

Sec. 56. INTENT — APPOINTMENT OF REFEREE. It is the intent of the general assembly that the costs associated with the appointment of a referee pursuant to section 602.6608 be defrayed using current funding.

Sec. 57. INTENT — RELEASE OF RECORDS — EFFECTIVE DATE. It is the intent of the general assembly that the child support recovery unit request review of division VIII of this Act by the United States department of health and human services and obtain federal approval prior to implementation of these sections. Division VIII of this Act is effective upon receipt of approval by the federal government. If approval is not received and if implementation of the sections would place the state at risk of loss of federal funding, the division shall not be implemented.

Sec. 58. EFFECTIVE DATE. Sections 39 through 43 and sections 53 and 55 of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 59. INTENT — VISITATION RIGHTS. The judicial department shall review the issue of compliance with visitation rights awarded pursuant to section 598.41 and shall make recommendations to the committee on judiciary of the senate and the committee on judiciary and law enforcement of the house of representatives by January 15, 1994, regarding improvements in enforcement of and compliance with the visitation rights awarded under a child custody order.

Approved May 3, 1993

CHAPTER 80

SMALL GROUP HEALTH BENEFIT PLANS AND AVAILABILITY OF COVERAGE *S.F. 362*

AN ACT relating to small group rating practices and the availability of health insurance coverage.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 513B.1, Code 1993, is amended to read as follows:
513B.1 TITLE — PURPOSE.

1. This ~~chapter~~ subchapter shall be known and may be cited as the “Model Small Group Rating Law”.

2. The intent of this ~~chapter~~ subchapter is to promote the availability of health insurance coverage to small employers, to prevent abusive rating practices, to require disclosure of rating practices to purchasers, to establish rules for continuity of coverage for employers and covered individuals, and to improve the efficiency and fairness of the small group health insurance marketplace.

Sec. 2. Section 513B.2, Code 1993, is amended by adding the following new unnumbered paragraph before subsection 1:

NEW UNNUMBERED PARAGRAPH. As used in this subchapter, unless the context otherwise requires:

Sec. 3. Section 513B.2, subsections 10 and 16, Code 1993, are amended to read as follows:

10. a. “Health benefit plan” or “plan” means any hospital or medical expense incurred policy or certificate, major medical expense insurance, hospital or medical service plan contract, or health maintenance organization subscriber contract.

b. “Health benefit plan” does not include accident-only, credit, dental, or disability income insurance, coverage issued as a supplement to liability insurance, workers’ compensation or similar insurance, or automobile medical-payment insurance.

c. "Health benefit plan" also does not include policies or certificates of specified disease, hospital confinement indemnity, or limited benefit health insurance if the carrier offering such policies or certificates complies with all of the following:

(1) The carrier files on or before March 1 of each year a certification with the commissioner that contains the following statement and information:

(a) A statement from the carrier certifying that policies or certificates described in this paragraph "c" are being offered and marketed as supplemental health insurance and not as a substitute for hospital or medical expense insurance or major medical expense insurance.

(b) A summary description of each policy or certificate described in this paragraph "c" including the average annual premium rates or range of premium rates in cases where premiums vary by age, gender, or other factors, which are to be charged for such policies and certificates in this state.

(2) If a policy or certificate described in this paragraph "c" is offered for the first time in this state on or after July 1, 1993, the carrier files with the commissioner the information and statement required in subparagraph (1) at least thirty days prior to the date such policy or certificate is issued or delivered in this state.

16. "Small employer" means a person actively engaged in business who, on at least fifty percent of the employer's working days during the preceding year, employed no more than not less than two and not more than twenty-five full-time equivalent eligible employees. In determining the number of eligible employees, companies which are affiliated companies or which are eligible to file a combined tax return for purposes of state taxation are considered one employer.

Sec. 4. Section 513B.4, subsection 3, Code 1993, is amended to read as follows:

3. For purposes of this section, a health benefit plan that utilizes contains a restricted provider network provision shall not be considered similar coverage to a health benefit plan that does not utilize contain such a network provision, provided that utilization of the restricted provider if the restriction of benefits to network providers results in substantial differences in claims costs.

Sec. 5. NEW SECTION. 513B.4A EXEMPTION FROM PREMIUM RATE RESTRICTIONS.

A Taft-Hartley trust or a carrier with the written authorization of such a trust, may make a written request to the commissioner for an exemption from the application of any provisions of section 513B.4 with respect to a health benefit plan provided to such a trust. The commissioner may grant an exemption if the commissioner finds that application of section 513B.4 with respect to the trust would have a substantial adverse effect on the participants and beneficiaries of such trust, and would require significant modifications to one or more collective bargaining arrangements under which the trust is established or maintained. An exemption granted under this paragraph shall not apply to an individual if the individual participates in a trust as an associate member of an employee organization.

Sec. 6. Section 513B.5, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 3. A small employer carrier may replace an existing health benefit plan with a new health benefit plan. The premium rate for the new plan shall be developed pursuant to section 513B.4 and must reflect the claim experience of the previously existing plan.

NEW SUBSECTION. 4. A small employer carrier shall not discontinue the sale or active marketing of a particular class of plan or plans, unless the carrier withdraws from all marketing in this state directed at the small employer or has obtained specific approval from the commissioner to do so. The commissioner may approve the discontinuance upon a demonstrated finding that the continued sale or active marketing of a particular class of plan or plans will endanger the solvency of the carrier or does not advance the purposes of this section.

Sec. 7. Section 513B.10, subsection 1, Code 1993, is amended to read as follows:

1. a. Except as provided in section 513B.5, subsection 4, a small employer carrier, as a condition of transacting business in this state with small employers, shall actively offer to small employers at least two health benefit plans. One health benefit plan offered by each small employer carrier shall be a basic health benefit plan and one plan shall be a standard health benefit plan.

b. (1) ~~A small employer carrier shall issue a basic health benefit plan or a standard health benefit plan to an eligible small employer that applies for either a plan if the small employer is eligible for the plan pursuant to those provisions set forth in section 514H.2, subsection 1, and agrees to make the required premium payments and to satisfy the other reasonable provisions of the health benefit plan not inconsistent with this chapter.~~

(2) A small employer carrier shall issue a standard health benefit plan to a small employer that applies for the plan and agrees to make the required premium payments and satisfy the other reasonable provisions of the health benefit plan not inconsistent with this chapter.

(3) ~~A small employer carrier establishing more than one class of business shall maintain and issue to eligible small employers, in each class of business established, maintain and offer at least one basic health benefit plan and at least one standard health benefit plan in each class of business established to a small employer, if the employer is determined to be eligible for the basic health benefit plan pursuant to the provisions set forth in section 514H.2, subsection 1, and at least one standard health benefit plan. A small employer carrier may apply reasonable criteria in determining whether to accept a small employer provided all of the following apply:~~

(a) ~~The criteria are not intended to discourage or prevent acceptance of small employers applying for a basic or standard health benefit plan.~~

(b) ~~The criteria are not related to the health status or claims experience of the small employer.~~

(c) ~~The criteria are applied consistently to all small employers applying for coverage in the class of business.~~

(d) ~~The small employer carrier provides for the acceptance of all eligible small employers, as defined in section 513B.2, into one or more classes of business.~~

~~The provisions of this subparagraph do not apply to a class of business into which the small employer carrier is no longer enrolling new insureds who are small employers.~~

~~(3 4) For purposes of this lettered paragraph, a small employer is eligible if it employed at least two or more eligible employees within this state on at least fifty percent of its days of operation during the preceding calendar quarter. The provisions of this lettered paragraph shall be effective one hundred eighty days after the commissioner's upon a date as determined by the commissioner following the commissioner's approval of the basic health benefit plan and the standard health benefit plan.~~

Sec. 8. Section 513B.10, subsection 3, paragraph b, Code 1993, is amended to read as follows:

b. ~~The plan~~ A small employer carrier shall waive any time period applicable to a preexisting condition exclusion or limitation period with respect to particular services in a health benefit plan for the period of time an individual was previously covered by qualifying previous coverage that provided benefits with respect to such service, provided that the qualifying previous coverage was continuous to a date not less more than thirty ninety days prior to the effective date of the new coverage. The period of continuous coverage shall not include any waiting period prior to the effective date of the new coverage applied by the employer or the carrier. This paragraph does not preclude application of any waiting period applicable to all new enrollees under the health benefit plan.

Sec. 9. Section 513B.10, subsection 3, paragraph e, Code 1993, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (3) A small employer carrier may modify a small employer's health benefit plan, other than a basic or standard health benefit plan, provided the modifications apply to all eligible employees and dependents of that small employer.

Sec. 10. Section 513B.11, subsection 1, paragraphs a and c, Code 1993, are amended to read as follows:

a. A Upon the approval of a plan of operation by the commissioner under section 513B.13, subsection 4, a small employer carrier authorized to transact the business of insurance in this state shall notify the commissioner at the time of authorization of the carrier's intention to operate as a risk-assuming carrier or a reinsuring carrier. The notification shall be made as deemed appropriate by the commissioner. A small employer carrier seeking to operate as a risk-assuming carrier shall make an application pursuant to section 513B.12.

c. The commissioner shall establish an application process for small employer carriers seeking to change their status pursuant to this subsection. If a small employer carrier has been acquired by another such carrier, the commissioner may waive or modify the time periods established in paragraph "b".

Sec. 11. Section 513B.13, subsection 3, paragraph b, Code 1993, is amended to read as follows:

b. In appointing the members of the board, the commissioner shall include representatives of small employers and small employer carriers and such other individuals as determined to be qualified by the commissioner. At least five of the members of the board shall be representatives of reinsuring carriers and shall be selected from individuals nominated by small employer carriers in this state pursuant to procedures and guidelines provided by rule of the commissioner.

Sec. 12. Section 513B.13, subsection 6, Code 1993, is amended to read as follows:

6. The plan of operation shall do all of the following:

a. Establish procedures for the handling and accounting of program assets and moneys, and for an annual fiscal reporting to the commissioner.

b. Establish procedures for selecting an administering carrier and setting forth the powers and duties of the administering carrier.

c. Establish procedures for reinsuring risks in accordance with the provisions of this section.

d. Establish procedures for collecting assessments from reinsuring carriers to fund claims and administrative expenses incurred or estimated to be incurred by the program.

e. Establish a methodology for applying the dollar thresholds contained in this section for carriers that pay or reimburse health care providers through capitation or a salary.

f. Provide for any additional matters necessary to implement and administer the program.

Sec. 13. Section 513B.16, Code 1993, is amended to read as follows:

513B.16 APPLICABILITY OF CERTAIN STATE LAWS.

The provisions of subchapter II of this chapter 514H shall not apply to basic health benefit plans and standard health benefit plans as provided for in subchapter I of this chapter, except for section 514H.8 513B.39.

Sec. 14. Section 513B.17, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The commissioner may, with the concurrence of the board of the Iowa small employer health reinsurance program established in section 513B.13, extend the applicability of the provisions of this chapter to employers employing up to fifty full-time equivalent employees upon a finding that the market for health insurance coverage for employer groups employing between twenty-five and fifty employees is constricted and not competitive, or upon a finding that the purpose of this chapter will be furthered by such extension. The extension of the applicability of this chapter may exclude section 513B.13 relating to reinsurance. Upon the extension of the applicability to employers employing up to fifty full-time equivalent employees the definition of "small employer" is deemed to include employers of up to fifty full-time equivalent employees.

Sec. 15. **NEW SECTION. 513B.17A RESTORATION OF TERMINATED COVERAGE.**

The commissioner may adopt rules to require small employer carriers, as a condition of transacting business with small employers in this state after July 1, 1993, to reissue a health benefit plan to any small employer whose health benefit plan is terminated or not renewed by a carrier after January 1, 1993, unless the carrier's termination is pursuant to section 513B.5. The commissioner may prescribe such terms for the reissuance of coverage as the commissioner finds are reasonable and necessary to provide continuity of coverage to such employers.

Sec. 16. Section 514H.1, unnumbered paragraph 1, Code 1993, is amended to read as follows: As used in this ~~chapter~~ subchapter, unless the context otherwise requires:

Sec. 17. Section 514H.9, Code 1993, is amended to read as follows:

514H.9 PRESUMED ALLOWANCE OF COST-CONTAINMENT PROCEDURES.

A cost-containment restriction otherwise imposed by state law does not apply to a basic benefit coverage policy or subscription contract unless the commissioner finds after actuarial review that the restricted cost-containment measure is ~~not~~ cost-effective, and its exclusion is not in the best interests of affordable health care coverage.

Sec. 18. Section 514H.12, subsection 2, paragraph b, Code 1993, is amended to read as follows:

b. The employer, ~~employs twenty-five or fewer on at least fifty percent of the employer's working days during the preceding year employed not less than two and not more than twenty-five full-time equivalent employees.~~

Sec. 19. EMERGENCY RULES. Pursuant to section 11* of this Act, the commissioner of insurance shall adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act and the rules shall become effective immediately upon filing, unless a later effective date is specified in the rules. Any rules adopted in accordance with the provisions of this section shall also be published as notice of intended action as provided in section 17A.4.

Sec. 20. CODE EDITOR TRANSFERS.

1. The Code editor shall transfer sections 514H.1 through 514H.12 to be a new subchapter II of chapter 513B comprising new sections 513B.31 through 513B.43.
2. The Code editor shall designate sections 513B.1 through 513B.29 as new subchapter I.
3. The Code editor shall correct all internal citations and references consistent with the transfer of the Code sections as provided in this section.

Approved May 3, 1993

CHAPTER 81

STRUCTURED FINES AND CIVIL PENALTIES — PILOT PROGRAM

S.F. 372

AN ACT relating to the structured fines pilot program, establishing a civil penalty and surcharge, providing for the distribution of fines, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. 1992 Iowa Acts, chapter 1202, section 1, unnumbered paragraph 2, is amended to read as follows:

The department of human rights, division of criminal and juvenile justice planning is authorized to participate in a federal discretionary grant program to test the structured fines concept in counties and judicial districts also wishing to participate in the pilot program. Sections 2 through 5 of this Act shall apply only within those counties and judicial districts agreeing with the department of human rights, division of criminal and juvenile justice planning to participate in this pilot program from enactment of this Act through June 30, ~~1993~~ 1995.

Sec. 2. 1992 Iowa Acts, chapter 1202, section 2, is amended to read as follows:

SEC. 2. PAYMENT IN INSTALLMENTS OR ON A FIXED FUTURE DATE — INSTALLMENT FEE AND INTEREST — STRUCTURED CIVIL PENALTY.

1. If the district court orders a structured fine, structured civil penalty, or structured civil penalty surcharge imposed pursuant to this chapter ~~909~~, the criminal penalty surcharge for

*Section 15 probably intended