

STATEMENT OF PURPOSE

RS 20857

Idaho Code sections 41-4706 and 41-5206 provide standards for small employer and individual health insurance rates including what are permissible case characteristics and permissible rate increases. This proposal will add the general standards that rates shall not be excessive, inadequate, nor unfairly discriminatory, and provide rulemaking authority to further describe and explain these standards. The proposal also adds the immunization assessments under Chapter 60, Title 41, Idaho Code, to the list of other assessments that should not be considered for purposes of rate calculations.

Most of the information submitted to the Department of Insurance supporting a small employer or individual health carrier's rates is considered to be proprietary and not subject to public disclosure. Language in this proposed legislation would remove potential confusion to provide that to the extent other applicable law provides for public disclosure of a health carrier's rates, that information would be subject to public disclosure.

FISCAL NOTE

None.

CONTACT

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 LEGISLATURE OF THE STATE OF IDAHO
 Sixty-first Legislature Second Regular Session - 2012

IN THE _____

BILL NO. _____

BY _____

AN ACT

1 RELATING TO SMALL EMPLOYER AND INDIVIDUAL HEALTH INSURANCE RATES; AMENDING
 2 SECTION 41-4706, IDAHO CODE, TO ADD IMMUNIZATION ASSESSMENTS SPECI-
 3 FIED UNDER CHAPTER 60, TITLE 41, IDAHO CODE, TO THE LIST OF ASSESSMENTS
 4 EXCLUDED, TO PROVIDE GENERAL STANDARDS FOR SMALL EMPLOYER RATES, TO
 5 PROVIDE RULEMAKING, TO REVISE A CODE REFERENCE AND TO PROVIDE THAT CER-
 6 TAIN INFORMATION SHALL BE PUBLIC IF REQUIRED BY OTHER APPLICABLE LAW;
 7 AND AMENDING SECTION 41-5206, IDAHO CODE, TO ADD IMMUNIZATION ASSESS-
 8 MENTS SPECIFIED UNDER CHAPTER 60, TITLE 41, IDAHO CODE, TO THE LIST
 9 OF ASSESSMENTS EXCLUDED, TO PROVIDE GENERAL STANDARDS FOR INDIVIDUAL
 10 RATES, TO PROVIDE RULEMAKING AND TO PROVIDE THAT CERTAIN INFORMATION
 11 SHALL BE PUBLIC IF REQUIRED BY OTHER APPLICABLE LAW.
 12

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

14 SECTION 1. That Section 41-4706, Idaho Code, be, and the same is hereby
 15 amended to read as follows:

16 41-4706. RESTRICTIONS RELATING TO PREMIUM RATES. (1) Premium rates
 17 for health benefit plans subject to the provisions of this chapter shall be
 18 subject to the following provisions:

19 (a) The index rate for a rating period for any class of business shall
 20 not exceed the index rate for any other class of business by more than
 21 twenty percent (20%).

22 (b) For a class of business, the premium rates charged during a rat-
 23 ing period to small employers with similar case characteristics for the
 24 same or similar coverage, or the rates that could be charged to such em-
 25 ployers under the rating system for that class of business, shall not
 26 vary from the index rate by more than fifty percent (50%) of the index
 27 rate.

28 (c) The percentage increase in the premium rate charged to a small em-
 29 ployer for a new rating period may not exceed the sum of the following:

30 (i) The percentage change in the new business premium rate mea-
 31 sured from the first day of the prior rating period to the first
 32 day of the new rating period. In the case of a health benefit plan
 33 into which the small employer carrier is no longer enrolling new
 34 small employers, the small employer carrier shall use the percent-
 35 age change in the base premium rate, provided that such change does
 36 not exceed, on a percentage basis, the change in the new business
 37 premium rate for the most similar health benefit plan into which
 38 the small employer carrier is actively enrolling new small employ-
 39 ers;

40 (ii) Any adjustment, not to exceed fifteen percent (15%) annually
 41 and adjusted pro rata for rating periods of less than one (1) year,
 42 due to the claim experience, health status or duration of cover-

1 age of the employees or dependents of the small employer as deter-
2 mined from the small employer carrier's rate manual for the class
3 of business; and

4 (iii) Any adjustment due to change in coverage or change in the
5 case characteristics of the small employer as determined from the
6 small employer carrier's rate manual for the class of business.

7 (d) Adjustments in rates for claim experience, health status and du-
8 ration of coverage shall not be charged to individual employees or de-
9 pendents. Any such adjustment shall be applied uniformly to the rates
10 charged for all employees and dependents of the small employer.

11 (e) Premium rates for health benefit plans shall comply with the re-
12 quirements of this section notwithstanding any assessments paid or
13 payable by small employer carriers pursuant to section 41-4711, Idaho
14 Code, or chapter 55 or 60, title 41, Idaho Code.

15 (f) (i) Small employer carriers shall apply rating factors, includ-
16 ing case characteristics, consistently with respect to all small
17 employers in a class of business. Rating factors shall produce
18 premiums for identical groups which differ only by the amounts at-
19 tributable to plan design and do not reflect differences due to the
20 nature of the groups assumed to select particular health benefit
21 plans; and

22 (ii) A small employer carrier shall treat all health benefit plans
23 issued or renewed in the same calendar month as having the same
24 rating period.

25 (g) For the purposes of this subsection, a health benefit plan that
26 utilizes a restricted provider network shall not be considered similar
27 coverage to a health benefit plan that does not utilize such a network,
28 provided that utilization of the restricted provider network results in
29 substantial differences in claims costs.

30 (h) The small employer carrier shall not use case characteristics,
31 other than age, individual tobacco use, geography, as defined by rule of
32 the director, or gender, without prior approval of the director.

33 (i) A small employer carrier may utilize age as a case characteristic in
34 establishing premium rates, provided that the same rating factor shall
35 be applied to all dependents under twenty-five (25) years of age, and
36 the same rating factor may be applied on an annual basis as to individu-
37 als or nondependents twenty (20) years of age or older.

38 (j) The director may establish rules to implement the provisions of
39 this section and to assure that rating practices used by small employer
40 carriers are consistent with the purposes of this chapter, including
41 rules that:

42 (i) Assure that differences in rates charged for health benefit
43 plans by small employer carriers are reasonable and reflect objec-
44 tive differences in plan design, not including differences due to
45 the nature of the groups assumed to select particular health bene-
46 fit plans;

47 (ii) Prescribe the manner in which case characteristics may be
48 used by small employer carriers; and

49 (iii) Prescribe the manner in which a small employer carrier is to
50 demonstrate compliance with the provisions of this section, in-

1 cluding requirements that a small employer carrier provide the di-
2 rector with actuarial certification as to such compliance; and
3 (iv) Set forth what constitutes excessive, inadequate or unfairly
4 discriminatory rates and the requirements for rate filings to be
5 made with the department of insurance.

6 (2) A small employer carrier shall not transfer a small employer invol-
7 untarily into or out of a class of business. A small employer carrier shall
8 not offer to transfer a small employer into or out of a class of business un-
9 less such offer is made to transfer all small employers in the class of busi-
10 ness without regard to case characteristics, claim experience, health sta-
11 tus or duration of coverage since issue.

12 (3) The director may suspend for a specified period the application of
13 subsection (1) (a) of this section as to the premium rates applicable to one
14 (1) or more small employers included within a class of business of a small em-
15 ployer carrier for one (1) or more rating periods upon a filing by the small
16 employer carrier and a finding by the director either that the suspension is
17 reasonable in light of the financial condition of the small employer carrier
18 or that the suspension would enhance the efficiency and fairness of the mar-
19 ketplace for small employer health insurance.

20 (4) In connection with the offering for sale of any health benefit plan
21 to a small employer, a small employer carrier shall make a reasonable disclo-
22 sure, as part of its solicitation and sales materials, of all of the follow-
23 ing:

24 (a) The extent to which premium rates for a specified small employer are
25 established or adjusted based upon the actual or expected variation in
26 claims costs or actual or expected variation in health status of the em-
27 ployees of the small employer and their dependents;

28 (b) The provisions of the health benefit plan concerning the small em-
29 ployer carrier's right to change premium rates and the factors, other
30 than claim experience, that affect changes in premium rates;

31 (c) The provisions relating to renewability of policies and contracts;
32 and

33 (d) The provisions relating to any preexisting condition provision.

34 (5) (a) Each small employer carrier shall maintain at its principal
35 place of business a complete and detailed description of its rating
36 practices and renewal underwriting practices, including information
37 and documentation that demonstrate that its rating methods and prac-
38 tices are based upon commonly accepted actuarial assumptions and are in
39 accordance with sound actuarial principles.

40 (b) Each small employer carrier shall file with the director annually
41 on or before March 15, an actuarial certification certifying that the
42 carrier is in compliance with the provisions of this chapter and that
43 the rating methods of the small employer carrier are actuarially sound.
44 Such certification shall be in a form and manner, and shall contain such
45 information, as specified by the director. A copy of the certification
46 shall be retained by the small employer carrier at its principal place
47 of business.

48 (c) A small employer carrier shall make the information and documen-
49 tation described in subsection (45) (a) of this section available to
50 the director upon request. Except in cases of violations of the provi-

1 sions of this chapter, the information shall be considered proprietary
2 and trade secret information and shall not be subject to disclosure
3 by the director to persons outside of the department except as agreed
4 to by the small employer carrier or as ordered by a court of competent
5 jurisdiction. Notwithstanding the foregoing or any other applicable
6 exemption from public disclosure set forth in chapter 3, title 9, Idaho
7 Code, the director shall make any information consisting of or related
8 to rating material available to the public that is otherwise required
9 by applicable law to be made public. Information that shall be avail-
10 able to the public includes, but is not limited to, the information set
11 forth in part I, rate increase summary, and part II, written description
12 justifying the rate increase, as described in 45 CFR 154.215, and the
13 director's final determination related to such filings as described in
14 45 CFR 154.210(b) (2).

15 (6) Premium rates charged for a health benefit plan as defined in chap-
16 ter 47, title 41, Idaho Code, shall not be excessive, inadequate or unfairly
17 discriminatory. A premium rate is excessive if the rate is unreasonably high
18 for the coverage provided. A premium rate is inadequate if the rate is unrea-
19 sonably low for the coverage provided and the continued use of the rate would
20 endanger the solvency of the insurer or disrupt the insurance marketplace. A
21 premium rate is unfairly discriminatory if it is a higher or lower rate for
22 the same benefits than that charged to any other person of the same class or
23 group with like expectations of loss.

24 SECTION 2. That Section 41-5206, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 41-5206. RESTRICTIONS RELATING TO PREMIUM RATES. (1) Premium rates
27 for health benefit plans subject to the provisions of this chapter shall be
28 subject to the following provisions:

29 (a) The premium rates charged during a rating period to individuals
30 with similar case characteristics for the same or similar coverage, or
31 the rates that could be charged to such individuals under the rating
32 system, shall not vary from the index rate by more than fifty percent
33 (50%) of the index rate.

34 (b) The percentage increase in the premium rate charged to an individ-
35 ual for a new rating period may not exceed the sum of the following:

36 (i) The percentage change in the new business premium rate mea-
37 sured from the first day of the prior rating period to the first
38 day of the new rating period. In the case of a health benefit plan
39 into which the individual carrier is no longer enrolling new indi-
40 viduals, the individual carrier shall use the percentage change in
41 the base premium rate, provided that such change does not exceed,
42 on a percentage basis, the change in the new business premium rate
43 for the most similar health benefit plan into which the individual
44 carrier is actively enrolling new individuals.

45 (ii) Any adjustment, not to exceed fifteen percent (15%) annually
46 and adjusted pro rata for rating periods of less than one (1) year,
47 due to the claim experience, health status or duration of coverage
48 of the individual or dependents as determined from the individual
49 carrier's rate manual; and

1 (iii) Any adjustment due to change in coverage or change in the
2 case characteristics of the individual as determined from the in-
3 dividual carrier's rate manual.

4 (c) Premium rates for health benefit plans shall comply with the re-
5 quirements of this section notwithstanding any assessments paid or
6 payable by carriers pursuant to section 41-4711, Idaho Code, or chapter
7 55 or 60, title 41, Idaho Code.

8 (d) (i) Individual carriers shall apply rating factors, including
9 case characteristics, consistently with respect to all individu-
10 als. Rating factors shall produce premiums for identical individ-
11 uals which differ only by the amounts attributable to plan design
12 and do not reflect differences due to the nature of the individuals
13 assumed to select particular health benefit plans; and

14 (ii) An individual carrier shall treat all health benefit plans
15 issued or renewed in the same calendar month as having the same
16 rating period.

17 (e) For purposes of this subsection, a health benefit plan that uti-
18 lizes a restricted provider network shall not be considered similar
19 coverage to a health benefit plan that does not utilize such a network,
20 provided that utilization of the restricted provider network results in
21 substantial differences in claims costs.

22 (f) The individual carrier shall not use case characteristics, other
23 than age, individual tobacco use, geography as defined by rule of the
24 director, or gender, without prior approval of the director.

25 (g) An individual carrier may utilize age as a case characteristic in
26 establishing premium rates, provided that the same rating factor shall
27 be applied to all dependents under twenty-five (25) years of age, and
28 the same rating factor may be applied on an annual basis as to individu-
29 als or nondependents twenty (20) years of age or older.

30 (h) The director may establish rules to implement the provisions of
31 this section and to assure that rating practices used by individual car-
32 riers are consistent with the purposes of this chapter, including rules
33 that:

34 (i) Assure that differences in rates charged for health benefit
35 plans by individual carriers are reasonable and reflect objective
36 differences in plan design, not including differences due to the
37 nature of the individuals assumed to select particular health ben-
38 efit plans;

39 (ii) Prescribe the manner in which case characteristics may be
40 used by individual carriers; ~~and~~

41 (iii) Prescribe the manner in which an individual carrier is to
42 demonstrate compliance with the provisions of this section, in-
43 cluding requirements that an individual carrier provide the di-
44 rector with actuarial certification as to such compliance; and

45 (iv) Set forth what constitutes excessive, inadequate or unfairly
46 discriminatory rates and the requirements for rate filings to be
47 made with the department of insurance.

48 (2) The director may suspend for a specified period the application of
49 subsection (1)(a) of this section as to the premium rates applicable to one
50 (1) or more individuals for one (1) or more rating periods upon a filing by

1 the individual carrier and a finding by the director either that the suspen-
2 sion is reasonable in light of the financial condition of the individual car-
3 rier or that the suspension would enhance the efficiency and fairness of the
4 marketplace for individual health insurance.

5 (3) In connection with the offering for sale of any health benefit plan
6 to an individual, an individual carrier shall make a reasonable disclosure,
7 as part of its solicitation and sales materials, of all of the following:

8 (a) The extent to which premium rates for an individual are established
9 or adjusted based upon the actual or expected variation in claims costs
10 or actual or expected variation in health status of the individual and
11 his dependents;

12 (b) The provisions of the health benefit plan concerning the individ-
13 ual carrier's right to change premium rates and the factors, other than
14 claim experience, that affect changes in premium rates;

15 (c) The provisions relating to renewability of policies and contracts;
16 and

17 (d) The provisions relating to any preexisting condition provision.

18 (4) (a) Each individual carrier shall maintain at its principal place
19 of business a complete and detailed description of its rating practices
20 and renewal underwriting practices, including information and documen-
21 tation that demonstrate that its rating methods and practices are based
22 upon commonly accepted actuarial assumptions and are in accordance with
23 sound actuarial principles.

24 (b) Each individual carrier shall file with the director annually on
25 or before September 15, an actuarial certification certifying that the
26 carrier is in compliance with the provisions of this chapter and that
27 the rating methods of the individual carrier are actuarially sound.
28 Such certification shall be in a form and manner, and shall contain such
29 information, as specified by the director. A copy of the certification
30 shall be retained by the individual carrier at its principal place of
31 business.

32 (c) An individual carrier shall make the information and documenta-
33 tion described in subsection (4) (a) of this section available to the
34 director upon request. Except in cases of violations of the provisions
35 of this chapter, the information shall be considered proprietary and
36 trade secret information and shall not be subject to disclosure by the
37 director to persons outside of the department except as agreed to by
38 the individual carrier or as ordered by a court of competent jurisdic-
39 tion. Notwithstanding the foregoing or any other applicable exemption
40 from public disclosure set forth in chapter 3, title 9, Idaho Code, the
41 director shall make any information consisting of or related to rating
42 material available to the public that is otherwise required by appli-
43 cable law to be made public. Information that shall be available to
44 the public includes, but is not limited to, the information set forth
45 in part I, rate increase summary, and part II, written description
46 justifying the rate increase, as described in 45 CFR 154.215, and the
47 director's final determination related to such filings as described in
48 45 CFR 154.210(b) (2) .

49 (5) Premium rates charged for a health benefit plan as defined in chap-
50 ter 52, title 41, Idaho Code, shall not be excessive, inadequate or unfairly

1 discriminatory. A premium rate is excessive if the rate is unreasonably high
2 for the coverage provided. A premium rate is inadequate if the rate is unrea-
3 sonably low for the coverage provided and the continued use of the rate would
4 endanger the solvency of the insurer or disrupt the insurance marketplace. A
5 premium rate is unfairly discriminatory if it is a higher or lower rate for
6 the same benefits than that charged to any other person of the same class or
7 group with like expectations of loss.