Finance Committee on the effect of group size in the small
32 group insurance market on the HMO and PPO delivery systems of each prominent
33 carrier in the small group insurance market.

34 (b) In developing the report, the Maryland Health Care Commission shall
35 specifically consider the effect of group size (including self-employed groups) in the
36 small group insurance market on:

- 1 (1) the extent of group coverage;
- 2 (2) premium increases;
- 3 (3) the number of covered lives;
- 4 (4) the number of policies issued;
- 5 (5) premiums earned; and
- 6 (6) claims incurred.

7 (c) For purposes of the Maryland Health Care Commission report, "prominent
8 insurance carrier" means a carrier that covers at least 5% of the total lives in the
9 small group health insurance market or 10% of the total lives in any one delivery
10 system.

11 (d) In addition to the report, the Maryland Health Care Commission shall, as
12 part of its annual review of the Comprehensive Standard Health Benefit Plan,
13 examine the feasibility and desirability of developing a high deductible health benefit
14 plan for small employers.

15 ~~SECTION 3. AND BE IT FURTHER ENACTED, That:~~

16 ~~(a) The Department of Budget and Management shall study the feasibility~~
17 ~~and cost and benefit to the State of creating tax incentives to:~~

18 ~~(1) assist individuals to purchase health insurance; and~~

19 ~~(2) assist in defraying the costs for employers to provide health~~
20 ~~insurance for their employees.~~

21 ~~(b) In conducting the study, the Department of Budget and Management shall~~
22 ~~specifically consider:~~

23 ~~(1) tax credits for small employers with low income workers not~~
24 ~~currently offering or providing health insurance;~~

25 ~~(2) tax credits for small employers that are based on the number of~~
26 ~~employees, with greater tax incentives for smaller employers;~~

27 ~~(3) eliminating employee contributions for health insurance from being~~
28 ~~considered taxable income;~~

29 ~~(4) allowing individuals and the self-employed to fully deduct the cost of~~
30 ~~health insurance premiums from taxable income;~~

31 ~~(5) refundable tax credits for low income individuals who purchase~~
32 ~~health insurance; and~~

1 ~~(6) mechanisms to require employers to continue to provide health~~
2 ~~insurance coverage for a period of time as a condition of receiving a tax credit.~~

3 ~~(c) In conducting the study, the Department of Budget and Management may~~
4 ~~consult with the Maryland Health Care Commission, the Maryland Insurance~~
5 ~~Administration, the Department of Business and Economic Development, the~~
6 ~~Maryland Chamber of Commerce, the Maryland Retailers Association, the Maryland~~
7 ~~Nonprofit Tax Policy Institute, and any other person the Department considers~~
8 ~~appropriate.~~

9 ~~(d) The Department of Budget and Management shall report, in accordance~~
10 ~~with § 2-1246 of the State Government Article, to the General Assembly on the~~
11 ~~findings of the study on or before December 1, 2000.~~

12 ~~SECTION 3. AND BE IT FURTHER ENACTED, That a carrier shall, in~~
13 ~~accordance with § 15-1212 of the Insurance Article, renew the health benefit plan of a~~
14 ~~small employer that has coverage under Title 15, Subtitle 12 of the Insurance Article~~
15 ~~on May 31, 2000, for as long as the small employer meets the definition of a small~~
16 ~~employer in effect on the date the small employer applied for the coverage.~~

17 ~~SECTION 2. 4. AND BE IT FURTHER ENACTED, That this Act shall take~~
18 ~~effect June 1, 2000.~~