

IN THE SENATE

SENATE BILL NO. 1150

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO INSURANCE; AMENDING SECTION 41-5501, IDAHO CODE, TO REVISE
2 DEFINITIONS; AMENDING SECTION 41-5503, IDAHO CODE, TO REVISE PROVI-
3 SIONS REGARDING THE PLAN OF OPERATION FOR THE IDAHO INDIVIDUAL HIGH
4 RISK REINSURANCE POOL; AMENDING SECTION 41-5504, IDAHO CODE, TO REVISE
5 PROVISIONS REGARDING POWERS AND AUTHORITY OF THE POOL; AMENDING SEC-
6 TION 41-5505, IDAHO CODE, TO REVISE PROVISIONS REGARDING REINSURANCE;
7 AMENDING SECTION 41-5506, IDAHO CODE, TO REVISE PROVISIONS REGARDING
8 REINSURANCE PREMIUM RATES; AMENDING SECTION 41-5507, IDAHO CODE, TO
9 REVISE PROVISIONS REGARDING PREMIUM RATES AND TO PROVIDE THAT CARRI-
10 ERS SHALL NOT ISSUE HIGH RISK POOL PLANS AFTER A CERTAIN DATE; AMENDING
11 SECTION 41-5508, IDAHO CODE, TO REVISE PROVISIONS REGARDING ASSESS-
12 MENTS; REPEALING SECTION 41-5509, IDAHO CODE, RELATING TO STANDARDS FOR
13 AGENTS; AMENDING SECTION 41-5510, IDAHO CODE, TO REDESIGNATE THE SEC-
14 TION AND TO REVISE PROVISIONS REGARDING ELIGIBILITY; REPEALING SECTION
15 41-5511, IDAHO CODE, RELATING TO DESIGN OF PRODUCTS; AND AMENDING SEC-
16 TION 41-5203, IDAHO CODE, TO REVISE DEFINITIONS.
17

18 Be It Enacted by the Legislature of the State of Idaho:

19 SECTION 1. That Section 41-5501, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 41-5501. DEFINITIONS. As used in this chapter:

22 (1) "Agent" means a producer as defined in section 41-1003(8), Idaho
23 Code.

24 (2) "Board" means the board of directors of the Idaho individual high
25 risk ~~individual~~ reinsurance pool established in this chapter and the Idaho
26 small employer health reinsurance program established in section 41-4711,
27 Idaho Code.

28 (3) "Carrier" means any entity that provides, or is authorized to pro-
29 vide, health insurance in this state. For purposes of this chapter, car-
30 rier includes an insurance company, any other entity providing reinsurance
31 including excess or stop loss coverage, a hospital or professional service
32 corporation, a fraternal benefit society, a managed care organization, any
33 entity providing health insurance coverage or benefits to residents of this
34 state as certificate holders under a group policy issued or delivered out-
35 side of this state, and any other entity providing a plan of health insurance
36 or health benefits subject to state insurance regulation.

37 (4) "Dependent" ~~in any new or renewing plan~~ means a spouse, an unmar-
38 ried a child under the age of twenty-five (25) years and who receives more
39 ~~than one-half (1/2) of his financial support from the parent, or an unmarried~~
40 ~~child of any age who is medically certified as disabled and dependent upon~~
41 ~~the parent or any other individual listed as having coverage under the pri-~~
42 mary policy holder's or subscriber's health benefit plan.

1 (5) "Director" means the director of the department of insurance of the
2 state of Idaho.

3 (6) "Eligible individual" means an Idaho resident individual or depen-
4 dent of an Idaho resident who is:

5 ~~(a) An Idaho resident individual or dependent of an Idaho resident who~~
6 ~~is under the age of sixty-five (65) years, is nNot eligible for coverage~~
7 ~~under a group health benefit plan, part A or part B of title XVIII of the~~
8 ~~social security act (medicare), or a state plan under title XIX (medic-~~
9 ~~aid) or any successor program, and who does not have other health insur-~~
10 ~~ance coverage; or and~~

11 ~~(b) An individual who is legally domiciled in Idaho on the date of~~
12 ~~application to the pool and is eligible for the credit for health in-~~
13 ~~surance costs under section 35 of the Internal Revenue Code of 1986; or~~
14 ~~Enrolled in an individual health benefit plan~~

15 ~~(c) An Idaho resident individual or a dependent of an Idaho resident~~
16 ~~who is a federally eligible individual (one who meets the eligibility~~
17 ~~criteria set forth in the federal health insurance portability and ac-~~
18 ~~countability act of 1996 Public Law 104-191, Sec. 2741(b) (HIPAA)).~~

19 Coverage under a basic, standard, catastrophic A, catastrophic B, or HSA
20 compatible health benefit plan shall not be available to any individual who
21 is covered under other health insurance coverage, except as provided in sec-
22 tion 41-5510(4), Idaho Code. For purposes of this chapter, to be eligible,
23 an individual must also meet the requirements of section 41-5510, Idaho
24 Code.

25 (7) "Health benefit plan" means any hospital or medical policy or
26 certificate, any subscriber contract provided by a hospital or profes-
27 sional service corporation, or health maintenance organization subscriber
28 contract. Health benefit plan does not include policies or certificates
29 of insurance for specific disease, hospital confinement indemnity, acci-
30 dent-only, credit, dental, vision, medicare supplement, long-term care, or
31 disability income insurance, student health benefits only, coverage issued
32 as a supplement to liability insurance, worker's compensation or similar in-
33 surance, automobile medical payment insurance, or nonrenewable short-term
34 coverage issued for a period of twelve (12) months or less.

35 (8) ~~"Individual basic health benefit plan" means a lower cost health~~
36 ~~benefit plan developed pursuant to section 41-5511, Idaho Code~~ "High risk
37 medical condition" means a medical condition or diagnosis identified by the
38 board in its plan of operation as making an individual eligible for reinsur-
39 ance through the pool.

40 ~~(9) "Individual carrier" means a carrier that offers health benefit~~
41 ~~plans covering eligible individuals and their dependents.~~

42 ~~(10) "Individual catastrophic A health benefit plan" means a higher~~
43 ~~limit health benefit plan developed pursuant to section 41-5511, Idaho Code.~~

44 ~~(11) "Individual catastrophic B health benefit plan" means a health~~
45 ~~benefit plan offering limits higher than a catastrophic A health benefit~~
46 ~~plan developed pursuant to section 41-5511, Idaho Code.~~

47 ~~(12) "Individual HSA compatible health benefit plan" means a health~~
48 ~~savings account compatible health benefit plan developed pursuant to sec-~~
49 ~~tion 41-5511, Idaho Code.~~

1 ~~(13) "Individual standard health benefit plan" means a health benefit~~
 2 ~~plan developed pursuant to section 41-5511, Idaho Code.~~

3 ~~(149) "Plan" or "High risk pool plan" means the an individual basic,~~
 4 ~~standard, catastrophic A, catastrophic B, or HSA compatible health benefit~~
 5 ~~plan established issued pursuant to section 41-5511, Idaho Code this chapter~~
 6 ~~prior to April 1, 2017.~~

7 ~~(15) "Plan of operation" means the plan of operation of the individual~~
 8 ~~high risk reinsurance pool established pursuant to this chapter.~~

9 ~~(16) "Pool" means the Idaho high risk reinsurance pool.~~

10 ~~(1710) "High risk pool plan pPremium" means all moneys paid by an in-~~
 11 ~~dividual and eligible dependents or a dependent as a condition of receiving~~
 12 ~~coverage from a carrier, including any fees or other contributions associ-~~
 13 ~~ated with the health benefit plan.~~

14 ~~(11) "Individual carrier" means a carrier that offers individual health~~
 15 ~~benefit plans.~~

16 ~~(12) "Plan of operation" means the plan of operation of the individual~~
 17 ~~high risk reinsurance pool established pursuant to this chapter.~~

18 ~~(13) "Pool" means the Idaho high risk reinsurance pool.~~

19 ~~(18) "Qualifying previous coverage" and "qualifying existing coverage"~~
 20 ~~mean benefits or coverage provided under:~~

21 ~~(a) Medicare or medicaid, civilian health and medical program for uni-~~
 22 ~~formed services (CHAMPUS), the Indian health service program, a state~~
 23 ~~health benefit risk pool, or any other similar publicly sponsored pro-~~
 24 ~~gram; or~~

25 ~~(b) Any group or individual health insurance policy or health benefit~~
 26 ~~arrangement whether or not subject to the state insurance laws, includ-~~
 27 ~~ing coverage provided by a managed care organization or a fraternal ben-~~
 28 ~~efit society.~~

29 ~~(194) "Reinsurance premium" means the premium set by the board pursuant~~
 30 ~~to section 41-5506, Idaho Code, to be paid by a reinsuring carrier for plans~~
 31 ~~issued under eligible individuals ceded to the pool.~~

32 ~~(2015) "Reinsuring carrier" means a carrier participating in the indi-~~
 33 ~~vidual high risk reinsurance pool established by this chapter.~~

34 ~~(21) "Restricted network provision" means any provision of a health~~
 35 ~~benefit plan that conditions the payment of benefits, in whole or in part,~~
 36 ~~on the use of health care providers that have entered into a contractual~~
 37 ~~arrangement with the carrier to provide health care services to covered in-~~
 38 ~~dividuals.~~

39 SECTION 2. That Section 41-5503, Idaho Code, be, and the same is hereby
 40 amended to read as follows:

41 41-5503. PLAN OF OPERATION. (1) The board shall submit to the direc-
 42 tor a plan of operation and thereafter any amendments thereto necessary or
 43 suitable to assure the fair, reasonable and equitable administration of the
 44 pool. The director may, after notice and hearing, approve the plan of opera-
 45 tion if the director determines it to be suitable to assure the fair, reason-
 46 able and equitable administration of the pool, and to provide for the sharing
 47 of pool gains or losses on an equitable and proportionate basis in accordance
 48 with the provisions of this chapter. The plan of operation shall become ef-
 49 fective upon written approval by the director.

1 (2) If the board fails to submit a suitable plan of operation, the di-
 2 rector shall, after notice and hearing, adopt and promulgate a temporary
 3 plan of operation. The director shall approve the plan of operation submit-
 4 ted by the board, or adopt a temporary plan of operation if the board fails to
 5 submit a suitable plan. The director shall amend or rescind any plan adopted
 6 under the provisions of this section at the time a plan of operation is sub-
 7 mitted by the board and approved by the director.

8 (3) The plan of operation shall:

9 (a) Establish procedures for handling and accounting of pool assets and
 10 moneys and for an annual fiscal reporting to the director;

11 (b) Establish procedures for selecting an administrator, and setting
 12 forth the powers and duties of the administrator;

13 (c) Establish procedures for reinsuring risks in accordance with the
 14 provisions of this chapter;

15 (d) Establish procedures and conditions for a carrier to cede individu-
 16 als with certain high risk medical conditions;

17 (e) Define the high risk medical conditions for which carriers are al-
 18 lowed to cede for reinsurance;

19 (f) Set forth the reinsurance parameters including, but not limited
 20 to, the initial level of claims for which the reinsuring carrier is
 21 responsible, the coinsurance percentage at which claims above the ini-
 22 tial level are reinsured by the pool, and the maximum claims limit above
 23 which the pool no longer reimburses;

24 (g) Establish procedures for collecting assessments from carriers to
 25 fund claims and administrative expenses incurred or estimated to be in-
 26 curred by the pool; and

27 (eh) Provide for any additional matters necessary for the implementa-
 28 tion and administration of the pool.

29 SECTION 3. That Section 41-5504, Idaho Code, be, and the same is hereby
 30 amended to read as follows:

31 41-5504. POWERS AND AUTHORITY. (1) The pool shall have the general
 32 powers and authority granted under the laws of this state to insurance com-
 33 panies and managed care organizations licensed to transact business, except
 34 the power to issue health benefit plans directly to individuals. In addition
 35 thereto, the pool shall have the specific authority to:

36 (a) Enter into contracts as are necessary or proper to carry out the
 37 provisions and purposes of this chapter, including the authority, with
 38 the approval of the director, to enter into contracts with similar pro-
 39 grams of other states for the joint performance of common functions or
 40 with persons or other organizations for the performance of administra-
 41 tive functions;

42 (b) Sue or be sued, including taking any legal actions necessary or
 43 proper to recover any assessments and penalties for, on behalf of, or
 44 against the pool or any carrier;

45 (c) ~~Define the health benefit plans, which plans shall allow coordi-~~
 46 ~~nation of benefits, high risk medical conditions for which reinsurance~~
 47 ~~will be provided, and to issue reinsurance policies, in accordance with~~
 48 ~~the requirements of this chapter;~~

1 (d) Establish rules, conditions and procedures for reinsuring risks
2 under the pool;

3 (e) Establish actuarial functions as appropriate for the operation of
4 the pool;

5 (f) Assess carriers in accordance with the provisions of section
6 41-5508, Idaho Code, and make advance interim assessments of carriers
7 as may be reasonable and necessary for organizational and interim oper-
8 ating expenses. Any interim assessments shall be credited as offsets
9 against any regular assessments due following the close of the fiscal
10 year;

11 (g) Appoint appropriate legal, actuarial and other committees as nec-
12 essary to provide technical assistance in the operation of the pool,
13 policy and other contract design, and any other function within the au-
14 thority of the pool;

15 (h) Borrow money to effect the purposes of the pool. Any notes or other
16 evidence of indebtedness of the pool not in default shall be legal in-
17 vestments for carriers and may be carried as admitted assets;

18 (i) Establish rules, policies and procedures as may be necessary or
19 convenient for the implementation of this chapter and the operation of
20 the pool.

21 (2) Neither the board nor its employees shall be liable for any obliga-
22 tions of the pool. No member or employee of the board shall be liable, and
23 no cause of action of any nature may arise against them, for any act or omis-
24 sion related to the performance of their powers and duties under this chap-
25 ter, unless such act or omission constitutes willful or wanton misconduct.
26 The board may provide for indemnification of, and legal representation for,
27 its members and employees.

28 (3) No participation of a reinsuring carrier in the pool, no establish-
29 ment of rates, forms or procedures, and no other joint or collective action
30 required under the provisions of this chapter shall be grounds for any legal
31 action, criminal or civil liability, or penalty against the pool or any of
32 its reinsuring carriers either jointly or separately.

33 SECTION 4. That Section 41-5505, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 41-5505. REINSURANCE. (1) Any individual carrier issuing ~~an individ-~~
36 ~~ual basic, standard, catastrophic A, catastrophic B, or HSA compatible a~~
37 ~~health benefit plan as provided in this chapter shall be reinsured by the~~
38 ~~pool to the level of coverage provided in the plan and shall be liable to the~~
39 ~~pool for the reinsurance premium and shall be reinsured by the pool for each~~
40 ~~eligible individual ceded in accordance with section 41-5509, Idaho Code,~~
41 ~~and the plan of operation.~~

42 (2) ~~(a) The pool shall not reimburse a reinsuring carrier with respect~~
43 ~~to the claims of a reinsured individual or dependent until the carrier has~~
44 ~~incurred an initial level of claims for such individual or dependent of~~
45 ~~five thousand dollars (\$5,000) in a calendar year for benefits covered by~~
46 ~~the pool. In addition, the reinsuring carrier shall be responsible for ten~~
47 ~~percent (10%) of the next twenty-five thousand dollars (\$25,000) of benefit~~
48 ~~payments during a calendar year and the pool shall reinsure the remainder.~~

~~(b) The board annually may adjust the initial level of claims and the maximum limit to be retained by the carrier to reflect increases in costs and utilization within the standard market for health benefit plans within the state. The adjustment shall not be less than the annual change in the medical component of the "Consumer Price Index for All Urban Consumers" of the department of labor, bureau of labor statistics, unless the board proposes and the director approves a lower adjustment factor ceded eligible individual incurred during the calendar year and paid by the reinsuring carrier for benefits covered by the health benefit plan, in accordance with the reinsurance parameters set forth in the plan of operation.~~

(a) The board may annually adjust the reinsurance parameters by submitting an amendment to the plan of operation in accordance with section 41-5503(1), Idaho Code. The adjustments may reflect increases in costs and utilization within the individual market for health benefit plans but must consider the availability of pool funding and the stability of the individual health insurance market, as well as any objectives stated in the plan of operation.

(b) The board shall not submit for approval by the director a plan of operation or an amendment thereto with an initial level of less than twenty-five thousand dollars (\$25,000) or a reinsuring carrier coinsurance percentage of less than twenty percent (20%).

(3) A reinsuring carrier shall apply all managed care and claims handling techniques, including utilization review, individual case management, preferred provider provisions, and other managed care provisions or methods of operation consistently with respect to reinsured and nonreinsured business.

(4) Each carrier shall make a filing with the director containing the carrier's earned health insurance premium derived from health benefit plans delivered or issued for delivery in this state in the previous calendar year.

(5) Each carrier shall file with the director, in a form and manner to be prescribed by the director, an annual report. The report shall state the number of resident persons insured under the carrier's health benefit plan, or through excess or stop loss coverage.

(6) Carriers shall permit individuals and their dependents covered by a high risk pool plan to remain on the high risk pool plan as long as the individual continues to meet the conditions of section 41-5501(6) (a), Idaho Code.

SECTION 5. That Section 41-5506, Idaho Code, be, and the same is hereby amended to read as follows:

41-5506. REINSURANCE PREMIUM RATES. (1) The board, as part of the plan of operation, shall establish a methodology for determining reinsurance premium rates to be charged reinsuring carriers to reinsure individuals under this chapter. The methodology shall include a system for classification of individuals that reflects the types of case characteristics commonly used by individual carriers in the state. The methodology shall provide for the development of base reinsurance premium rates, subject to the approval of the director, which shall be set at levels which reasonably approximate gross premiums charged to individuals by individual carriers for health

1 benefit plans with benefits similar to the standard health benefit plan,
 2 adjusted to reflect retention levels required under the provisions of this
 3 chapter. Rate adjustments under the provisions of this subsection shall not
 4 be subject to the provisions of section 41-5206, Idaho Code.

5 (2) The board periodically shall review the methodology established
 6 under the provisions of subsection (1) of this section, including the system
 7 of classification and any rating factors, to assure that it reasonably re-
 8 flects the claims experience of the pool. The board may propose changes to
 9 the methodology which shall be subject to the approval of the director.

10 (3) The board may consider adjustments to the reinsurance premium rates
 11 charged by the pool to reflect the use of effective cost containment and man-
 12 aged care arrangements.

13 SECTION 6. That Section 41-5507, Idaho Code, be, and the same is hereby
 14 amended to read as follows:

15 41-5507. PREMIUM RATES FOR HIGH RISK POOL PLAN COVERAGE. (1) For high
 16 risk pool plans issued prior to April 1, 2017, tThe board shall establish
 17 premium rates for coverage under the individual basic, standard, cata-
 18 strophic A, catastrophic B, and HSA compatible ~~health benefit~~ high risk pool
 19 plans.

20 (2) Separate schedules of premium rates based on age, individual to-
 21 bacco use, geography as defined by rule of the director, gender and benefit
 22 plan design shall apply for individual risks.

23 (3) The board, with the assistance of the director and in accordance
 24 with appropriate actuarial principles, shall determine a standard risk rate
 25 by using the average rates that individual standard risks in this state are
 26 charged by at least five (5) of the largest health insurance carriers provid-
 27 ing individual health insurance coverage to residents of Idaho that is sub-
 28 stantially similar to the coverage offered by each high risk pool plan. In
 29 determining the average rate or charges of those health insurance carriers,
 30 the rates charged by those carriers shall be actuarially adjusted to deter-
 31 mine the rate that would have been charged for benefits similar to those pro-
 32 vided by each plan. The standard risk rates shall be established using rea-
 33 sonable actuarial techniques and shall reflect anticipated claims experi-
 34 ence, expenses, and other appropriate risk factors for such coverage.

35 (4) Rates for plan coverage shall not be less than one hundred twenty-
 36 five percent (125%) nor more than one hundred fifty percent (150%) of rates
 37 established as applicable for individual standard risks pursuant to subsec-
 38 tion (3) of this section.

39 (5) Carriers shall not issue high risk pool plans as defined in section
 40 41-5501(9), Idaho Code, after April 1, 2017.

41 SECTION 7. That Section 41-5508, Idaho Code, be, and the same is hereby
 42 amended to read as follows:

43 41-5508. ASSESSMENTS. (1) Prior to March 1 of each year, the board
 44 shall determine and report to the director the pool's net loss for the pre-
 45 vious calendar year, including administrative expenses and incurred losses
 46 for the year, taking into account investment income and other appropriate

1 gains and losses, and any premium tax funds appropriated to the pool pursuant
2 to section 41-406, Idaho Code.

3 (2) Any net loss for the year ~~shall~~ may be recouped by assessments of
4 carriers.

5 (3) (a) For the assessment of March 1, 2001, and prior to March 1 of each
6 succeeding year, the board shall determine and file with the director
7 an estimate of the assessments needed to fund the losses incurred by the
8 pool in the previous calendar year.

9 (b) The individual assessments shall be determined by multiplying net
10 losses, if net earnings are negative, as defined by subsection (1) of
11 this section, by a fraction, the numerator of which shall be the car-
12 rier's total premiums earned in the preceding calendar year from all
13 health benefit plans and policies or certificates of insurance for
14 specific disease, and hospital confinement indemnity in this state as
15 reported in the carrier's reports filed pursuant to section 41-5505(4)
16 and (5), Idaho Code, including reinsurance by way of excess or stop
17 loss coverage, and the denominator of which shall be the total premiums
18 earned in the preceding calendar year from all health benefit plans and
19 policies or certificates of insurance for specific disease and hospital
20 confinement indemnity in this state, including reinsurance by way of
21 excess or stop loss coverage.

22 (4) If assessments exceed net losses of the pool, the excess shall be
23 held at interest and used by the board to offset future losses or to reduce
24 pool premiums. As used in this paragraph, "future losses" includes reserves
25 for incurred but not reported claims.

26 (5) Each carrier's proportion of the assessment shall be determined an-
27 nually by the board based on annual statements and other reports deemed nec-
28 essary by the board and filed by the carriers with the director.

29 (6) The plan of operation shall provide for the imposition of an inter-
30 est penalty for late payment of assessments.

31 (7) A carrier may seek from the director a deferment from all or part
32 of an assessment imposed by the board. The director may defer all or part of
33 the assessment if the director determines that the payment of the assessment
34 would place the carrier in a financially impaired condition. If all or part
35 of an assessment against a carrier is deferred the amount deferred shall be
36 assessed against the other carriers in a manner consistent with the basis for
37 assessment set forth in this section. The carrier receiving the deferment
38 shall remain liable to the pool for the amount deferred and shall be prohib-
39 ited from reinsuring any individuals with the pool until such time as it pays
40 the assessments.

41 SECTION 8. That Section [41-5509](#), Idaho Code, be, and the same is hereby
42 repealed.

43 SECTION 9. That Section 41-5510, Idaho Code, be, and the same is hereby
44 amended to read as follows:

45 ~~41-551009. CEDING ELIGIBILITY. (1) Any eligible individual person,~~
46 ~~who is and continues to be a resident shall be eligible for coverage under an~~
47 ~~individual basic, standard, catastrophic A, catastrophic B, and HSA compat-~~
48 ~~ible health benefit plan if evidence is provided that:~~

1 ~~(a) Such person has been rejected by one (1) individual carrier on the~~
2 ~~basis of health status or claims experience; or~~

3 ~~(b) An individual carrier refuses to issue a health benefit plan pro-~~
4 ~~viding coverage substantially similar to coverage offered under an~~
5 ~~equivalent pool plan except at a rate exceeding the rate for the pool~~
6 ~~plan; or~~

7 ~~(c) Such person is a federally eligible individual; or~~

8 ~~(d) Such person is legally domiciled in Idaho on the date of application~~
9 ~~to the pool and is eligible for the credit for health insurance costs~~
10 ~~under section 35 of the Internal Revenue Code of 1986. In addition, if~~
11 ~~such person maintained creditable health insurance coverage for an ag-~~
12 ~~gregate period of three (3) months as of the date on which the individ-~~
13 ~~ual seeks to enroll in pool coverage, not counting any period prior to a~~
14 ~~sixty-three (63) day break in coverage:~~

15 ~~(i) The preexisting condition limitation set forth in section~~
16 ~~41-5208, Idaho Code, shall not apply; and~~

17 ~~(ii) The requirement for exhaustion of any available coverage un-~~
18 ~~der title X of the consolidated omnibus budget reconciliation act~~
19 ~~of 1986, public law 99-272 (COBRA) or state continuation benefits~~
20 ~~is waived.~~

21 ~~(2) A rejection or refusal by a carrier offering only stop loss, excess~~
22 ~~of loss or reinsurance coverage with respect to an applicant under subsec-~~
23 ~~tion (1) of this section shall not constitute sufficient evidence for pur-~~
24 ~~poses of subsection (1) of this section.~~

25 ~~(3) Each resident dependent of a person who is eligible for coverage un-~~
26 ~~der the pool shall also be eligible for coverage under the pool.~~

27 ~~(4) Any eligible individual person meeting the eligibility require-~~
28 ~~ments of subsection (1), (2) or (3) of this section shall be eligible for~~
29 ~~coverage under a pool plan even though the person has existing coverage under~~
30 ~~other health insurance or under a group health plan provided: (a) there is~~
31 ~~a reasonable probability that the lifetime benefit maximum of the existing~~
32 ~~coverage will be exceeded within ninety (90) days; and (b) the lifetime ben-~~
33 ~~efit maximum under the existing coverage is at least five hundred thousand~~
34 ~~dollars (\$500,000). In all cases, coverage under a pool plan is secondary to~~
35 ~~the existing coverage and all other insurance.~~

36 ~~(5) A person shall not be eligible for coverage under a pool plan if:~~

37 ~~(a) The person is not a federally eligible individual and, except as~~
38 ~~provided otherwise in subsection (4) of this section, has or obtains~~
39 ~~health insurance coverage substantially similar to or more comprehen-~~
40 ~~sive than a pool plan, or would be eligible to have such coverage at a~~
41 ~~rate not exceeding the rate for the pool plan if the person elected to~~
42 ~~obtain it;~~

43 ~~(b) The person is determined to be eligible for health care benefits un-~~
44 ~~der medicaid;~~

45 ~~(c) The person has previously terminated pool plan coverage unless~~
46 ~~twelve (12) months have lapsed since such termination; provided how-~~
47 ~~ever, that this provision shall not apply with respect to an applicant~~
48 ~~who is a federally eligible individual;~~

49 ~~(d) The person is an inmate or resident of a state or other public in-~~
50 ~~stitution, or a state, local or private correctional facility; provided~~

1 ~~however, that this provision shall not apply with respect to an ap-~~
 2 ~~plicant who is a federally eligible individual. The pool shall provide~~
 3 ~~reinsurance to any eligible individual who qualifies for reinsur-~~
 4 ~~ance pursuant to this chapter if evidence is provided that such person~~
 5 ~~has a qualifying high risk medical condition as defined by section~~
 6 ~~41-5501(8), Idaho Code.~~

7 (62) Notwithstanding any other provision of this chapter, eligibility
 8 for continuation of coverage under COBRA shall not render a person ineligi-
 9 ble for reinsurance coverage under a pool plan this chapter.

10 (73) Coverage Reinsurance through the pool shall cease:

11 (a) On the first day of the month following the date a person is no
 12 longer a resident of this state;

13 (b) On the ~~first day of the month following the date a person requests~~
 14 ~~coverage to~~ under the individual health benefit plan ends;

15 (c) Upon the death of the covered person;

16 (d) At the option of the board, thirty (30) days after the plan makes
 17 any inquiry concerning the person's eligibility or place of residence
 18 to which the person does not reply.

19 (84) Reinsurance for a person who ceases to meet the eligibility re-
 20 quirements of this ~~section~~ chapter may be terminated on the first day of the
 21 month following the date when the individual becomes ineligible.

22 SECTION 10. That Section [41-5511](#), Idaho Code, be, and the same is hereby
 23 repealed.

24 SECTION 11. That Section 41-5203, Idaho Code, be, and the same is hereby
 25 amended to read as follows:

26 41-5203. DEFINITIONS. As used in this chapter:

27 (1) "Actuarial certification" means a written statement by a member of
 28 the American academy of actuaries or other individual acceptable to the di-
 29 rector that an individual carrier is in compliance with the provisions of
 30 section 41-5206, Idaho Code, based upon the person's examination and includ-
 31 ing a review of the appropriate records and the actuarial assumptions and
 32 methods used by the individual carrier in establishing premium rates for ap-
 33 plicable health benefit plans.

34 (2) "Affiliate" or "affiliated" means any entity or person who directly
 35 or indirectly through one (1) or more intermediaries, controls or is con-
 36 trolled by, or is under common control with, a specified entity or person.

37 (3) "Agent" means a producer as defined in section 41-1003(8), Idaho
 38 Code.

39 (4) "Base premium rate" means, as to a rating period, the lowest pre-
 40 mium rate charged or that could have been charged under a rating system by
 41 the individual carrier to individuals with similar case characteristics for
 42 health benefit plans with the same or similar coverage.

43 (5) "Carrier" means any entity that provides health insurance in this
 44 state. For purposes of this chapter, carrier includes an insurance company,
 45 a hospital or professional service corporation, a fraternal benefit soci-
 46 ety, a health maintenance organization, any entity providing health insur-
 47 ance coverage or benefits to residents of this state as certificate hold-
 48 ers under a group policy issued or delivered outside of this state, and any

1 other entity providing a plan of health insurance or health benefits subject
2 to state insurance regulation.

3 (6) "Case characteristics" means demographic or other objective char-
4 acteristics of an individual that are considered by the individual carrier
5 in the determination of premium rates for the individual, provided that
6 claim experience, health status and duration of coverage shall not be case
7 characteristics for the purposes of this chapter.

8 (7) "Control" shall be defined in the same manner as in section
9 41-3802(2), Idaho Code.

10 (8) "Dependent" in any new or renewing plan means a spouse, an unmarried
11 child under the age of twenty-five (25) years and who receives more than one-
12 half (1/2) of his financial support from the parent, or an unmarried child of
13 any age who is medically certified as disabled and dependent upon the parent.

14 (9) "Director" means the director of the department of insurance of the
15 state of Idaho.

16 (10) "Eligible individual" means an Idaho resident individual or depen-
17 dent of an Idaho resident:

18 (a) Who is under the age of sixty-five (65) years, is not eligible for
19 coverage under a group health plan, part A or part B of title XVIII of the
20 social security act (medicare), or a state plan under title XIX (medic-
21 aid) or any successor program, and who does not have other health insur-
22 ance coverage; or

23 (b) Who is a federally eligible individual (one who meets the eligibil-
24 ity criteria set forth in the federal health insurance portability and
25 accountability act of 1996 Public Law 104-191, Sec. 2741(b) (HIPAA)).

26 An "eligible individual" can be the dependent of an eligible employee, which
27 eligible employee is receiving health insurance benefits subject to the reg-
28 ulation of title 41, Idaho Code.

29 (11) "Established geographic service area" means a geographic area, as
30 approved by the director and based on the carrier's certificate of authority
31 to transact insurance in this state, within which the carrier is authorized
32 to provide coverage.

33 (12) "Health benefit plan" means any hospital or medical policy or
34 certificate, any subscriber contract provided by a hospital or profes-
35 sional service corporation, or health maintenance organization subscriber
36 contract. Health benefit plan does not include policies or certificates
37 of insurance for specific disease, hospital confinement indemnity, acci-
38 dent-only, credit, dental, vision, medicare supplement, long-term care, or
39 disability income insurance, student health benefits only, coverage issued
40 as a supplement to liability insurance, worker's compensation or similar in-
41 surance, automobile medical payment insurance, or nonrenewable short-term
42 coverage issued for a period of twelve (12) months or less.

43 (13) "Index rate" means, as to a rating period for individuals with
44 similar case characteristics, the arithmetic average of the applicable base
45 premium rate and the corresponding highest premium rate.

46 (14) "Individual basic health benefit plan" means a lower cost health
47 benefit plan developed pursuant to chapter 55, title 41, Idaho Code, prior to
48 April 1, 2017.

1 (15) "Individual catastrophic A health benefit plan" means a higher
2 limit health benefit plan developed pursuant to chapter 55, title 41, Idaho
3 Code, prior to April 1, 2017.

4 (16) "Individual catastrophic B health benefit plan" means a health
5 benefit plan with limits higher than an individual catastrophic A health
6 benefit plan developed pursuant to chapter 55, title 41, Idaho Code, prior
7 to April 1, 2017.

8 (17) "Individual HSA compatible health benefit plan" means a health
9 savings account compatible health benefit plan developed pursuant to
10 ~~section 41-5511~~ chapter 55, title 41, Idaho Code, prior to April 1, 2017.

11 (18) "Individual standard health benefit plan" means a health benefit
12 plan developed pursuant to chapter 55, title 41, Idaho Code, prior to April
13 1, 2017.

14 (19) "New business premium rate" means, as to a rating period, the low-
15 est premium rate charged or offered or which could have been charged or of-
16 fered by the individual carrier to individuals with similar case character-
17 istics for newly issued health benefit plans with the same or similar cover-
18 age.

19 (20) "Premium" means all moneys paid by an individual and eligible de-
20 pendents as a condition of receiving coverage from a carrier, including any
21 fees or other contributions associated with the health benefit plan.

22 (21) "Qualifying previous coverage" and "qualifying existing coverage"
23 mean benefits or coverage provided under:

24 (a) Medicare or medicaid, civilian health and medical program for uni-
25 formed services (CHAMPUS), the Indian health service program, a state
26 health benefit risk pool, or any other similar publicly sponsored pro-
27 gram; or

28 (b) Any group or individual health insurance policy or health benefit
29 arrangement whether or not subject to the state insurance laws, in-
30 cluding coverage provided by a managed care organization, hospital or
31 professional service corporation, or a fraternal benefit society, that
32 provides benefits similar to or exceeding benefits provided under the
33 basic health benefit plan.

34 (22) "Rating period" means the calendar period for which premium rates
35 established by a carrier are assumed to be in effect.

36 (23) "Reinsuring carrier" means a carrier participating in the Idaho
37 individual high risk reinsurance pool established in chapter 55, title 41,
38 Idaho Code.

39 (24) "Restricted network provision" means any provision of a health
40 benefit plan that conditions the payment of benefits, in whole or in part,
41 on the use of health care providers that have entered into a contractual
42 arrangement with the carrier to provide health care services to covered in-
43 dividuals.

44 (25) "Risk-assuming carrier" means a carrier whose application is ap-
45 proved by the director pursuant to section 41-5210, Idaho Code.

46 (26) "Individual carrier" means a carrier that offers health benefit
47 plans covering eligible individuals and their dependents.