

HOUSE BILL 649

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C3

2000 Regular Session  
(01r1052)

*ENROLLED BILL*  
*-- Economic Matters/Finance --*

Introduced by **Delegates Donoghue, Redmer, Ports, Cane, J. Kelly,  
Klausmeier, Eckardt, McClenahan, Kach, Wood, and Mitchell**

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.

\_\_\_\_\_  
Speaker.

CHAPTER 400

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 that a carrier renew the health benefit plan of certain small  
14 employers that satisfied certain criteria on a certain date; requiring the  
15 Maryland Health Care Commission to study the feasibility and desirability of  
16 developing a high deductible health benefit plan for small employers; and

1 generally relating to eligibility of small employers and employees under small  
2 group market health insurance.

3 BY repealing and reenacting, without amendments,

4 Article - Insurance

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

6 Annotated Code of Maryland

7 (1997 Volume and 1999 Supplement)

8 BY repealing and reenacting, with amendments,

9 Article - Insurance

10 Section ~~15-1201(e) and (g), 15-1203, and 15-1206(c), 15-1207(a), 15-1208, and~~  
11 ~~15-1210(a)~~

12 Annotated Code of Maryland

13 (1997 Volume and 1999 Supplement)

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

16 **Article - Insurance**

17 15-1201.

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

19 (i) an individual who:

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

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

25 (ii) a sole employee of a nonprofit organization that has been  
26 determined by the Internal Revenue Service to be exempt from taxation under §  
27 501(c)(3), (4), or (6) of the Internal Revenue Code who:

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

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

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

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

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

1 (g) "Late enrollee" means:

2 (1) an eligible employee or dependent who requests enrollment in a  
3 health benefit plan after the initial enrollment period provided under the health  
4 benefit plan; or

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

9 15-1203.

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

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

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

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

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

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

23 3. a commission county established or operating under  
24 Article 25 of the Code; or

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

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

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

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

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

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

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

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

8 2.] a part-time employee as described in § ~~{15-1210(a)(1)(ii)}~~  
9 ~~15-1210(A)(2)~~ 15-1210(a)(1)(ii) of this subtitle.

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

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

17 ~~{c}~~ (c) An individual is considered a small employer under this subtitle if the  
18 individual:

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

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

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

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

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

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

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

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

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

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

8 15-1206.

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

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

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

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

23 15-1207.

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

26 (1) the Comprehensive Standard Health Benefit Plan to apply under this  
27 subtitle; ~~and~~

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

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

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

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

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

4 15-1208.

5       (a)     (1)     ~~[A] EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (E) OF THIS~~  
6 ~~SECTION, A~~ carrier may not limit coverage under a health benefit plan for a  
7 preexisting condition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 15-1210.

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

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

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

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

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

20           (2)     Notwithstanding any other provision of this section and §§ 15-1209,  
21 15-1211, and 15-1213 of this subtitle, a carrier may deny coverage to a self-employed  
22 individual who applies for a health benefit plan at a time other than the carrier's  
23 annual open enrollment period}.

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

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

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

35                    (1)     the extent of group coverage;

36                    (2)     premium increases;

1           (3)     the number of covered lives;

2           (4)     the number of policies issued;

3           (5)     premiums earned; and

4           (6)     claims incurred.

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

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

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

18       ~~SECTION 3.~~ SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take  
19 effect June 1, 2000.