

SENATE BILL 801

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2000 Regular Session
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By: ~~Senator Bromwell~~ **Senators Bromwell, Hooper, DeGrange, Hafer,
Teitelbaum, and Della**

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Assigned to: Rules

Re-referred to: Finance, February 18, 2000

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 27, 2000

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~~
17 ~~certain tax incentives and to report its findings to the General Assembly on or~~
18 ~~before a certain date; and generally relating to eligibility of small employers and~~
19 employees under small group market health insurance.

20 BY repealing and reenacting, without amendments,
21 Article - Insurance
22 Section 15-1201(e) and (g), 15-1207(a), 15-1208, and 15-1210(a)
23 Annotated Code of Maryland
24 (1997 Volume and 1999 Supplement)

1 BY repealing and reenacting, with amendments,
 2 Article - Insurance
 3 Section ~~15-1201(e) and (g)~~, 15-1203, and 15-1206(c), ~~15-1207(a)~~, ~~15-1208~~, and
 4 ~~15-1210(a)~~
 5 Annotated Code of Maryland
 6 (1997 Volume and 1999 Supplement)

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

9 **Article - Insurance**

10 15-1201.

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

12 (i) an individual who:

13 1. is an employee, ~~sole proprietor~~, self-employed
 14 individual, ~~partner of a partnership~~, or independent contractor who is included as an
 15 employee under a health benefit plan; and

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

18 (ii) a sole employee of a nonprofit organization that has been
 19 determined by the Internal Revenue Service to be exempt from taxation under §
 20 501(c)(3), (4), or (6) of the Internal Revenue Code who:

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

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

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

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

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

28 (g) "Late enrollee" means:

29 (1) ~~an eligible employee or dependent who requests enrollment in a~~
 30 health benefit plan after the initial enrollment period provided under the health
 31 benefit plan; or

32 (2) a self-employed individual described in § 15-1203(c) or (d) of this
 33 subtitle or dependent who requests enrollment in a health benefit plan after an

1 annual open enrollment period for self-employed individuals established by the
2 carrier in accordance with regulations adopted by the Commissioner.

3 15-1203.

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

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

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

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

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

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

17 3. a commission county established or operating under
18 Article 25 of the Code; or

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

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

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

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

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

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

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

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

3 15-1206.

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

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

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

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

18 15-1207.

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

21 (1) the Comprehensive Standard Health Benefit Plan to apply under this
22 subtitle; {and}

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

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

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

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

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

1 15-1208.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 15-1210.

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

5 {(i)} (1) offer coverage to all of its eligible employees and all of
 6 their eligible dependents;

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

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

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

16 (2) Notwithstanding any other provision of this section and §§ 15-1209,
 17 15-1211, and 15-1213 of this subtitle, a carrier may deny coverage to a self-employed
 18 individual who applies for a health benefit plan at a time other than the carrier's
 19 annual open enrollment period}.

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

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

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

31 (1) the extent of group coverage;

32 (2) premium increases;

33 (3) the number of covered lives;

34 (4) the number of policies issued;

35 (5) premiums earned; and

1 (6) claims incurred.

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

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

10 SECTION 3. AND BE IT FURTHER ENACTED, That:

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

13 (1) assist individuals to purchase health insurance; and

14 (2) assist in defraying the costs for employers to provide health
15 insurance for their employees.

16 (b) In conducting the study, the Department of Budget and Management shall
17 specifically consider:

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

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

22 (3) eliminating employee contributions for health insurance from being
23 considered taxable income;

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

26 (5) refundable tax credits for low income individuals who purchase
27 health insurance; and

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

30 (c) In conducting the study, the Department of Budget and Management may
31 consult with the Maryland Health Care Commission, the Maryland Insurance
32 Administration, the Department of Business and Economic Development, the
33 Maryland Chamber of Commerce, the Maryland Retailers Association, the Maryland
34 Nonprofit Tax Policy Institute, and any other person the Department considers
35 appropriate.

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

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