

CHAPTER 89

(Senate Bill 636)

AN ACT concerning

Health Insurance – Required Report and Repeal of Obsolete Provisions

FOR the purpose of requiring the Insurance Commissioner to report to the General Assembly on or before a certain date each year regarding certain contracts and certain insured lives; repealing certain provisions of law relating to the taking effect of certain requirements for health insurers when the Insurance Commissioner determines that a certain percent of the State's population is covered under certain health benefit plans; repealing a certain report; and generally relating to health insurance.

BY adding to

Article – Insurance

Section 15–132

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY repealing

Chapter 9 of the Acts of the General Assembly of 1993, as amended by Chapter 258 of the Acts of the General Assembly of 1994

Section 5

BY repealing and reenacting, with amendments,

Chapter 9 of the Acts of the General Assembly of 1993

Section 6

BY repealing

Chapter 294 of the Acts of the General Assembly of 1997

Section 5

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

Article – Insurance

15–132.

ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE COMMISSIONER SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE ESTIMATED NUMBER OF INSURED AND

SELF-INSURED CONTRACTS FOR HEALTH BENEFIT PLANS IN THE STATE AND THE NUMBER OF INSURED AND SELF-INSURED LIVES UNDER THE AGE OF 65 ENROLLED IN BENEFIT PLANS IN THE STATE.

Chapter 9 of the Acts of 1993, as amended by Chapter 258 of the Acts of 1994

[SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) (1) Annually by October 1 the Insurance Commissioner shall determine the number of individuals in the State who are under the age of 65 and who are covered under an insured health benefit plan issued by an insurer authorized to engage in the insurance business in the State or under a prepaid health benefit package of a health maintenance organization that operates in the State.

(2) The Insurance Commissioner shall accept registration from public and private employers and employee groups or associations in the State that offer health benefit plans under the Employee Retirement Income Security Act or other self-insured plans and that would agree to obtain insured health benefits for their employees or groups for a minimum period of 3 years under an insurance plan issued by an insurer authorized to engage in the insurance business in the State or under a prepaid health benefit package of a health maintenance organization that operates in the State and that would be subject to Section 3 of this Act. Upon request of the insurer or HMO being considered by a registering group of up to 250 employees, the registering group shall provide claims and demographic information sufficient to assist insurers and HMOs to develop rates that are adequate, not excessive and not unfairly discriminatory, and in accordance with Article 48A, § 702 of the Code.

(b) Section 3 of this Act shall take effect the second January 1 following a determination by the Insurance Commissioner that at least 60 percent of Maryland's total population under the age of 65 are covered under an insured health benefit plan or are enrolled in plans sponsored by employers or groups for which the Insurance Commissioner has obtained registrations, provided, however, that the Insurance Commissioner shall study whether the percentage of Maryland's total population under age 65 required for Section 3 to take effect should be greater than 60 percent and shall promulgate a regulation providing for a higher percentage if the Commissioner determines that it is in the public interest that the percentage should be raised. In determining whether the percentage should be raised, the Commissioner shall include a consideration of the extent to which:

(1) Small group premium rates will increase with the addition of individuals and large groups to the community pool;

(2) Existing insured groups are likely to self-insure and exit the community pool if individuals and large groups enter the community pool;

(3) Individuals are likely to move to Maryland to join the community pool thereby increasing health expenditures in Maryland; and

(4) Employer groups are likely to leave the State to avoid the community pool.

(c) The Insurance Commissioner must submit an annual report in accordance with § 2-1312 of the State Government Article by December 31 of each year. The report must specify the number of individuals under the age of 65 who are covered under an insured health benefit plan and by registered employers. If the Commissioner determines that the taking effect of Section 3 of this Act at a participation level of 60 percent of the population under age 65 is in the public interest, the Commissioner shall state the reasons in the report.

(d) The first June 1 following the Commissioner's determination that at least 60 percent, or any greater percentage as determined by the Commissioner in regulation, of Maryland's total population under the age of 65 are covered under an insured health benefit plan or are enrolled in plans sponsored by employers or groups for which the Commissioner has obtained registrations, insurers and health maintenance organizations must submit the estimated community rate applicable to the Comprehensive Standard Health Benefit Plan after Section 3 of this Act takes effect. Insurers and health maintenance organizations shall distribute this information to all covered groups.

(e) Except as excused by the Commissioner for circumstances that would deem an employer unable to maintain health insurance for its employees, any employer that registers for 3 years with the Commissioner under this section that fails to provide or discontinues coverage under Article 48A, Title 55 of the Code, after the Commissioner determines that the 60 percent margin has been met shall be fined in an amount equal to \$1 per employee for each day under 3 years that the employer is not covered under Article 48A, Title 55 of the Code.

(f) The State Employee and Retiree Health and Welfare Benefits Program may register, no earlier than January 1, 1995 with the Insurance Commissioner under this section only if the registration is approved by the Legislative Policy Committee of the General Assembly.

(g) Before the effective date of Section 3 of this Act, the Insurance Commissioner shall adopt regulations to implement that section.]

Chapter 9 of the Acts of 1993

SECTION 6. AND BE IT FURTHER ENACTED, That if Section 3 of this Act takes effect on the occurrence of the events specified in Section [5 or] 7 of this Act, the Insurance Commissioner shall ensure that contracts and policies issued to employers and groups that are eligible to sponsor health benefit plans under the Employee

Retirement Income Security Act, shall be effective for 3 years and that appropriate sanctions are included in the policies or contracts in the event of cancellation before the end of the 3-year period.

Chapter 294 of the Acts of 1997

[SECTION 5. AND BE IT FURTHER ENACTED, That, in accordance with § 2-1312 of the State Government Article, the Insurance Commissioner shall report annually to the Senate Finance Committee and the House Economic Matters Committee regarding the effect of this Act on rates in the individual health insurance market, and any proposed changes to existing law. The Commissioner's report shall be made by December 1 of each year, beginning in 1999.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.