AN ACT

RELATING TO HEALTH INSURANCE; ELIMINATING GENDER AS A HEALTH INSURANCE RATING FACTOR.

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

Section 1. Section 59A-18-13.1 NMSA 1978 (being Laws 1994, Chapter 75, Section 26, as amended) is amended to read:

"59A-18-13.1. ADJUSTED COMMUNITY RATING.--

A. Every insurer, fraternal benefit society, health maintenance organization or nonprofit health care plan that provides primary health insurance or health care coverage insuring or covering major medical expenses shall, in determining the initial year's premium charged for an individual, use only the rating factors of age, gender pursuant to Subsection B of this section, geographic area of the place of employment and smoking practices, except that for individual

.179439.2SA

1 policies the rating factor of the individual's place of

2 residence may be used instead of the geographic area of the

3 individual's place of employment.

4   B.   In determining the initial and any subsequent

5 year's rate, the difference in rates in any one age group that

6 may be charged on the basis of a person's gender shall not

7 exceed another person's rates in the age group by more than

8 [twenty percent of the lower rate, and no person's rate shall]

9 the following percentage of the lower rate for policies issued

10 or delivered in the respective year; provided, however, that

11 gender shall not be used as a rating factor for policies issued

12 or delivered on or after January 1, 2014:

13   (1)   twenty percent for calendar year 2010;

14   (2)   fifteen percent for calendar year 2011;

15   (3)   ten percent for calendar year 2012; and

16   (4)   five percent for calendar year 2013.

17   C.   No person's rate shall exceed the rate of any

18 other person with similar family composition by more than two

19 hundred fifty percent of the lower rate, except that the rates

20 for children under the age of nineteen or children aged

21 nineteen to twenty-five who are full-time students may be lower

22 than the bottom rates in the two hundred fifty percent band.

23 The rating factor restrictions shall not prohibit an insurer,

24 fraternal benefit society, health maintenance organization or

25 nonprofit health care plan from offering rates that differ

.179439.2SA

- 2 -

1   depending upon family composition.

2   [G.] D. The provisions of this section do not

3   preclude an insurer, fraternal benefit society, health

4   maintenance organization or nonprofit health care plan from

5   using health status or occupational or industry classification

6   in establishing:

7   (1) rates for individual policies; or

8   (2) the amount an employer may be charged for

9   coverage under the group health plan.

10   [D.] E. As used in Subsection [C] D of this

11   section, "health status" does not include genetic information.

12   [E.] F. The superintendent shall adopt regulations

13   to implement the provisions of this section.

14   Section 2. Section 59A-23B-1 NMSA 1978 (being Laws 1991,

15   Chapter 111, Section 1) is amended to read:

16   "59A-23B-1. SHORT TITLE.--[This act] Chapter 59A,

17   Article 23B NMSA 1978 may be cited as the "Minimum Healthcare

18   Protection Act"."

19   Section 3. Section 59A-23B-6 NMSA 1978 (being Laws 1991,

20   Chapter 111, Section 6, as amended) is amended to read:

21   "59A-23B-6. FORMS AND RATES--APPROVAL OF THE

22   SUPERINTENDENT--ADJUSTED COMMUNITY RATING.--

23   A. All policy or plan forms, including

24   applications, enrollment forms, policies, plans, certificates,

25   evidences of coverage, riders, amendments, endorsements and

.179439.2SA

1   disclosure forms, shall be submitted to the superintendent for

2   approval prior to use.

3   B.   No policy or plan may be issued in the state

4   unless the rates have first been filed with and approved by the

5   superintendent. This subsection shall not apply to policies or

6   plans subject to the Small Group Rate and Renewability Act.

7   C.   In determining the initial year's premium or

8   rate charged for coverage under a policy or plan, the only

9   rating factors that may be used are age, gender pursuant to

10   this subsection, geographic area of the place of employment and

11   smoking practices, except that for individual policies the

12   rating factor of the individual's place of residence may be

13   used instead of the geographic area of the individual's place

14   of employment. In determining the initial and any subsequent

15   year's rate, the difference in rates in any one age group that

16   may be charged on the basis of a person's gender shall not

17   exceed another person's rate in the age group by more than

18   [twenty percent of the lower rate, and no person's rate shall

19   exceed the rate of] the following percentage of the lower rate

20   for policies issued or delivered in the respective year;

21   provided, however, that gender shall not be used as a rating

22   factor for policies issued or delivered on or after January 1,

23   2014:

24   (1)   twenty percent for calendar year 2010;

25   (2)   fifteen percent for calendar year 2011;

.179439.2SA

(3)   ten percent for calendar year 2012; and

(4)   five percent for calendar year 2013.

D.   No person's rate shall exceed the rate of any other person with similar family composition by more than two hundred fifty percent of the lower rate, except that the rates for children under the age of nineteen or children aged nineteen to twenty-five who are full-time students may be lower than the bottom rates in the two hundred fifty percent band. The rating factor restrictions shall not prohibit an insurer, society, organization or plan from offering rates that differ depending upon family composition.

[D.] E.   The provisions of this section do not preclude an insurer, fraternal benefit society, health maintenance organization or nonprofit healthcare plan from using health status or occupational or industry classification in establishing:

(1)   rates for individual policies; or

(2)   the amount an employer may be charged for coverage under a group health plan.

[E.] F.   As used in Subsection [D] E of this section, "health status" does not include genetic information.

[F.] G.   The superintendent shall adopt regulations to implement the provisions of this section."

Section 4.   Section 59A-23C-5.1 NMSA 1978 (being Laws 1994, Chapter 75, Section 33, as amended) is amended to read:

.179439.2SA

"59A-23C-5.1. ADJUSTED COMMUNITY RATING.--

A. A health benefit plan that is offered by a carrier to a small employer shall be offered without regard to the health status of any individual in the group, except as provided in the Small Group Rate and Renewability Act. The only rating factors that may be used to determine the initial year's premium charged a group, subject to the maximum rate variation provided in this section for all rating factors, are the group members':

(1) ages;

(2) genders pursuant to Subsection B of this section;

(3) geographic areas of the place of employment; or

(4) smoking practices.

B. In determining the initial and any subsequent year's rate, the difference in rates in any one age group that may be charged on the basis of a person's gender shall not exceed another person's rate in the age group by more than [twenty percent of the lower rate, and no person's rate shall] the following percentage of the lower rate for policies issued or delivered in the respective year; provided, however, that gender shall not be used as a rating factor for policies issued or delivered on or after January 1, 2014:

(1) twenty percent for calendar year 2010;

.179439.2SA

(2) fifteen percent for calendar year 2011;

(3) ten percent for calendar year 2012; and

(4) five percent for calendar year 2013.

C. No person's rate shall exceed the rate of any

other person with similar family composition by more than two

hundred fifty percent of the lower rate, except that the rates

for children under the age of nineteen or children aged

nineteen to twenty-five who are full-time students may be lower

than the bottom rates in the two hundred fifty percent band.

The rating factor restrictions shall not prohibit a carrier

from offering rates that differ depending upon family

composition.

[C.] D. The provisions of this section do not

preclude a carrier from using health status or occupational or

industry classification in establishing the amount an employer

may be charged for coverage under a group health plan.

[D.] E. As used in Subsection [C] D of this

section, "health status" does not include genetic information.

[E.] F. The superintendent shall adopt regulations

to implement the provisions of this section."

Section 5. Section 59A-56-6 NMSA 1978 (being Laws 1994,

Chapter 75, Section 6, as amended) is amended to read:

"59A-56-6. BOARD--POWERS AND DUTIES.--

A. The board shall have the general powers and

authority granted to insurance companies licensed to transact

.179439.2SA

health insurance business under the laws of this state.

B. The board:

(1) may enter into contracts to carry out the provisions of the Health Insurance Alliance Act, including, with the approval of the superintendent, contracting with similar alliances of other states for the joint performance of common administrative functions or with persons or other organizations for the performance of administrative functions;

(2) may sue and be sued;

(3) may conduct periodic audits of the members to assure the general accuracy of the financial data submitted to the alliance;

(4) shall establish maximum rate schedules, allowable rate adjustments, administrative allowances, reinsurance premiums and agent referral, servicing fees or commissions subject to applicable provisions in the Insurance Code. In determining the initial year's rate for health insurance, the only rating factors that may be used are age, gender pursuant to this section, geographic area of the place of employment and smoking practices. In any year's rate, the difference in rates in any one age group that may be charged on the basis of a person's gender shall not exceed another person's rates in the age group by more than [twenty percent of the lower rate, and no person's] the following percentage of the lower rate for policies issued or delivered in the

.179439.2SA

respective year; provided, however, that gender shall not be used as a rating factor for policies issued or delivered on or after January 1, 2014:

(a) twenty percent for calendar year 2010;

(b) fifteen percent for calendar year 2011;

(c) ten percent for calendar year 2012; and

(d) five percent for calendar year 2013.

No person's rate shall exceed the rate of any other person with similar family composition by more than two hundred fifty percent of the lower rate, except that the rates for children under the age of nineteen may be lower than the bottom rates in the two hundred fifty percent band. The rating factor restrictions shall not prohibit a member from offering rates that differ depending upon family composition;

(5) may direct a member to issue policies or certificates of coverage of health insurance in accordance with the requirements of the Health Insurance Alliance Act;

(6) shall establish procedures for alternative dispute resolution of disputes between members and insureds;

(7) shall cause the alliance to have an annual audit of its operations by an independent certified public accountant;

.179439.2SA

underscored material = new
[bracketed material] = delete

1   (8)   shall conduct all board meetings as if it

2   were subject to the provisions of the Open Meetings Act;

3   (9)   shall draft one or more sample health

4   insurance policies that are the prototype documents for the

5   members;

6   (10)   shall determine the design criteria to be

7   met for an approved health plan;

8   (11)   shall review each proposed approved

9   health plan to determine if it meets the alliance-designed

10   criteria and, if it does meet the criteria, approve the plan;

11   provided that the board shall not permit more than one approved

12   health plan per member for each set of plan design criteria;

13   (12)   shall review annually each approved

14   health plan to determine if it still qualifies as an approved

15   health plan based on the alliance-designed criteria and, if the

16   plan is no longer approved, arrange for the transfer of the

17   insureds covered under the formerly approved plan to an

18   approved health plan;

19   (13)   may terminate an approved health plan not

20   operating as required by the board;

21   (14)   shall terminate an approved health plan

22   if timely claim payments are not made pursuant to the plan; and

23   (15)   shall engage in significant marketing

24   activities, including a program of media advertising, to inform

25   small employers and eligible individuals of the existence of

.179439.2SA

the alliance, its purpose and the health insurance available or

potentially available through the alliance.

C.   The alliance is subject to and responsible for

examination by the superintendent.   No later than March 1 of

each year, the board shall submit to the superintendent an

audited financial report for the preceding calendar year in a

form approved by the superintendent."

- 11 -

.179439.2SA