

HOUSE BILL No. 2683

By Committee on Appropriations

2-10

9 AN ACT concerning health insurance; relating to eligible employees;
10 amending K.S.A. 2009 Supp. 40-2209d and repealing the existing
11 section.

12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2009 Supp. 40-2209d is hereby amended to read
15 as follows: 40-2209d. As used in this act:

16 (a) "Actuarial certification" means a written statement by a member
17 of the American academy of actuaries or other individual acceptable to
18 the commissioner that a small employer carrier is in compliance with the
19 provisions of K.S.A. 40-2209h and amendments thereto, based upon the
20 person's examination, including a review of the appropriate records and
21 of the actuarial assumptions and methods used by the small employer
22 carrier in establishing premium rates for applicable health benefit plans.

23 (b) "Approved service area" means a geographical area, as approved
24 by the commissioner to transact insurance in this state, within which the
25 carrier is authorized to provide coverage.

26 (c) "Base premium rate" means, for each class of business as to a
27 rating period, the lowest premium rate charged or that could have been
28 charged under the rating system for that class of business, by the small
29 employer carrier to small employers with similar case characteristics for
30 health benefit plans with the same or similar coverage.

31 (d) "Carrier" or "small employer carrier" means any insurance com-
32 pany, nonprofit medical and hospital service corporation, nonprofit op-
33 tometric, dental, and pharmacy service corporations, municipal group-
34 funded pool, fraternal benefit society or health maintenance organization,
35 as these terms are defined by the Kansas Statutes Annotated, that offers
36 health benefit plans covering eligible employees of one or more small
37 employers in this state.

38 (e) "Case characteristics" means, with respect to a small employer,
39 the geographic area in which the employees reside; the age and sex of
40 the individual employees and their dependents; the appropriate industry
41 classification as determined by the carrier, and the number of employees
42 and dependents and such other objective criteria as may be approved
43 family composition by the commissioner. "Case characteristics" shall not

1 include claim experience, health status and duration of coverage since
2 issue.

3 (f) “Class of business” means all or a separate grouping of small em-
4 ployers established pursuant to K.S.A. 40-2209g and amendments
5 thereto.

6 (g) “Commissioner” means the commissioner of insurance.

7 (h) “Department” means the insurance department.

8 (i) “Dependent” means the spouse or child of an eligible employee,
9 subject to applicable terms of the health benefits plan covering such em-
10 ployee and the dependent eligibility standards established by the board.

11 (j) “Eligible employee” means an employee ~~who works on a full-time~~
12 ~~basis, with a normal work week of 30 or more hours, and includes, in-~~
13 ~~cluding~~ a sole proprietor, a partner of a partnership or an independent
14 contractor, provided such sole proprietor, partner or independent con-
15 tractor is included as an employee under a health benefit plan of a small
16 employer ~~but does not include an employee who works on a part-time,~~
17 ~~temporary or substitute basis.~~

18 (k) “Financially impaired” means a member which, after the effective
19 date of this act, is not insolvent but is:

20 (1) Deemed by the commissioner to be in a hazardous financial con-
21 dition pursuant to K.S.A. 40-222d and amendments thereto; or

22 (2) placed under an order of rehabilitation or conservation by a court
23 of competent jurisdiction.

24 (l) “Health benefit plan” means any hospital or medical expense pol-
25 icy, health, hospital or medical service corporation contract, and a plan
26 provided by a municipal group-funded pool, or a health maintenance
27 organization contract offered by an employer or any certificate issued
28 under any such policies, contracts or plans. Health benefit plan also in-
29 cludes a cafeteria plan authorized by 26 U.S.C. Section 125 which offers
30 the option of receiving health insurance coverage through a high de-
31 ductible health plan and the establishment of a health savings account.
32 In order for an eligible individual to obtain a high deductible health plan
33 through the cafeteria plan, such individual shall present evidence to the
34 employer that such individual has established a health savings account in
35 compliance with 26 U.S.C. Section 223, and any amendments and regu-
36 lations. “Health benefit plan” does not include policies or certificates
37 covering only accident, credit, dental, disability income, long-term care,
38 hospital indemnity, medicare supplement, specified disease, vision care,
39 coverage issued as a supplement to liability insurance, insurance arising
40 out of a workers compensation or similar law, automobile medical-pay-
41 ment insurance, or insurance under which benefits are payable with or
42 without regard to fault and which is statutorily required to be contained
43 in any liability insurance policy or equivalent self-insurance.

- 1 (m) “Health savings account” shall have the same meaning ascribed
2 to it as in subsection (d) of 26 U.S.C. Section 223.
- 3 (n) “High deductible health plan” shall mean a policy or contract of
4 health insurance or health care plan that meets the criteria established in
5 subsection (c) of 26 U.S.C. Section 223 and any regulations promulgated
6 thereunder.
- 7 (o) “Index rate” means, for each class of business as to a rating period
8 for small employers with similar case characteristics, the arithmetic av-
9 erage of the applicable base premium rate and the corresponding highest
10 premium rate.
- 11 (p) “Initial enrollment period” means the period of time specified in
12 the health benefit plan during which an individual is first eligible to enroll
13 in a small employer health benefit plan. Such period shall be no less
14 favorable than a period beginning on the employee’s or member’s date
15 of initial eligibility and ending 31 days thereafter.
- 16 (q) “Late enrollee” means an eligible employee or dependent who
17 requests enrollment in a small employer’s health benefit plan following
18 the initial enrollment period provided under the terms of the first plan
19 for which such employee or dependent was eligible through such small
20 employer, however an eligible employee or dependent shall not be con-
21 sidered a late enrollee if:
- 22 (1) The individual:
- 23 (A) Was covered under another employer-provided health benefit
24 plan or was covered under section 607(1) of the employee retirement
25 income security act of 1974 (ERISA) at the time the individual was eli-
26 gible to enroll;
- 27 (B) states in writing, at the time of the initial eligibility, that coverage
28 under another employer health benefit plan was the reason for declining
29 enrollment but only if the group policyholder or the accident and sickness
30 issuer required such a written statement and provided the individual with
31 notice of the requirement for a written statement and the consequences
32 of such written statement;
- 33 (C) has lost coverage under another employer health benefit plan or
34 under section 607(1) of the employee retirement income security act of
35 1974 (ERISA) as a result of the termination of employment, reduction in
36 the number of hours of employment, termination of employer contribu-
37 tions toward such coverage, the termination of the other plan’s coverage,
38 death of a spouse, or divorce or legal separation; and
- 39 (D) requests enrollment within 63 days after the termination of cov-
40 erage under another employer health benefit plan; or
- 41 (2) the individual is employed by an employer who offers multiple
42 health benefit plans and the individual elects a different health benefit
43 plan during an open enrollment period; or

- 1 (3) a court has ordered coverage to be provided for a spouse or minor
2 child under a covered employee's plan.
- 3 (r) "New business premium rate" means, for each class of business
4 as to a rating period, the lowest premium rate charged or offered, or
5 which could have been charged or offered, by the small employer carrier
6 to small employers with similar case characteristics for newly issued health
7 benefit plans with the same or similar coverage.
- 8 (s) "Preexisting conditions exclusion" means a policy provision which
9 excludes or limits coverage for charges or expenses incurred during a
10 specified period not to exceed 90 days following the insured's effective
11 date of enrollment as to a condition, whether physical or mental, regard-
12 less of the cause of the condition for which medical advice, diagnosis, care
13 or treatment was recommended or received in the six months immedi-
14 ately preceding the effective date of enrollment.
- 15 (t) "Premium" means moneys paid by a small employer or eligible
16 employees or both as a condition of receiving coverage from a small em-
17 ployer carrier, including any fees or other contributions associated with
18 the health benefit plan.
- 19 (u) "Rating period" means the calendar period for which premium
20 rates established by a small employer carrier are assumed to be in effect
21 but any period of less than one year shall be considered as a full year.
- 22 (v) "Waiting period" means a period of time after full-time employ-
23 ment begins before an employee is first eligible to enroll in any applicable
24 health benefit plan offered by the small employer.
- 25 (w) "Small employer" means any person, firm, corporation, partner-
26 ship or association eligible for group sickness and accident insurance pur-
27 suant to subsection (a) of K.S.A. 40-2209 and amendments thereto ac-
28 tively engaged in business whose total employed work force consisted of,
29 on at least 50% of its working days during the preceding year, of at least
30 two and no more than 50 eligible employees, the majority of whom were
31 employed within the state. In determining the number of eligible em-
32 ployees, companies which are affiliated companies or which are eligible
33 to file a combined tax return for purposes of state taxation, shall be con-
34 sidered one employer. Except as otherwise specifically provided, provi-
35 sions of this act which apply to a small employer which has a health benefit
36 plan shall continue to apply until the plan anniversary following the date
37 the employer no longer meets the requirements of this definition.
- 38 (x) "Affiliate" or "affiliated" means an entity or person who directly
39 or indirectly through one or more intermediaries, controls or is controlled
40 by, or is under common control with, a specified entity or person.
- 41 Sec. 2. K.S.A. 2009 Supp. 40-2209d is hereby repealed.
- 42 Sec. 3. This act shall take effect and be in force from and after its
43 publication in the statute book.