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HOUSE BILL 32

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Danice Picraux

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO HEALTH INSURANCE; AMENDING A SECTION OF THE SMALL GROUP RATE AND RENEWABILITY ACT TO DEFINE A "SMALL EMPLOYER" AS EMPLOYING NO FEWER THAN ONE AND NO MORE THAN FIFTY ELIGIBLE EMPLOYEES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 59A-23C-3 NMSA 1978 (being Laws 1991, Chapter 153, Section 3, as amended) is amended to read:

"59A-23C-3. DEFINITIONS.--As used in the Small Group Rate and Renewability Act:

A. "actuarial certification" means a written statement by a member of the American academy of actuaries or another individual acceptable to the superintendent that a small employer carrier is in compliance with the provisions of Section 59A-23C-5 NMSA 1978, based upon the person's

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1 examination, including a review of the appropriate records and
2 of the actuarial assumptions and methods used by the carrier in
3 establishing premium rates for applicable health benefit plans;

4 B. "base premium rate" means, for each class of
5 business as to a rating period, the lowest premium rate charged
6 under a rating system for that class of business by the small
7 employer carrier to small employers with similar case
8 characteristics for health benefit plans with the same or
9 similar coverage;

10 C. "carrier" means any person who provides health
11 insurance in this state. For the purposes of the Small Group
12 Rate and Renewability Act, "carrier" or "insurer" includes a
13 licensed insurance company, a licensed fraternal benefit
14 society, a prepaid hospital or medical service plan, a health
15 maintenance organization, a nonprofit health care organization,
16 a multiple employer welfare arrangement or any other person
17 providing a plan of health insurance subject to state insurance
18 regulation;

19 D. "case characteristics" means demographic or
20 other relevant characteristics of a small employer, as
21 determined by a small employer carrier, that are considered by
22 the carrier in the determination of premium rates for the small
23 employer, but "case characteristics" does not include claim
24 experience, health status and duration of coverage since issue;

25 E. "class of business" means all small employers as

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1 shown on the records of the small employer carrier. A separate
2 class of business may be established by the small employer
3 carrier on the basis that the applicable health benefit plans
4 have been acquired from another small employer carrier as a
5 distinct grouping of plans;

6 F. "creditable coverage" means, with respect to an
7 individual, coverage of the individual pursuant to:

- 8 (1) a group health plan;
- 9 (2) health insurance coverage;
- 10 (3) Part A or Part B of Title 18 of the
11 federal Social Security Act;
- 12 (4) Title 19 of the Social Security Act except
13 coverage consisting solely of benefits pursuant to Section 1928
14 of that title;
- 15 (5) 10 USCA Chapter 55;
- 16 (6) a medical care program of the Indian
17 health service or of an Indian nation, tribe or pueblo;
- 18 (7) the Comprehensive Health Insurance Pool
19 Act;
- 20 (8) a health plan offered pursuant to 5 USCA
21 Chapter 89;
- 22 (9) a public health plan as defined in federal
23 regulations; or
- 24 (10) a health benefit plan offered pursuant to
25 Section 5(e) of the federal Peace Corps Act;

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1 G. "department" means the department of insurance;

2 H. "group health plan" means an employee welfare
3 benefit plan as defined Section 3(1) of the federal Employee
4 Retirement Income Security Act of 1974 to the extent that the
5 plan provides medical care and including items and services
6 paid for as medical care to employees or their dependents as
7 defined under the terms of the plan directly or through
8 insurance, reimbursement or otherwise;

9 I. "health benefit plan" or "plan" means any
10 hospital or medical expense-incurred policy or certificate,
11 hospital or medical service plan contract or health maintenance
12 organization subscriber contract. "Health benefit plan" does
13 not include accident-only, credit, dental or disability income
14 insurance, medicare supplement coverage, coverage issued as a
15 supplement to liability insurance, workers' compensation or
16 similar insurance or automobile medical-payment insurance;

17 J. "index rate" means, for each class of business
18 for small employers with similar case characteristics, the
19 arithmetic average of the applicable base premium rate and the
20 corresponding highest premium rate;

21 K. "late enrollee" means, with respect to coverage
22 under a group health plan, a participant or beneficiary who
23 enrolls under the plan other than during:

24 (1) the first period in which the individual
25 is eligible to enroll under the plan; or

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1 (2) a special enrollment period pursuant to
2 Sections [~~8 and 9 of the Health Insurance Portability Act~~]
3 59A-23E-8 and 59A-23E-9 NMSA 1978;

4 L. "new business premium rate" means, for each
5 class of business as to a rating period, the premium rate
6 charged or offered by the small employer carrier to small
7 employers with similar case characteristics for newly issued
8 health benefit plans with the same or similar coverage;

9 M. "rating period" means the calendar period for
10 which premium rates established by a small employer carrier are
11 assumed to be in effect, as determined by the small employer
12 carrier;

13 N. "small employer" means any person, firm,
14 corporation, partnership or association actively engaged in
15 business who, on at least fifty percent of its working days
16 during either of the two preceding years, employed no [~~less~~]
17 fewer than [~~two~~] one and no more than fifty eligible employees;
18 provided that:

19 (1) in determining the number of eligible
20 employees, the spouse or dependent of an employee may, at the
21 employer's discretion, be counted as a separate employee;

22 (2) companies that are affiliated companies or
23 that are eligible to file a combined tax return for purposes of
24 state income taxation shall be considered one employer; and

25 (3) in the case of an employer that was not in

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1 existence throughout a preceding calendar year, the
2 determination of whether the employer is a small or large
3 employer shall be based on the average number of employees that
4 it is reasonably expected to employ on working days in the
5 current calendar year;

6 O. "small employer carrier" means any insurer that
7 offers health benefit plans covering the employees of a small
8 employer; and

9 P. "superintendent" means the superintendent of
10 insurance."

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