

SENATE BILL 801

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2000 Regular Session  
0lr2843  
CF 0lr1052

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By: **Senator Bromwell**

Introduced and read first time: February 14, 2000

Assigned to: Rules

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A BILL ENTITLED

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; and  
11 generally relating to eligibility of small employers and employees under small  
12 group market health insurance.

13 BY repealing and reenacting, with amendments,  
14 Article - Insurance  
15 Section 15-1201(e) and (g), 15-1203, 15-1206(c), 15-1207(a), 15-1208, and  
16 15-1210(a)  
17 Annotated Code of Maryland  
18 (1997 Volume and 1999 Supplement)

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

21 **Article - Insurance**

22 15-1201.

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

24 (i) an individual who:

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

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

3 (ii) a sole employee of a nonprofit organization that has been  
4 determined by the Internal Revenue Service to be exempt from taxation under §  
5 501(c)(3), (4), or (6) of the Internal Revenue Code who:

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

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

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

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

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

13 (g) "Late enrollee" means[:

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

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

21 15-1203.

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

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

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

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

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

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

1 3. a commission county established or operating under  
2 Article 25 of the Code; or

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

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

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

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

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

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

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

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

21 2.] a part-time employee as described in § [15-1210(a)(1)(ii)]  
22 15-1210(A)(2) of this subtitle.

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

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

30 [(c) An individual is considered a small employer under this subtitle if the  
31 individual:

32 (1) lives, works, or resides in the State; and

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

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

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

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

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

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

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

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

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

21 15-1206.

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

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

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

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

1 15-1207.

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

4 (1) the Comprehensive Standard Health Benefit Plan to apply under this  
5 subtitle; [and]

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

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

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

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

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

17 15-1208.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (1) THE SMALL EMPLOYER HAS NO MORE THAN NINE ELIGIBLE  
15 EMPLOYEES;

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

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

20 15-1210.

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

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

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

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

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

33 (2) Notwithstanding any other provision of this section and §§ 15-1209,  
34 15-1211, and 15-1213 of this subtitle, a carrier may deny coverage to a self-employed  
35 individual who applies for a health benefit plan at a time other than the carrier's  
36 annual open enrollment period].

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