

**CREATE "SMALL EMPLOYER
HEALTH MARKET REFORM ACT"**

House Bill 4278
Sponsor: Rep. Stephen Ehardt
Committee: Health Policy

Complete to 3-4-03

A SUMMARY OF HOUSE BILL 4278 AS INTRODUCED 2-25-03

House Bill 4278 would create a new act, the "Small Employer Health Market Reform Act" to establish a single framework for all insurance "carriers" (including Blue Cross Blue Shield of Michigan and HMOs) who offer health benefit plans to employers of up to 99 individuals.

Applicability. The act would apply to any health benefit plan that provides coverage to a sole proprietor or one or more employees of a small employer, except for individual health insurance policies that are subject to policy form and premium rate approval by the Commissioner of the Office of Financial and Insurance Services (OFIS). The act would apply to each plan for a small employer that is delivered, issued for delivery, renewed, or continued in the state on or after the act's effective date.

Definitions. The bill contains a number of definitions, the most important of which are included here. "Carrier" would be defined as a person that provides health insurance in the state, including a health insurance company authorized to do business in the state, a nonprofit health care corporation, a health maintenance organization, and a multiple employer welfare arrangement. A "small employer carrier" would be a carrier that offers health benefit plans covering the employees of a small employer.

"Small employer" would include an employer who either operated as a sole proprietor or employed 99 or fewer eligible employees on at least 50 percent of its working days during the preceding calendar year. (In determining the number of eligible employees, companies that are affiliated or eligible to file a combined tax return for state taxation purposes are considered one employer.)

Premiums. A carrier could establish up to ten geographic areas in the state--each of which would have to be at least one full county in size--for the purposes of adjusting rates for health benefit plans subject to the act.

The premium rates charged for a plan during a rating period to small employers located in a given geographic area could not vary from the plan's "index rate"--i.e., the average of the premium rates in a plan for all small employers located within that area--by more than 25 percent of the index rate, unless the small employer is a sole proprietor. A carrier could charge a sole proprietor an additional premium of up to 25 percent of the premium rate allowable in the case of small employers who are not sole proprietors. For a plan issued before the act's effective date, a premium rate for a rating period could exceed these ranges for a period of two years after the act's effective date. For a small employer who had been self-insured for health benefits

immediately preceding application for a plan subject to the act, a carrier could charge an additional premium of up to 50 percent of the index rate on top of the premium rate for non-sole proprietor small employers for no more than two years. Only case characteristics could be used for determining the rate differentials within a geographic area for a small employer. “Case characteristics” would be defined as industry, age, gender, group size, claim experience, participation, health status, and wellness of a small employer that the carrier considers when determining the employer’s premium rates.

The percentage increase in the premium rate charged to a small employer in a geographic area for a new rating period could not exceed the sum of the annual percentage adjustment in the area’s index rate for the plan *plus* an adjustment due to the case characteristics of the small employer; the adjustment could not exceed 15 percent annually and adjusted pro rata for rating periods of less than a year. This limitation on premium rate increases would not prohibit an adjustment due to change in coverage.

A carrier could not apply case characteristics to an individual in a small employer group that would result in one or more employees being charged a higher premium than another employee, but a carrier could use health benefit plan options, number of family members, and Medicare eligibility in establishing a small employer’s premium. A small employer carrier would have to apply rating factors, including case characteristics, consistently with respect to all small employers in a geographic area, and could bill a small employer group only with a composite rate.

The commissioner could suspend all or any part of the requirements concerning the premium rates applicable to one or more small employers for one or more rating periods upon a filing by the small employer carrier, if the commissioner finds that either the suspension is reasonable in light of the carrier’s financial condition or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

Coverage for sole proprietors, open enrollment periods, and preexisting conditons. A small employer carrier would not be required to offer or provide to a sole proprietor all health benefit plans available to small employers who are not sole proprietors. A small employer carrier would have to offer to a sole proprietor at least one plan that provides at least catastrophic coverage and any other coverage the commissioner requires as being in the best interests of both sole proprietors and small employer carriers. A small employer carrier could apply an open enrollment period for sole proprietors; if it did so, the carrier would have to offer an open enrollment period at least once a year, and the open enrollment period would have to be at least one month long. A small employer carrier could exclude or limit coverage for a condition only if the exclusion or limitation relates to a condition for which medical advice, diagnosis, care, or treatment was recommended or received within six months before enrollment and the exclusion or limitation does not extend for more than six months after the plan’s effective date.

Participation rules. A small employer carrier could deny coverage to a small employer if the employer fails to enroll enough of its employees to meet the minimum participation rules established by the carrier, according to sound underwriting requirements. A minimum participation rule could require a small employer group to enroll a certain number or percentage of employees with the carrier as a condition of coverage. A minimum participation rule for small employers of six or more employees could not require enrollment of more than 75 percent

of the small employer's employees who are receiving health care coverage from the small employer. A minimum participation rule for small employers of fewer than six employees could require enrollment of up to 100 percent of the small employer's employees who are receiving health care coverage from the small employer.

Renewal of coverage. In general, a plan subject to the act would have to be renewable to all eligible employees and dependants at the option of the small employer, except for any of the following reasons: nonpayment of required premiums; fraud or misrepresentation; violation of participation or contribution rules; movement outside the geographic area; and termination of association membership (if the coverage was made available only through a bona fide association). A small employer carrier could, however, cease to renew all plans in a geographic area. If a carrier chose to do so, the carrier would have to provide notice to all affected small employers and to the commissioner at least 90 days before terminating coverage. Without the commissioner's approval, the carrier would be prohibited from providing health care benefits under the act in that geographic area for five years after the nonrenewal of the plans.

Carrier – information requirements. Each small employer carrier would be required to make reasonable disclosure in solicitation and sales materials provided to small employers of all of the following:

- the extent to which premium rates for a specific small employer are established or adjusted due to the case characteristics of the employees or dependents of the small employer;
- the provisions concerning the carrier's right to change premium rates and the factors, including case characteristics, that affect changes in premium rates;
- the provisions relating to renewability of coverage.

Each small employer carrier would be required to maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles. Each small employer carrier would have to file each March 1 with the commissioner an actuarial certification that the carrier is in compliance with these requirements and that the carrier's rating methods are actuarially sound. A copy of the actuarial certification would have to be retained by the carrier at its principal place of business. A small employer carrier would have to make this information and documentation available to the commissioner upon request, but the commissioner could not disclose the information to persons outside of OFIS, unless the carrier agreed or the commissioner was ordered to do so by a court of competent jurisdiction.

House Bill 4278 is tie-barred to House Bill 4279 (which would amend the Nonprofit Health Care Corporation Act to ease operating restrictions governing Blue Cross Blue Shield of Michigan).

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.