

IN THE SENATE

SENATE BILL NO. 1081

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1
2 RELATING TO SELF-FUNDED HEALTH CARE PLANS; AMENDING SECTION 41-4002, IDAHO
3 CODE, TO DEFINE A TERM AND TO REVISE DEFINITIONS; AMENDING SECTION
4 41-4010, IDAHO CODE, TO PROVIDE RESERVES AND SURPLUS REQUIREMENTS OF
5 PUBLIC POSTSECONDARY EDUCATIONAL INSTITUTIONS WITH A PUBLIC POSTSEC-
6 ONDARY EDUCATIONAL INSTITUTION PLAN.

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

8 SECTION 1. That Section 41-4002, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 41-4002. DEFINITIONS. For the purposes of this chapter unless context
11 otherwise requires:

12 (1) "Administrator" is a person, if other than the trustee, employed
13 or contracted by the trustee to provide administrative services to a self-
14 funded plan.

15 (2) "Beneficiary" is any individual entitled, under the self-funded
16 plan, to payment by the trust fund of any part or all of the cost of any health
17 care service rendered to such beneficiary.

18 (3) "Claims liability" is the total of all incurred and unpaid claims,
19 including incurred but not reported claims, for allowable benefits under a
20 self-funded plan that are not reimbursed or reimbursable by stop-loss insur-
21 ance provided by a carrier authorized to transact insurance in this state.

22 (4) "Contribution" is the amount paid or payable by the employer or
23 employee, or a postsecondary educational institution or student, into the
24 trust fund.

25 (5) "Department" is the Idaho department of insurance.

26 (6) "Director" is the director of the department of insurance.

27 (7) "Irrevocable trust agreement" is a trust agreement whereby under
28 the terms thereof the plan sponsor cannot retain the power to alter, amend,
29 revoke or terminate the transfer of funds or property held in trust.

30 (8) "Multiple employer welfare arrangement" or "multiple employer wel-
31 fare plan" shall have the same meaning as that given to the term "multiple em-
32 ployer welfare arrangement" by the employee retirement income security act
33 of 1974, as amended.

34 (9) "Person" is any individual, corporation, limited liability com-
35 pany, partnership, association, firm, syndicate, organization, educational
36 institution or any other public or private entity organized or recognized
37 under the laws of the state of Idaho.

38 (10) "Plan sponsor" is any person who creates a self-funded health bene-
39 fit plan for the benefit of any employer and employee or employees, or a post-
40 secondary educational institution and student or students.

41 (11) "Postsecondary educational institution" is a person whose primary
42 purpose is to provide a postsecondary education that offers or awards edu-

1 cational degrees and that provides courses or programs that lead to an edu-
 2 cational degree, that is legally authorized and maintains a presence in the
 3 state of Idaho, and that has an average annualized enrollment of eight hun-
 4 dred (800) or more full-time students located in Idaho.

5 (12) "Public postsecondary educational institution" means Boise State
 6 University, Idaho State University, Lewis-Clark State College and the Uni-
 7 versity of Idaho, along with the board of regents and board of trustees
 8 thereof.

9 (13) "Qualified actuary" is an actuary having experience in establish-
 10 ing rates for a self-funded plan and the health services being provided, and
 11 who is also a fellow of the society of actuaries, a member of the American
 12 academy of actuaries or an enrolled actuary under the employee retirement
 13 income security act of 1974, as amended.

14 (134) "Self-funded plan" or "plan" is any single employer plan, public
 15 postsecondary educational institution plan, or multiple employer welfare
 16 plan, or any other single or multiple employer plan, or any postsecondary
 17 educational institution student health benefit plan, other than a plan pro-
 18 viding only benefits under title 72, Idaho Code, under which payment for med-
 19 ical, surgical, hospital, and other services for prevention, diagnosis, or
 20 treatment of any disease, injury, or bodily condition of an employee is, or
 21 is to be, regularly provided for or promised from funds created or maintained
 22 in whole or in part by contributions or payments thereto by the employer or
 23 employers, or by the employer or employers and the employees, or by a post-
 24 secondary educational institution and students at said institution, or stu-
 25 dents of a postsecondary educational institution, who are not otherwise cov-
 26 ered by insurance or contract with a health care service corporation or man-
 27 aged care organization authorized to transact business in this state.

28 (145) "Single employer" is any individual, sole proprietorship, busi-
 29 ness, partnership, corporation, limited liability company, firm or any
 30 other form of legally recognized entity or a group of two (2) or more em-
 31 ployers under "common control" as defined in section 3(40)(B)(iii) of the
 32 employee retirement income security act of 1974, as amended.

33 (156) "Student" is an individual enrolled in a postsecondary educa-
 34 tional institution.

35 (167) "Surplus" is the excess of the assets of a self-funded plan minus
 36 the liabilities of the plan, provided the liabilities of a self-funded plan
 37 shall include the claims liability of the plan.

38 (178) "Trust fund" is a trust fund established in conjunction with a
 39 self-funded plan for receipt of contributions of employer and employees,
 40 postsecondary educational institution and students, and payment of or with
 41 respect to health care service costs of beneficiaries.

42 (189) "Trustee" is the trustee, whether a single or multiple trustee, of
 43 the trust fund.

44 SECTION 2. That Section 41-4010, Idaho Code, be, and the same is hereby
 45 amended to read as follows:

46 41-4010. RESERVES AND SURPLUS. (1) The trustee of a self-funded plan
 47 shall establish and maintain in the trust fund the following reserves:

48 (a) A reserve in an amount as certified by a qualified actuary as being
 49 necessary for payment of claims liability. The reserve shall be reason-

1 ably adjusted on a quarterly basis in an amount as determined by a quali-
2 fied actuary or other qualified person if authorized by the director.

3 (b) If, under the plan, periodic contributions to the trust fund have
4 been paid in advance or are payable less frequently than monthly, there
5 shall be a reserve for unearned contributions as computed pro rata on
6 the basis of the unexpired portion of the period for which the contribu-
7 tion has been paid.

8 (c) If future claims payments plus future costs of operation are
9 greater than future contributions plus current reserves, there shall be
10 a reserve in an amount equal to future claims payments plus future costs
11 of operation, less future contributions, less current reserves.

12 (2) In any determination of the financial condition of the trust fund,
13 the claims reserve, reserve for unearned contributions and contribution de-
14 ficiency reserve shall constitute liabilities.

15 (3) In addition to reserves required by this section, a self-funded
16 plan shall establish and maintain in its trust fund surplus equal to at
17 least:

18 (a) The equivalence of three (3) months of contributions for the cur-
19 rent plan year; or

20 (b) One hundred ten percent (110%) of the difference between the total
21 dollar aggregate stop-loss attachment point plus costs of operation and
22 the total dollar expected contributions for the current plan year.

23 (c) Paragraphs (a) and (b) of this subsection notwithstanding, a pub-
24 lic postsecondary educational institution shall instead be required to
25 establish and maintain in its trust fund surplus an amount equal to at
26 least thirty percent (30%) of the unpaid claims liability of the plan.

27 (4) A surplus note that has been approved by the director in a form and
28 as defined in section 41-2841, Idaho Code, may be used to fund surplus and
29 shall not be accounted as a liability.

30 (5) Up to one-third (1/3) of the surplus required by this section may be
31 funded by a clean, irrevocable letter of credit, in a form acceptable to the
32 director, issued in favor of the trust fund by a federally or state chartered
33 bank having a branch office in Idaho. Such irrevocable letter of credit can-
34 not be guaranteed by pledge of any of the plan assets. The funding cannot be
35 in the form of prepaid contributions or other loan or associated with an off-
36 setting liability.

37 (6) A newly formed plan with no prior operating history shall meet the
38 minimum surplus requirements no later than twelve (12) months after the date
39 of initial operation. For plans registered with the department and in exis-
40 tence on the effective date of this law, such plans shall have twenty-four
41 (24) months from the effective date of this law in which to increase their
42 surplus level to comply with the requirements of subsection (3) of this sec-
43 tion.

44 (7) The trust fund shall maintain the minimum surplus requirements at
45 all times throughout the year.