
By: Delegates Barve, Gordon, and Kagan

Introduced and read first time: January 29, 1996

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Small Employer Group Health Insurance - Eligibility - Retirees**

3 FOR the purpose of altering the Maryland Health Care and Insurance Reform Act of
4 1993 to allow certain retirees of small employers to be eligible to receive health
5 insurance benefits under the Act under certain circumstances; providing for the
6 application of this Act; defining a certain term; making certain technical
7 corrections; and generally relating to altering certain provisions of the Maryland
8 Health Care and Insurance Reform Act of 1993 to allow certain retirees of a small
9 employer to receive health insurance benefits under the Act.

10 BY repealing and reenacting, without amendments,
11 Article 48A - Insurance Code
12 Section 698(a)
13 Annotated Code of Maryland
14 (1994 Replacement Volume and 1995 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article 48A - Insurance Code
17 Section 698(i), (p), and (q) and 704(b)
18 Annotated Code of Maryland
19 (1994 Replacement Volume and 1995 Supplement)
20 (As enacted by Chapter 9, Section 2 of the Acts of the General Assembly of 1993)

21 BY adding to
22 Article 48A - Insurance Code
23 Section 698(p) and 704(f) and (g)
24 Annotated Code of Maryland
25 (1994 Replacement Volume and 1995 Supplement)
26 (As enacted by Chapter 9, Section 2 of the Acts of the General Assembly of 1993)

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

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1 **Article 48A - Insurance Code**

2 698.

3 (a) In this subtitle the following words have the meanings indicated.

4 (i) (1) "Late enrollee" means:

5 (i) An eligible employee or dependent who requests enrollment in a
6 health benefit plan under this subtitle following the initial enrollment period provided
7 under the terms of the health benefit plan; or

8 (ii) For a self-employed individual as described in [subsection
9 (q)(1)(ii)] SUBSECTION (R)(1)(II) of this section, a self-employed individual or
10 dependent who requests enrollment in a health benefit plan under this subtitle following
11 an annual open enrollment period for self-employed individuals established by the carrier
12 in accordance with regulations adopted by the Commissioner.

13 (2) An eligible employee or dependent may not be considered a late
14 enrollee if:

15 (i) The individual requests enrollment within 30 days of becoming an
16 eligible employee;

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

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

21 (P) "RETIREE" MEANS AN INDIVIDUAL WHO:

22 (1) WAS AN ELIGIBLE EMPLOYEE OF A SMALL EMPLOYER
23 IMMEDIATELY PRIOR TO SEPARATION FROM EMPLOYMENT WITH THE SMALL
24 EMPLOYER; AND

25 (2) IS NOT AN EMPLOYEE OF ANY OTHER EMPLOYER ON A FULL-TIME
26 BASIS WITH A NORMAL WORKWEEK OF 30 HOURS OR MORE.

27 [(p)] (Q) "Risk-assuming carrier" means a carrier not participating in the Pool.

28 [(q)] (R) (1) "Small employer" means:

29 (i) Any person, sole proprietor, firm, corporation, partnership, or
30 association actively engaged in business if:

31 1. On at least 50 percent of its working days during the
32 preceding calendar year, employed at least two but no more than 50 eligible employees;
33 and

34 2. The majority of the individuals described under item 1 of this
35 subparagraph are employed within the State; or

36 (ii) Any self-employed individual who:

1 1. Is an individual or sole proprietor who derives a substantial
2 portion of the individual's income from a trade or business through which the individual
3 or sole proprietor has attempted to earn taxable income and for which the individual has
4 filed the appropriate Internal Revenue Form 1040, Schedule C or F, for the previous
5 taxable year, a copy of which shall be filed with the carrier as proof of employment; or

6 2. Is an individual engaged in a licensed profession through a
7 professional corporation organized in accordance with Title 5, Subtitle 1 of the
8 Corporations and Associations Article and who received health benefits through a
9 professional association prior to July 1, 1994.

10 (2) "Small employer" includes:

11 (i) If the requirements of paragraph (1)(i) 1 and 2 of this subsection
12 are satisfied, a local government body of:

13 1. A charter county established under Article 25A of the Code;

14 2. A code county established under Article 25B of the Code;

15 3. A board of county commissioners established or operating
16 under Article 25 of the Code; and

17 4. A municipal corporation established or operating under
18 Article 23A of the Code; and

19 (ii) A nonprofit organization, which has been determined by the
20 Internal Revenue Service to be exempt from taxation under § 501(c)(3), (4), or (6) of the
21 Internal Revenue Code, with at least one eligible employee.

22 (3) (i) A carrier may not impose a minimum participation requirement
23 for a small employer that is greater than 75 percent of eligible employees of the small
24 employer.

25 (ii) In applying minimum participation requirements with respect to a
26 small employer to determine whether the applicable percentage of participation is met, a
27 carrier may not consider eligible employees or dependents that have coverage under a
28 public or private health insurance plan or other health benefit arrangement, including
29 Medicare, Medicaid, and CHAMPUS, that provides benefits similar to or exceeding the
30 benefits provided under the comprehensive standard benefit plan.

31 (4) If the federal Employee Retirement Income Security Act is amended to
32 exclude employee groups under a specific size, notwithstanding paragraph (1)(i) of this
33 subsection, this subtitle shall apply to any employee group size that is excluded from that
34 federal Act.

35 (5) In determining the number of eligible employees who meet the
36 requirements under paragraph (1)(i) of this subsection, companies which are affiliated
37 companies or which are eligible to file a consolidated federal income tax return shall be
38 considered one employer.

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1 (6) In determining the number of eligible employees who meet the
2 requirements under paragraph (1)(i) of this subsection, an employee maynot be counted
3 who:

4 (i) Is otherwise covered under a public or private health insurance
5 plan or other health benefit arrangement; [or]

6 (ii) Is a part-time employee; OR

7 (III) IS A RETIREE.

8 (7) Notwithstanding the provisions of paragraph (1)(i) of this subsection, in
9 otherwise satisfying the requirements of paragraph (1)(i) of this subsection, a small
10 employer that did not exist during the preceding calendar year shall, during its first year,
11 employ on at least 50 percent of its working days at least two but no more than 50 eligible
12 employees.

13 704.

14 (b) A carrier that offers coverage to a small employer shall:

15 (1) Offer coverage to all of its eligible employees and to all eligible
16 dependents of all of its eligible employees;

17 (2) At the election of the small employer, offer coverage to all part-time
18 employees of the small employer;

19 (3) At the election of the small employer, offer coverage to all employees of
20 the small employer covered under another public or private health benefit plan or other
21 health benefit arrangement; AND

22 (4) AT THE ELECTION OF THE SMALL EMPLOYER, OFFER COVERAGE TO
23 ALL RETIREES OF THE SMALL EMPLOYER.

24 [(4) A carrier shall establish an annual open enrollment periodfor
25 self-employed individuals for at least 30 consecutive days in each 6-month period; and

26 (5) Notwithstanding any other provision of this section, a carrier may deny
27 coverage to any self-employed individual who applies for a health benefit plan at a time
28 other than the carrier's annual open enrollment period.]

29 (F) A CARRIER SHALL ESTABLISH AN ANNUAL OPEN ENROLLMENT PERIOD
30 FOR SELF-EMPLOYED INDIVIDUALS FOR AT LEAST 30 CONSECUTIVE DAYS IN EACH
31 6-MONTH PERIOD; AND

32 (G) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A
33 CARRIER MAY DENY COVERAGE TO ANY SELF-EMPLOYED INDIVIDUAL WHO
34 APPLIES FOR A HEALTH BENEFIT PLAN AT A TIME OTHER THAN THE CARRIER'S
35 ANNUAL OPEN ENROLLMENT PERIOD.

36 SECTION 2. AND BE IT FURTHER ENACTED, That the amendments to
37 Article 48A, §§ 698 and 704(b) of this Act that include retirees (as defined by this Act) in
38 the provisions of Article 48A, Subtitle 55 of the Code shall be construed retroactively and

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1 shall be applied to and interpreted to any health benefit plan providing coverage to a
2 small employer issued or renewed on or after July 1, 1994.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 1996.