

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

A Bill

HOUSE BILL 1407

4
5 By: Representative Greenberg
6
7

For An Act To Be Entitled

9 AN ACT TO ENACT THE AFFORDABLE HEALTH INSURANCE
10 ACT; TO PROMOTE COMPETITION AMONG HEALTH
11 INSURANCE CARRIERS; TO DECREASE THE COST OF
12 HEALTH INSURANCE; AND FOR OTHER PURPOSES.
13

Subtitle

14 TO ENACT THE AFFORDABLE HEALTH INSURANCE
15 ACT, TO PROMOTE COMPETITION AMONG HEALTH
16 INSURANCE CARRIERS, AND TO DECREASE THE
17 COST OF HEALTH INSURANCE.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code Title 23, Chapter 79, is amended to add an
24 additional subchapter to read as follows:

25 23-79-1301. Title.

26 This subchapter shall be known and may be cited as the "Affordable
27 Health Insurance Act".
28

29 23-79-1302. Legislative findings and intent.

30 (a) The General Assembly finds that:

31 (1) A need exists for individuals, employers, and other
32 purchasers of health insurance coverage in this state to have the opportunity
33 to choose a health benefit plan that is more affordable and flexible than
34 existing market health benefit plans offering accident and sickness insurance
35 coverage;

36 (2) By removing barriers that limit access to affordable health



1 coverage and expanding opportunities for Arkansans to purchase more
2 affordable coverage, the state can improve access to health care and rein in
3 rising health care costs while preserving the first-rate care that so many
4 Arkansans enjoy; and

5 (3) It is important to provide Arkansans with more choices when
6 selecting a health benefit plan, thereby increasing access to quality health
7 care.

8 (b) The General Assembly intends by the enactment of this act:

9 (1) To increase the availability of affordable health insurance
10 coverage by allowing approved insurers authorized to engage in the business
11 of insurance in other states to issue health benefit plans in this state; and

12 (2) That no person shall be denied the right to purchase or
13 enroll in a policy of sickness and accident insurance or a health benefit
14 plan that is sold in another state and is approved for sale in this state.

15
16 23-79-1303. Definitions.

17 As used in this subchapter:

18 (1) "Approved health benefit plan" means a health benefit plan
19 approved by the Insurance Commissioner;

20 (2) "Foreign health insurer" means an insurer that is:

21 (A) Domiciled in a state that borders the State of
22 Arkansas; and

23 (B) Licensed by the commissioner to sell a health benefit
24 plan in this state;

25 (3) "Health benefit plan" means an arrangement whereby a person
26 undertakes to provide, arrange for, pay for, or reimburse any part of the
27 cost of health care services through an individual or group health insurance
28 contract;

29 (4) "Health care provider" means an individual or entity that
30 provides health care services within the scope of the licensure or
31 certification of the individual or entity; and

32 (5)(A) "Health care services" means services or goods provided
33 to an individual to prevent, alleviate, cure or heal human illness or injury.

34 (B) "Health care services" includes:

35 (i) Medical care;

36 (ii) Dental care;

- 1 (iii) Hospitalization; and
- 2 (iv) Services or goods incidental to the provision
- 3 of medical care, dental care, or hospitalization.

4

5 23-79-1304. Authority to offer health benefit plan – No state-mandated

6 health benefits.

7 A foreign health insurer:

8 (1) May offer and provide an approved health benefit plan to

9 residents in this state if the foreign health insurer:

10 (A) Offers the health benefit plan in its domiciliary

11 state and is in compliance with all applicable laws, regulations, and

12 requirements of its domiciliary state;

13 (B) Obtains a certificate of authority to do business as a

14 foreign health insurer in this state under this subchapter; and

15 (C) Complies with all laws of this state and rules of the

16 Insurance Commissioner enacted for the benefit of health insurance consumers

17 including, without limitation, laws and rules concerning the prompt

18 investigation and payment of claims, underwriting practices, and the

19 enforcement of contractual benefits; and

20 (2) Is not required to offer the health benefits mandated by the

21 laws or rules of this state.

22

23 23-79-1305. Certificate of authority.

24 (a) A health insurer may apply for a certificate of authority to do

25 business as a foreign health insurer in this state, using a form prescribed

26 by the Insurance Commissioner.

27 (b) The commissioner shall issue the certificate of authority if the

28 insurer demonstrates that the health insurer:

29 (1) Will provide a health benefit plan in compliance with this

30 subchapter;

31 (2) Is financially sound and may reasonably be expected to meet

32 its obligations to covered individuals and employers; and

33 (3) Has adopted procedures to ensure compliance with all state

34 and federal laws governing the confidentiality of its records.

35 (c) A certificate of authority issued under this section is valid for

36 three (3) years from the date of issuance by the commissioner.

1 (d) The commissioner shall establish by rule:

2 (1) Procedures for a foreign health insurer to renew a
 3 certificate of authority under this subchapter; and

4 (2) Application and renewal fees to obtain a certificate of
 5 authority in an amount no greater than is reasonably necessary to enable the
 6 commissioner to carry out this subchapter.

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 8 23-79-1306. Required disclosures.

9 Each health benefit plan and each application for a health benefit plan
 10 provided by a foreign health insurer to a resident of this state shall
 11 disclose in plain language:

12 (1)(A) The differences between the benefits of the health benefit
 13 plan issued by the foreign health insurer and:

14 (i) An individual accident and health insurance
 15 policy issued under § 23-85-101 et seq.; or

16 (ii) A group accident and health insurance policy
 17 issued under § 23-86-101 et seq.

18 (B) At least 14-point bold type shall be used to describe
 19 the differences that relate to:

20 (i) Mandated health benefits;

21 (ii) Underwriting standards;

22 (iii) Premium rating;

23 (iv) Preexisting conditions;

24 (v) Renewability;

25 (vi) Portability; and

26 (vii) Cancellation;

27 (2) That the health benefit plan is primarily governed by the
 28 laws of the foreign health insurer's domicile and therefore all of the rating
 29 laws applicable to individual or group accident and health insurance filed in
 30 this state do not apply to the health benefit plan, which may result in
 31 increases to the insurance premium at the time of renewal that would not be
 32 permissible with a health benefit plan governed by the laws of this state;

33 (3) That any purchase of health insurance should be considered
 34 carefully since future medical conditions may make it impossible to qualify
 35 for another health benefit plan; and

36 (4) That although the health benefit plan may provide a more

1 affordable individual or group accident and health insurance policy:

2 (A) The health benefit plan may also provide fewer health
 3 benefits than those normally included as state-mandated health benefits of
 4 individual or group accident and health insurance policies issued by in-state
 5 health insurers; and

6 (B) The insured's insurance agent should be consulted to
 7 determine which state-mandated health benefits are excluded under the
 8 individual or group accident and health insurance policy.

9
 10 23-79-1307. Additional powers and duties of Insurance Commissioner.

11 (a) The Insurance Commissioner may:

12 (1)(A) After notice and opportunity to be heard deny, revoke, or
 13 suspend a certificate of authority issued to a foreign health insurer for any
 14 violation of this subchapter.

15 (B) The commissioner and shall provide for an appropriate
 16 and timely right of appeal for a foreign health insurer whose certificate of
 17 authority is denied, revoked, or suspended; and

18 (2)(A) Conduct market conduct and solvency examinations of an
 19 existing or prospective foreign health insurer.

20 (B) The market conduct and solvency examinations shall be
 21 conducted in the same manner and under the same terms and conditions as an
 22 examination of an insurer located in this state.

23 (b)(1) The commissioner shall establish procedures for the review of:

24 (A) Claims and grievances filed by a health care provider
 25 or a covered individual;

26 (B)(i) Marketing materials proposed by a foreign health
 27 insurer to market a health benefit plan to residents or employers in this
 28 state.

29 (ii) A foreign health insurer shall not distribute
 30 or make available marketing materials in this state before receiving written
 31 approval by the commissioner; and

32 (C) The application and health benefit plan of a
 33 prospective foreign health insurer.

34 (2) A foreign health insurer shall comply with all procedures
 35 and final determinations of the commissioner as a condition of issuing health
 36 benefit plans in this state.

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23-79-1308. Rules.

(a) The Insurance Commissioner shall adopt rules to administer this subchapter.

(b) The rules shall not:

1) In any way that conflicts with the laws or regulations of a foreign health insurer's domiciliary state, require the foreign health insurer to:

(A) Modify coverage or benefit requirements; or

(B) Restrict underwriting requirements or premium ratings;

or

(2) Provide for an expansion of the commissioner's authority over foreign health insurers in a way that conflicts with this subchapter.