

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999

# A Bill

SENATE BILL 612

4  
5 By: Senator Critcher  
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## For An Act To Be Entitled

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9 "AN ACT TO AMEND ARKANSAS CODE TITLE 23, CHAPTER 85,  
10 TO ADD A NEW SUBCHAPTER TO PROVIDE FOR HEALTH  
11 INSURANCE PURCHASING GROUPS FOR A SMALL EMPLOYER; AND  
12 FOR OTHER PURPOSES. "

## Subtitle

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15 "THE SMALL EMPLOYER HEALTH INSURANCE  
16 PURCHASING GROUP ACT OF 1999. "

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

### SECTION 1. Title.

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22 This act shall be known and may cited as the "Small Employer Health Insurance  
23 Purchasing Group Act of 1999".

### SECTION 2. Definitions.

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25 As used in this act, unless the context otherwise requires:

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27 (1) "Eligible employee or individual" means an employee or individual  
28 who is an employee of a member of the HIPG and is eligible to enroll or to be  
29 enrolled in health benefits coverage offered through the HIPG;

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31 (2) "Employer", "employee", and "dependent" mean, as applied to health  
32 insurance coverage offered by an insurer or health maintenance organization  
33 licensed (or otherwise regulated) by the state, the same as such terms mean  
34 with respect to such coverage under the laws of the state relating to such  
35 coverage and to such an issuer;

36 (3) "Group health plan" means an employee welfare benefit plan providing  
medical care to participants or beneficiaries directly or through insurance,

1 reimbursement, or otherwise. Such term shall not include any plan under which  
 2 substantially all of the coverage is for qualified long-term care services;

3 (4) "Health benefits coverage" means the given benefits provided in  
 4 specific policies;

5 (5) "Insurer" or "health maintenance organization" means the same as  
 6 they are defined in Arkansas Code §§ 23-60-102(2) and 23-76-102(6);

7 (6) "Health Insurance Purchasing Group" or "HIPG" means a health  
 8 purchasing group that is a nonprofit corporation operated under the direction  
 9 of a board of directors, which is composed of five representatives of small  
 10 employers;

11 (7) "Large Group" means a combination of two (2) or more employers  
 12 belonging to the HIPG;

13 (8) "Member" means, with respect to a HIPG, an individual enrolled for  
 14 health benefits coverage through the HIPG;

15 (9) "Purchaser" means, with respect to a HIPG, a small employer that has  
 16 contracted with the HIPG for the purchase of health benefits coverage; and

17 (10) "Small employer" means an employer employing two (2) to fifty (50)  
 18 people.

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 20 SECTION 3. Offering health benefits coverage.

21 (a)(1) The HIPG, in conjunction with those insurers or health  
 22 maintenance organizations that offer health benefits coverage through the  
 23 HIPG, shall make available health benefits coverage in the manner hereafter  
 24 described to all small employers and eligible employees at rates (including  
 25 employer's and employees' share) that are established by the insurers or  
 26 health maintenance organizations on a policy or product specific basis that  
 27 may vary only as permissible under Arkansas law.

28 (2)(A) Except as provided in subdivision (a)(2)(B) of this  
 29 section, the HIPG shall not offer health benefits coverage that may unfairly  
 30 discriminate against employees.

31 (B) Nothing in this act shall be construed as requiring or  
 32 permitting insurers or health maintenance organizations to provide coverage  
 33 outside the service area of the insurers or health maintenance organizations.

34 (3) The HIPG shall provide health benefits coverage only through  
 35 contracts with insurers and health maintenance organizations and does not  
 36 assume insurance risk with respect to such coverage.

1       (b)(1)(A) The HIPG shall provide administrative services for purchasers.  
 2 Such services may include, but are not limited to, accounting, billing,  
 3 enrollment information, and employee coverage status reports.

4               (B) The HIPG may subordinate its billing and other  
 5 administrative duties to a third party administrator as defined under Arkansas  
 6 Code § 23-92-201 in compliance with the Arkansas Insurance Code.

7               (2) Nothing in this subsection shall be construed as preventing a  
 8 HIPG from serving as an administrative service organization to any entity.

9               (c) The HIPG shall collect and disseminate (or arrange for the  
 10 collection and dissemination of) consumer-oriented information on the scope,  
 11 cost, and enrollee satisfaction of all coverage options offered through the  
 12 HIPG to its members and eligible individuals. Such information shall be  
 13 defined by the HIPG and shall be in a manner appropriate to the type of  
 14 coverage offered. To the extent practicable, such information shall include  
 15 information on provider performance, locations and hours of operation of  
 16 providers, outcomes, and similar matters. Nothing in this section shall be  
 17 construed as preventing the dissemination of such information or other  
 18 information by the HIPG or by insurers or health maintenance organizations  
 19 through electronic or other means.

20               (d) The HIPG shall specify the geographic area by county in which it  
 21 makes available health benefits coverage offered by insurers or health  
 22 maintenance organizations. This specification shall be provided to the  
 23 Arkansas Insurance Department by January 15 of each calendar year.

24               (e) The HIPG shall file with the Arkansas Insurance Commissioner  
 25 information that demonstrates the HIPG's compliance with this act, as  
 26 designated by the Commissioner in form and substance.

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 28       SECTION 4. Health Benefits Coverage Requirements.

29       (a) Any health benefits coverage offered through a HIPG shall:

30               (1) be underwritten by insurers or health maintenance  
 31 organizations. The insurer or health maintenance organization must be an  
 32 entity that:

33                       (A) is licensed (or otherwise regulated) under state law;

34                       (B) meets all applicable state standards relating to  
 35 consumer protection, including, but not limited to, state solvency and market  
 36 conduct; and

1                   (C) offers the coverage under a contract with the HIPG;  
2                   (2) be approved or otherwise permitted to be offered under state  
3 law;

4                   (3) provide full portability of creditable coverage for  
5 individuals who remain members of the same HIPG notwithstanding that they  
6 change the employer through which they are members; and

7                   (4) comply with the provisions of the Arkansas Insurance Code in  
8 their sales and solicitation of insurance including, but not limited to,  
9 Arkansas Code §§ 23-64-201 and 23-64-102(1) requirements that all insurance  
10 must be sold by an agent licensed by the Arkansas Insurance Department.

11                   (5) require any such agent referenced in subdivision (a)(4) of  
12 this section to obtain at least two (2) hours of continuing education on a  
13 HIPG and the plans the HIPG sponsors each year. This requirement shall be  
14 considered as part of the continuing education requirements provided in  
15 Arkansas Code § 23-64-301 and shall not preempt or conflict with said  
16 provision.

17                   (b) The health benefits coverage made available through a HIPG may  
18 include, but are not limited to, any of the following if it meets the other  
19 requirements of this act:

20                   (1) Coverage through a health maintenance organization;

21                   (2) Coverage in connection with a preferred provider organization;

22                   (3) Coverage in connection with a licensed provider-sponsored  
23 organization;

24                   (4) Indemnity coverage through an insurance company;

25                   (5) Coverage offered in connection with a contribution into a  
26 medical savings account;

27                   (6) Coverage that includes a point-of-service option;

28                   (7) Any combination of such types of coverage.

29                   (c) The HIPG shall be exempt from the requirements of Arkansas Code §23-  
30 86-201 through 23-86-209.

31                   (d) Nothing in this act shall be construed as precluding an insurer or  
32 health maintenance organization from offering health benefits coverage through  
33 a HIPG by establishing premium discounts for members or from modifying  
34 otherwise applicable copayments or deductibles in return for adherence to  
35 programs of health promotion and disease prevention so long as such programs  
36 are agreed to in advance by the HIPG and comply with all other provisions of

1 this statute and do not discriminate among similarly situated members.

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3 SECTION 5. Purchasers - Members - Insurers or Health Maintenance  
4 Organizations.

5 (a)(1) Subject to the provisions of this act, a HIPG shall permit any  
6 small employer to contract with the HIPG for the purchase of health benefits  
7 coverage for its employees and dependents of those employees and may not vary  
8 conditions of eligibility (including premium rates and membership fees) of a  
9 small employer to be a purchaser.

10 (2) The HIPG may not require a contract under subdivision (a)(1)  
11 of this section between a HIPG and a purchaser to be effective for a period of  
12 longer than twelve (12) months. The previous sentence shall not be construed  
13 as preventing such a contract from being extended for additional twelve (12)  
14 month periods or preventing the purchaser from voluntarily electing a contract  
15 period of longer than twelve (12) months.

16 (3) Such a contract shall provide that the purchaser agrees not to  
17 obtain or sponsor health benefits coverage, on behalf of any eligible  
18 employees and their dependents, other than through the HIPG. The previous  
19 sentence shall not apply to an eligible individual who resides in an area for  
20 which no coverage is offered by any insurer or health maintenance  
21 organization.

22 (b)(1) Under rules established to carry out this act, with respect to a  
23 small employer that has a purchaser contract with a HIPG, individuals who are  
24 employees of the employer may enroll for health benefits coverage, including  
25 coverage for dependents of such enrolling employees, offered by any insurer or  
26 health maintenance organization through the HIPG. Such employees may enroll  
27 for health benefits provided through their employer's contract with a HIPG.

28 (2) A HIPG may not deny enrollment as a member to an individual  
29 who is an employee or dependent of such an employee eligible to be so  
30 enrolled, based on health status-related factors, except as may be permitted  
31 consistent with the Arkansas Insurance Code.

32 (3) In the case of members enrolled in health benefits coverage  
33 offered by an insurer or health maintenance organization through a HIPG,  
34 subject to subdivision (b)(4) of this section, the HIPG shall provide for an  
35 annual open enrollment period of thirty (30) days during which such members  
36 may change the coverage option in which the members are enrolled.

1           (4) Nothing in this subdivision shall preclude a HIPG from  
2 establishing rules of employee eligibility for enrollment and re-enrollment of  
3 members during the annual open enrollment period under subdivision (b)(3) of  
4 this section. Such rules shall be applied consistently to all purchasers and  
5 members within the HIPG and shall not be based in any manner on health status-  
6 related factors and may not conflict with sections of this act.

7           (c)(1) The contract between a HIPG and an insurer or health maintenance  
8 organization shall provide, with respect to a member enrolled with health  
9 benefits coverage offered by the HIPG or the issuer, for such coverage and  
10 that the HIPG may collect premiums on behalf of the issuer. The contract  
11 shall provide further that a HIPG may collect premiums less a pre-determined  
12 administrative charge negotiated by the HIPG and the issuer.

13           (2) Nothing in this act shall be construed as requiring the  
14 service area of an insurer or health maintenance organization with respect to  
15 health insurance coverage to cover the entire geographic area served by a  
16 HIPG.

17           (3) A HIPG shall enter into contracts with one or more insurers or  
18 health maintenance organizations.

19           (4)(A) Except as provided otherwise in this act, the HIPG may  
20 develop the types of benefits and coverage provided to its insureds,  
21 notwithstanding any other statutorily required coverage and benefits. Except,  
22 that it shall include provisions in Arkansas' Health Insurance Portability and  
23 Accountability Act of 1997, Arkansas Code § 23-86-111, and Arkansas Code § 23-  
24 86-115.

25           (B) The HIPG shall offer at least two (2) types of plans to  
26 its members, including one (1) plan providing a choice of deductibles and  
27 conforming to the statutorily required coverage and benefits under the  
28 Arkansas Insurance Code.

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30           SECTION 6. (a) A member of a board of directors of a HIPG may not serve  
31 as an employee or paid consultant to the HIPG, but may receive reasonable  
32 reimbursement for travel expenses for purposes of attending meetings of the  
33 board or committees thereof.

34           (b) An individual is not eligible to serve in a paid or unpaid capacity  
35 on the board of directors of a HIPG or as an employee of the HIPG, if the  
36 individual is employed by, represents in any capacity, owns, or controls any

1 ownership interest in an organization from whom the HIPG receives  
 2 contributions, grants, or other funds not connected with a contract for  
 3 coverage through the HIPG.

4 (c)(1) An individual who is serving on a board of directors of a HIPG as  
 5 a representative described in subsections (a) or (b) of this section shall not  
 6 be employed by or affiliated with an insurer or health maintenance  
 7 organization or be licensed as, or employed by, or affiliated with a health  
 8 care provider.

9 (2) For the purposes of subdivision (c)(1) of this section, the  
 10 term "affiliated" does not include membership in a health benefits plan or the  
 11 obtaining of health benefits coverage offered by an insurer or health  
 12 maintenance organization.

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 14 SECTION 7. Construction.

15 (a) Nothing in this section shall be construed as preventing one or more  
 16 HIPGs serving different areas, whether or not they are contiguous, from  
 17 providing for some or all of the following through a single administrative  
 18 organization, or otherwise:

19 (1) Coordinating the offering of the same or similar health  
 20 benefits coverage in different areas served by the different HIPGs;

21 (2) Providing for crediting of deductibles and other cost sharing  
 22 for individuals who are provided health benefits coverage through the HIPG, or  
 23 an affiliated HIPG after:

24 (A) a change of employers through which the coverage is  
 25 provided; or

26 (B) a change in place of employment to an area not served by  
 27 the previous HIPG.

28 (b) Nothing in this section shall be construed as precluding a HIPG from  
 29 providing for adjustments in amounts distributed among the insurer or health  
 30 maintenance organization offering health benefits coverage through the HIPG  
 31 based on factors such as the relative health care risk of members enrolled  
 32 under the coverage offered by the different issuers.

33 (c) Nothing in this section shall be construed as precluding a HIPG from  
 34 establishing minimum participation and contribution rules for small employers  
 35 that apply to become purchasers in the HIPG, so long as such rules are applied  
 36 uniformly for all insurers or health maintenance organizations.

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SECTION 8. Administrative regulations.

The State Insurance Department shall develop and promulgate regulations to implement the provisions of this act.

SECTION 9. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 11. All laws and parts of laws in conflict with this act are hereby repealed.