

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 88th General Assembly
3 Regular Session, 2011
4
5 By: Representative King

A Bill

HOUSE BILL 1800

For An Act To Be Entitled

8 AN ACT TO ENACT THE AFFORDABLE HEALTH INSURANCE ACT;
9 TO INCREASE THE AVAILABILITY OF AFFORDABLE HEALTH
10 SAVINGS ACCOUNT PLANS; TO DECREASE THE COST OF HEALTH
11 INSURANCE; AND FOR OTHER PURPOSES.

Subtitle

15 TO ENACT THE AFFORDABLE HEALTH INSURANCE
16 ACT.

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

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

23 23-79-1501. Title.

24 This subchapter shall be known and may be cited as the "Affordable
25 Health Insurance Act".

27 23-79-1502. Legislative findings and intent.

28 (a) The General Assembly finds that:

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

34 (2) By removing barriers that limit access to affordable health
35 coverage and expanding opportunities for Arkansans to purchase more
36 affordable coverage, the state can improve access to health care and prevent



1 rising health care costs while preserving the first-rate care that so many
2 Arkansans enjoy; and

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

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

7 (1) Authorize the Insurance Commissioner to establish flexible
8 guidelines for high deductible health plans that are eligible for a health
9 savings account that will be affordable to citizens of this state and to
10 increase the availability of these types of plans by accident and sickness
11 insurers licensed to transact such insurance in this state;

12 (2) Encourage the offering of affordable high deductible health
13 plans that are eligible for a health savings account, as required under the
14 rules of the Internal Revenue Service related to the establishment of health
15 savings accounts, with the specific intent of reaching many otherwise
16 uninsured citizens of this state and the general intent of creating
17 affordable comprehensive health insurance for all citizens of this state; and

18 (3) Enhance the affordability of insurance with the flexible
19 high deductible health plans that are eligible for a health savings account
20 allowed under this subchapter by allowing rewards and incentives for
21 participation in and adherence to health behaviors that recognize the value
22 of the personal responsibility of each citizen to maintain good health, seek
23 preventive care services, and comply with approved treatments.

24
25 23-79-1503. Health reimbursement arrangement-only plans.

26 (a) The Insurance Commissioner may allow health reimbursement
27 arrangement-only plans that encourage employer financial support of health
28 insurance or health-related expenses recognized under the rules of the
29 Internal Revenue Service.

30 (b) Health reimbursement arrangement-only plans that are not sold in
31 connection with or packaged with health insurance coverage shall not be
32 considered insurance under the laws of this state.

33 (c)(1) Individual health insurance policies funded through health
34 reimbursement arrangement-only plans shall not be considered employer-
35 sponsored or group coverage under the laws of this state.

36 (2) This subchapter does not require an insurer to:

1 (A) Offer an individual health insurance policy for sale
2 in connection with or packaged with a health reimbursement arrangement-only
3 plan; or

4 (B) Accept premiums from health reimbursement arrangement-
5 only plans for individual health insurance policies.

6
7 23-79-1504. Restrictions.

8 (a) A relationship is not required between preferred provider and
9 nonpreferred provider plan reimbursements for high deductible health plans
10 that are eligible for a health savings account using nonpreferred provider
11 reimbursement.

12 (b) High deductible health plans that are eligible for a health
13 savings account shall not:

14 (1) Unfairly deny health benefits for medically necessary
15 covered services;

16 (2) Have differences in benefit levels payable to preferred
17 providers compared to other providers that unfairly deny benefits for covered
18 services;

19 (3) Have a plan coinsurance percentage applicable to benefit
20 levels for services provided by nonpreferred providers that is less than
21 sixty percent (60%) of the benefit levels under the policy for such services;
22 or

23 (4) Have an adverse effect on the availability or the quality of
24 services.

25
26 23-79-1505. Unfair trade practices.

27 Insurers that include and operate wellness and health promotion
28 programs, disease and condition management programs, health risk appraisal
29 programs, and similar provisions in their high deductible health plans that
30 are eligible for a health savings account in keeping with federal
31 requirements are not engaging in unfair trade practices under the Trade
32 Practices Act, § 23-66-201 et seq., with respect to references to the
33 practices of illegal inducements, unfair discrimination, and rebating.

34
35 23-79-1506. Income tax – Deduction – Tax credit.

36 (a) As used in this section, "taxpayer" means an employer who employs

1 directly, or who pays compensation to individuals whose compensation is
2 reported on Internal Revenue Service Form 1099, fifty (50) or fewer persons
3 and for whom the taxpayer provides high deductible health plans that include,
4 at a minimum, catastrophic health care coverage that are established and used
5 with a health savings account under the applicable provisions of 26 U.S.C. §
6 223, as it existed on January 1, 2010, and in which such employees are
7 enrolled.

8 (b) Under § 26-51-457 and rules promulgated by the Director of the
9 Department of Finance and Administration, a taxpayer who pays premiums on a
10 high deductible health plan that is eligible for a health savings account
11 under the applicable provisions of 26 U.S.C. § 223, as it existed on January
12 1, 2010, may take a deduction from his or her taxable income for state income
13 tax purposes.

14 (c) Under § 26-51-515 and rules promulgated by the director, a
15 taxpayer is allowed a tax credit against the income tax imposed by the Income
16 Tax Act of 1929, § 26-51-101 et seq.

17
18 23-79-1507. Insurance premium tax – Exemption.

19 Insurers in this state are exempt from otherwise applicable state taxes
20 on insurance premiums paid by residents of this state for high deductible
21 health plans that are eligible for a health savings account under the
22 applicable provisions of 26 U.S.C. § 223, as it existed on January 1, 2010.

23
24 23-79-1508. Insurance Commissioner – Powers and duties.

25 (a) The Insurance Commissioner shall develop flexible guidelines for
26 coverage and approval of high deductible health plans that are eligible for a
27 health savings account and designed to qualify under federal and state
28 requirements as high deductible health plans for use with health savings
29 accounts that comply with federal requirements under the applicable
30 provisions of the federal Internal Revenue Code.

31 (b) The commissioner may:

32 (1)(A) Encourage and promote the marketing of high deductible
33 health plans that are eligible for a health savings account by accident and
34 sickness insurers in this state.

35 (B) However, this section does not authorize the sale of
36 insurance in violation of the requirements of law relating to the transaction

1 of insurance in this state or prohibiting the interstate sale of insurance;

2 (2) Conduct a national study of high deductible health plans
 3 that are eligible for a health savings account in other states and to
 4 determine if and how these products serve the uninsured and if they should be
 5 made available to the citizens of this state;

6 (3) Develop an automatic or fast-track approval process for high
 7 deductible health plans that are eligible for a health savings account
 8 already approved under the laws and regulations of this state or other
 9 states; and

10 (4) Promulgate rules that he or she deems necessary and
 11 appropriate for the design, promotion, and regulation of high deductible
 12 health plans that are eligible for a health savings account, including rules
 13 for the expedited review of standardized policies, advertisements, and
 14 solicitations and other matters deemed relevant by the commissioner.

15
 16 SECTION 2. Arkansas Code Title 26, Chapter 51, Subchapter 4 is amended
 17 to add an additional section to read as follows:

18 26-51-457. Deductions – Qualified health insurance.

19 (a) As used in this section, "taxpayer" means an employer who employs
 20 directly, or who pays compensation to individuals whose compensation is
 21 reported on Internal Revenue Service Form 1099, fifty (50) or fewer persons
 22 and for whom the taxpayer provides high deductible health plans that include,
 23 at a minimum, catastrophic health care coverage that are established and used
 24 with a health savings account under the applicable provisions of 26 U.S.C. §
 25 223, as it existed on January 1, 2010, and in which employees are enrolled.

26 (b) In addition to other deductions allowed by law, a taxpayer may
 27 deduct from his or her taxable income for state income tax purposes an amount
 28 equal to one hundred percent (100%) of the premiums paid by the taxpayer
 29 during the taxable year for high deductible health plans that are eligible
 30 for health savings accounts under the Affordable Health Insurance Act, § 23-
 31 79-1501 et seq. and the applicable provisions of 26 U.S.C. § 223, as it
 32 existed on January 1, 2010, if:

33 (1) The deduction has not been included in federal adjusted
 34 gross income, as defined under the Internal Revenue Code of 1986;

35 (2) The premiums have not been provided from a health
 36 reimbursement arrangement-only plan; and

1 (3) The premiums have not been included in itemized business
2 deductions that are excluded from the taxpayer's taxable income.

3 (c) The Director of the Department of Finance and Administration shall
4 promulgate rules to administer this section.

5
6 SECTION 3. Arkansas Code Title 26, Chapter 51, Subchapter 5 is amended
7 to add an additional section to read as follows:

8 26-51-515. Qualified health insurance expenses tax credit.

9 (a) As used in this section:

10 (1) "Qualified health insurance" means a high deductible health
11 plan that includes, at a minimum, catastrophic health care coverage that is
12 eligible to be used with a health savings account under the applicable
13 provisions of 26 U.S.C. § 223, as it existed on January 1, 2010;

14 (2) "Qualified health insurance expenses" means the expenditure
15 of funds of at least two hundred fifty dollars (\$250) annually for health
16 insurance premiums for qualified health insurance; and

17 (3) "Taxpayer" means an employer who employs directly, or who
18 pays compensation to individuals whose compensation is reported on Internal
19 Revenue Service Form 1099, fifty (50) or fewer persons and for whom the
20 taxpayer provides high deductible health plans that include, at a minimum,
21 catastrophic health care coverage that are established and used with a health
22 savings account under the applicable provisions of 26 U.S.C. § 223, as it
23 existed on January 1, 2010, and in which such employees are enrolled.

24 (b) A taxpayer is allowed a tax credit against the income tax imposed
25 by the Income Tax Act of 1929, § 26-51-101 et seq., for qualified health
26 insurance expenses under the Affordable Health Insurance Act, § 23-79-1501 et
27 seq., in an amount of two hundred fifty dollars (\$250) for each employee
28 enrolled for twelve (12) consecutive months in a qualified health insurance
29 plan if the qualified health insurance is made available to all of the
30 employees and compensated individuals of the taxpayer under the applicable
31 provisions of 26 U.S.C. § 125, as it existed on January 1, 2010.

32 (c)(1) The total amount of the tax credit under this section for a
33 taxable year shall not exceed the taxpayer's income tax liability.

34 (2) A taxpayer may carry forward any unused tax credit under
35 this section.

36 (3) A tax credit under this section is not allowed for a

1 taxpayer's prior years' income tax liability.

2 (d) A tax credit under this section applies only to qualified health
3 insurance expenses under the Affordable Health Insurance Act, § 23-79-1501 et
4 seq.

5 (e) The Director of the Department of Finance and Administration shall
6 promulgate rules to administer this section.

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8 SECTION 4. Effective Date. This act is effective _____, 2011.

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