

IN THE SENATE

SENATE BILL NO. 1118

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO HEALTH CARE POLICIES; AMENDING SECTION 41-2210, IDAHO
2 CODE, TO PROVIDE CERTAIN COVERAGE UNDER GROUP AND BLANKET
3 POLICIES TO UNMARRIED DOMESTIC PARTNERS; AMENDING CHAPTER 40,
4 TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-4026,
5 IDAHO CODE, TO PROVIDE CERTAIN COVERAGE UNDER HEALTH BENEFIT
6 PLANS TO UNMARRIED DOMESTIC PARTNERS; AMENDING CHAPTER 41,
7 TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-4126,
8 IDAHO CODE, TO PROVIDE CERTAIN COVERAGE UNDER JOINT PUBLIC
9 AGENCY SELF-FUNDED PLANS TO UNMARRIED DOMESTIC PARTNERS;
10 AND AMENDING SECTION 41-4708, IDAHO CODE, TO PROVIDE CERTAIN
11 COVERAGE UNDER SELF-FUNDED PLANS TO UNMARRIED DOMESTIC
12 PARTNERS.
13

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

15 SECTION 1. That Section 41-2210, Idaho Code, be, and the same is hereby amended to
16 read as follows:

17 41-2210. REQUIRED PROVISION IN GROUP AND BLANKET POLICIES. (1) Any
18 group disability insurance contract or blanket disability insurance contract, delivered or issued
19 for delivery in this state which provides coverage for injury or sickness for newborn dependent
20 children of subscribers or other members of the covered group, shall provide coverage for
21 such newborn children, including adopted newborn children that are placed with the adoptive
22 subscriber or other member of the covered group within sixty (60) days of the adopted child's
23 date of birth, from and after the moment of birth. Coverage under the contract for an adopted
24 newborn child placed with the adoptive subscriber or other member of the covered group more
25 than sixty (60) days after the birth of the adopted child shall be from and after the date the
26 child is so placed. Coverage provided in accord with this section shall include, but not be
27 limited to, coverage for congenital anomalies. For the purposes of this section, "child" means
28 an individual who has not attained age eighteen (18) years as of the date of the adoption
29 or placement for adoption. For the purposes of this section, "placed" shall mean physical
30 placement in the care of the adoptive subscriber or other member of the covered group, or in
31 those circumstances in which such physical placement is prevented due to the medical needs of
32 the child requiring placement in a medical facility, it shall mean when the adoptive subscriber
33 or other member of the covered group signs an agreement for adoption of such child and signs
34 an agreement assuming financial responsibility for such child. Prior to legal finalization of
35 adoption, the coverage required under the provisions of this subsection (1) as to a child placed
36 for adoption with a subscriber or other member of the covered group continues in the same
37 manner as it would with respect to a naturally born child of the subscriber or other member of
38 the covered group until the first to occur of the following events:

1 (a) Date the child is removed permanently from that placement and the legal obligation
2 terminates; or

3 (b) The date the subscriber or other member of the covered group rescinds, in writing,
4 the agreement of adoption or agreement assuming financial responsibility.

5 (2) An insurer shall not restrict coverage under a group disability insurance contract
6 or a blanket disability insurance contract of any dependent child adopted by a participant or
7 beneficiary, or placed with a participant or beneficiary for adoption, solely on the basis of
8 a preexisting condition of a child at the time the child would otherwise become eligible for
9 coverage under the plan, if the adoption or placement for adoption occurs while the participant
10 or beneficiary is eligible for coverage under the plan.

11 (3) Any group disability insurance contract or blanket disability insurance contract
12 delivered or issued for delivery in this state shall provide that an unmarried child under the
13 age of twenty-one (21) years or an unmarried child who is a full-time student under the age of
14 twenty-five (25) years and who is financially dependent upon the parent shall be permitted to
15 remain on the parent's or parents' contract. Further, any unmarried child of any age who is
16 medically certified as disabled and financially dependent upon the parent is permitted to remain
17 on the parent's or parents' contract.

18 (4) No policy of disability insurance which provides maternity benefits for a person
19 covered continuously from conception shall be issued, amended, delivered, or renewed in this
20 state on or after January 1, 1977, if it contains any exclusion, reduction, or other limitations
21 as to coverage, deductibles, or coinsurance provisions, as to involuntary complications of
22 pregnancy, unless such provisions apply generally to all benefits paid under the policy. If a
23 fixed amount is specified in such policy for surgery, the fixed amounts for surgical procedures
24 involving involuntary complications of pregnancy shall be commensurate with other fixed
25 amounts payable for procedures of comparable difficulty and severity. In a case where a fixed
26 amount is payable for maternity benefits, involuntary complications of pregnancy shall be
27 deemed an illness and entitled to benefits otherwise provided by the policy. Where the policy
28 contains a maternity deductible, the maternity deductible shall apply only to expenses resulting
29 from normal delivery and cesarean section delivery; however, expenses for cesarean section
30 delivery in excess of the deductible shall be treated as expenses for any other illness under
31 the policy. This section shall apply to all disability policies except any group disability policy
32 made subject to an applicable collective-bargaining agreement in effect before January 1, 1977.

33 For purposes of this section, involuntary complications of pregnancy shall include, but not
34 be limited to, puerperal infection, eclampsia, cesarean section delivery, ectopic pregnancy, and
35 toxemia.

36 All policies subject to this section and issued, amended, delivered, or renewed in this state
37 on or after January 1, 1977, shall be construed to be in compliance with this section, and any
38 provision in any such policy which is in conflict with this section shall be of no force or effect.

39 (5) From and after January 1, 1998, no policy of disability insurance which provides
40 medical expense maternity benefits, shall restrict benefits for any hospital length of stay in
41 connection with childbirth for the mother or newborn child in a manner that would be in
42 conflict with the newborns' and mothers' health protection act of 1996.

43 (6) At the request of an employer, all group disability insurance contracts or blanket
44 disability insurance contracts, delivered or issued for delivery in this state which provide
45 coverage for the spouse of the insured must provide the same coverage that is available to such
46 spouse to the unmarried domestic partner of the insured on the same terms.

1 (a) As used in this subsection, "unmarried domestic partner" means a person who
 2 has entered into a committed interdependent relationship with another adult, where the
 3 partners:

4 (i) Are responsible for each other's common welfare;

5 (ii) Share a common residence and intend to do so indefinitely;

6 (iii) Are not related by blood or adoption to an extent that would prohibit marriage
 7 in this state; and

8 (iv) Are legally competent and qualified to enter into a contract.

9 (b) For purposes of this subsection, unmarried domestic partners may share a common
 10 residence, even if they do not each have a legal right to possess the residence or one
 11 (1) or both unmarried domestic partners possess additional real property. If one (1)
 12 unmarried domestic partner temporarily leaves the common residence with the intention
 13 of returning, the unmarried domestic partners shall continue to share a common residence
 14 for the purposes of this subsection.

15 SECTION 2. That Chapter 40, Title 41, Idaho Code, be, and the same is hereby amended
 16 by the addition thereto of a NEW SECTION, to be known and designated as Section 41-4026,
 17 Idaho Code, and to read as follows:

18 41-4026. UNMARRIED DOMESTIC PARTNER COVERAGE. (1) At the request of
 19 an employer, all self-funded plans which provide coverage for the spouse of the insured must
 20 provide the same coverage that is available to such spouse to the unmarried domestic partner of
 21 the insured on the same terms.

22 (2) As used in this section, "unmarried domestic partner" means a person who has
 23 entered into a committed interdependent relationship with another adult, where the partners:

24 (a) Are responsible for each other's common welfare;

25 (b) Share a common residence and intend to do so indefinitely;

26 (c) Are not related by blood or adoption to an extent that would prohibit marriage in this
 27 state; and

28 (d) Are legally competent and qualified to enter into a contract.

29 (3) For purposes of this section, unmarried domestic partners may share a common
 30 residence, even if they do not each have a legal right to possess the residence or one (1) or both
 31 unmarried domestic partners possess additional real property. If one (1) unmarried domestic
 32 partner temporarily leaves the common residence with the intention of returning, the unmarried
 33 domestic partners shall continue to share a common residence for the purposes of this section.

34 SECTION 3. That Chapter 41, Title 41, Idaho Code, be, and the same is hereby amended
 35 by the addition thereto of a NEW SECTION, to be known and designated as Section 41-4126,
 36 Idaho Code, and to read as follows:

37 41-4126. UNMARRIED DOMESTIC PARTNER COVERAGE. (1) At the request of an
 38 employer, all joint public agency self-funded plans which provide coverage for the spouse of
 39 the insured must provide the same coverage that is available to such spouse to the unmarried
 40 domestic partner of the insured on the same terms.

41 (2) As used in this section, "unmarried domestic partner" means a person who has
 42 entered into a committed interdependent relationship with another adult, where the partners:

43 (a) Are responsible for each other's common welfare;

1 (b) Share a common residence and intend to do so indefinitely;

2 (c) Are not related by blood or adoption to an extent that would prohibit marriage in this
3 state; and

4 (d) Are legally competent and qualified to enter into a contract.

5 (3) For purposes of this section, unmarried domestic partners may share a common
6 residence, even if they do not each have a legal right to possess the residence or one (1) or both
7 unmarried domestic partners possess additional real property. If one (1) unmarried domestic
8 partner temporarily leaves the common residence with the intention of returning, the unmarried
9 domestic partners shall continue to share a common residence for the purposes of this section.

10 SECTION 4. That Section 41-4708, Idaho Code, be, and the same is hereby amended to
11 read as follows:

12 41-4708. AVAILABILITY OF COVERAGE – PREEXISTING CONDITIONS –
13 PORTABILITY. (1) Every small employer carrier shall, as a condition of offering health benefit
14 plans in this state to small employers, actively offer to small employers all benefit plans,
15 including the small employer basic health benefit plan, the small employer standard health
16 benefit plan, and the small employer catastrophic health benefit plan.

17 (2) (a) A small employer carrier shall file with the director, in a format and manner
18 prescribed by the director, the small employer basic, standard and catastrophic health
19 benefit plans to be used by the carrier. A health benefit plan filed pursuant to the
20 provisions of this paragraph may be used by a small employer carrier beginning thirty
21 (30) days after it is filed unless the director disapproves its use.

22 (b) The director at any time may, after providing notice and an opportunity for a hearing
23 to the small employer carrier, disapprove the continued use by a small employer carrier of
24 a basic, standard or catastrophic health benefit plan on the grounds that the plan does not
25 meet the requirements of this chapter.

26 (3) Health benefit plans covering small employers shall comply with the following
27 provisions:

28 (a) A health benefit plan shall not deny, exclude or limit benefits for a covered individual
29 for covered expenses incurred more than twelve (12) months following the effective date
30 of the individual's coverage due to a preexisting condition. A health benefit plan shall
31 not define a preexisting condition more restrictively than a condition, whether physical
32 or mental, regardless of the cause of the condition, for which medical advice, diagnosis,
33 care or treatment was recommended or received during the six (6) months immediately
34 preceding the effective date of coverage.

35 (b) Genetic information shall not be considered as a condition described in this
36 subsection in the absence of a diagnosis of the condition related to such information.

37 (c) A health benefit plan shall waive any time period applicable to a preexisting
38 condition exclusion or limitation period with respect to particular services for the period
39 of time an individual was previously covered by qualifying previous coverage that
40 provided benefits with respect to such services, provided that the qualifying previous
41 coverage was continuous to a date not more than sixty-three (63) days prior to the
42 effective date of the new coverage. The period of continuous coverage shall not include
43 any waiting period for the effective date of the new coverage applied by the employer or
44 the carrier. This paragraph does not preclude application of any waiting period applicable
45 to all new enrollees under the health benefit plan.

1 (d) A health benefit plan may exclude coverage for late enrollees for the greater of
 2 twelve (12) months or for a twelve (12) month preexisting condition exclusion; provided
 3 that if both a period of exclusion from coverage and a preexisting condition exclusion are
 4 applicable to a late enrollee, the combined period shall not exceed twelve (12) months
 5 from the date the individual enrolls for coverage under the health benefit plan.

6 (e) (i) Except as provided in paragraph (e)(iv) of this subsection, requirements used by
 7 a small employer carrier in determining whether to provide coverage to a small
 8 employer, including requirements for minimum participation of eligible employees
 9 and minimum employer contributions, shall be applied uniformly among all small
 10 employers with the same number of eligible employees applying for coverage or
 11 receiving coverage from the small employer carrier.

12 (ii) A small employer carrier may vary application of minimum participation
 13 requirements and minimum employer contribution requirements only by the size
 14 of the small employer group.

15 (iii) In applying minimum participation requirements with respect to a small
 16 employer, a small employer carrier shall not consider employees or dependents
 17 who have qualifying existing coverage in determining whether the applicable
 18 percentage of participation is met.

19 (iv) A small employer carrier shall not increase any requirement for minimum
 20 employee participation or any requirement for minimum employer contribution
 21 applicable to a small employer at any time after the small employer has been
 22 accepted for coverage.

23 (f) (i) If a small employer carrier offers coverage to a small employer, the small
 24 employer carrier shall offer coverage to all of the eligible employees of a small
 25 employer and their dependents. A small employer carrier shall not offer coverage
 26 to only certain individuals in a small employer group or to only part of the group,
 27 except in the case of late enrollees as provided in paragraph (d) of this subsection.

28 (ii) A small employer carrier shall not modify a basic, standard or catastrophic
 29 health benefit plan with respect to a small employer or any eligible employee
 30 or dependent through riders, endorsements or otherwise, to restrict or exclude
 31 coverage for certain diseases or medical conditions otherwise covered by the
 32 health benefit plan.

33 (4) (a) A small employer carrier shall not be required to offer coverage or accept
 34 applications pursuant to the provisions of subsection (1) of this section in the case of the
 35 following:

36 (i) To a small employer, where the small employer is not physically located in
 37 the carrier's established geographic service area;

38 (ii) To an employee, when the employee does not work or reside within the
 39 carrier's established geographic service area; or

40 (iii) Within an area where the small employer carrier reasonably anticipates, and
 41 demonstrates to the satisfaction of the director, that it will not have the capacity
 42 within its established geographic service area to deliver service adequately to the
 43 members of such groups because of its obligations to existing group policyholders
 44 and enrollees.

45 (b) A small employer carrier that cannot offer coverage pursuant to the provisions of
 46 subsection (4)(a)(iii) of this section may not offer coverage in the applicable area to new

1 cases of employer groups with more than fifty (50) eligible employees or to any small
2 employer groups until the later of one hundred eighty (180) days following each such
3 refusal or the date on which the carrier notifies the director that it has regained capacity to
4 deliver services to small employer groups.

5 (5) A small employer carrier shall not be required to provide coverage to small
6 employers pursuant to the provisions of subsection (1) of this section for any period of time for
7 which the director determines that requiring the acceptance of small employers in accordance
8 with the provisions of subsection (1) of this section would place the small employer carrier in a
9 financially impaired condition.

10 (6) At the request of an employer, all health benefit plans offered to small employers
11 under this chapter which provide coverage for the spouse of the insured must provide the same
12 coverage that is available to such spouse to the unmarried domestic partner of the insured on
13 the same terms.

14 (a) As used in this subsection, "unmarried domestic partner" means a person who
15 has entered into a committed interdependent relationship with another adult, where the
16 partners:

17 (i) Are responsible for each other's common welfare;

18 (ii) Share a common residence and intend to do so indefinitely;

19 (iii) Are not related by blood or adoption to an extent that would prohibit marriage
20 in this state; and

21 (iv) Are legally competent and qualified to enter into a contract.

22 (b) For purposes of this subsection, unmarried domestic partners may share a common
23 residence, even if they do not each have a legal right to possess the residence or one
24 (1) or both unmarried domestic partners possess additional real property. If one (1)
25 unmarried domestic partner temporarily leaves the common residence with the intention
26 of returning, the unmarried domestic partners shall continue to share a common residence
27 for the purposes of this subsection.