LEGISLATURE OF THE STATE OF IDAHO
Sixty-fifth Legislature First Regular Session - 2019

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 275

BY WAYS AND MEANS COMMITTEE

AN ACT
RELATING TO INSURANCE; AMENDING SECTION 41-5203, IDAHO CODE, TO REVISE DEFINITIONS, TO DEFINE TERMS, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-5207, IDAHO CODE, TO PROVIDE FOR ENHANCED SHORT-TERM PLANS AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 52, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-5214, IDAHO CODE, TO PROVIDE FOR ENHANCED SHORT-TERM PLANS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 41-5203, Idaho Code, be, and the same is hereby amended to read as follows:

41-5203. DEFINITIONS. As used in this chapter:
(1) "Actuarial certification" means a written statement by a member of the American academy of actuaries or other individual acceptable to the director that an individual carrier is in compliance with the provisions of section 41-5206, Idaho Code, based upon the person's examination and including a review of the appropriate records and the actuarial assumptions and methods used by the individual carrier in establishing premium rates for applicable health benefit plans.
(2) "Affiliate" or "affiliated" means any entity or person who directly or indirectly through one (1) or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.
(3) "Agent" means a producer as defined in section 41-1003(8), Idaho Code.
(4) "Base premium rate" means, as to a rating period, the lowest premium charged or that could have been charged under a rating system by the individual carrier to individuals with similar case characteristics for health benefit plans with the same or similar coverage.
(5) "Carrier" means any entity that provides health insurance in this state. For purposes of this chapter, carrier includes an insurance company, a hospital or professional service corporation, a fraternal benefit society, a health maintenance organization, any entity providing health insurance coverage or benefits to residents of this state as certificate holders under a group policy issued or delivered outside of this state, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.
(6) "Case characteristics" means demographic or other objective characteristics of an individual that are considered by the individual carrier in the determination of premium rates for the individual, provided that claim experience, health status and duration of coverage shall not be case characteristics for the purposes of this chapter.
(7) "Control" shall be defined in the same manner as in section 41-3802(2), Idaho Code.
(8) "Dependent" in any new or renewing plan means a spouse, an unmarried child under the age of twenty-five (25) years and who receives more than one-half (1/2) of his financial support from the parent, or an unmarried child of any age who is medically certified as disabled and dependent upon the parent.

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

(10) "Eligible individual" means an Idaho resident individual or dependent of an Idaho resident:

(a) Who is under the age of sixty-five (65) years, is not eligible for coverage under a group health plan, part A or part B of title XVIII of the social security act (medicare), or a state plan under title XIX (medicaid) or any successor program, and who does not have other health insurance coverage; or

(b) Who is a federally eligible individual (one who meets the eligibility criteria set forth in the federal health insurance portability and accountability act of 1996, Public Law 104-191, Sec. 2741(b) (HIPAA)). An "eligible individual" can be the dependent of an eligible employee, which eligible employee is receiving health insurance benefits subject to the regulation of title 41, Idaho Code.

(11) "Enhanced short-term plan" means an individual health benefit plan that:

(a) Has an initial period of less than twelve (12) months and is renewable at the option of the individual for up to the number of months established by rules issued pursuant to section 41-5214, Idaho Code; and

(b) Otherwise meets the standards established by rules issued pursuant to section 41-5214, Idaho Code.

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

(123) "Health benefit plan" means any hospital or medical policy or certificate, any subscriber contract provided by a hospital or professional service corporation, or health maintenance organization subscriber contract and includes enhanced short-term plans. Health benefit plan does not include policies or certificates of insurance for specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, medicare supplement, long-term care, or disability income insurance, student health benefits only, coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance, or nonrenewable short-term coverage issued for a period of twelve (12) months or less.

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

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

(16) "Individual carrier" means a carrier that offers health benefit plans covering eligible individuals and their dependents.
"Individual catastrophic A health benefit plan" means a higher limit health benefit plan developed pursuant to chapter 55, title 41, Idaho Code, prior to April 1, 2017.

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

"Individual HSA compatible health benefit plan" means a health savings account compatible health benefit plan developed pursuant to chapter 55, title 41, Idaho Code, prior to April 1, 2017.

"Individual standard health benefit plan" means a health benefit plan developed pursuant to chapter 55, title 41, Idaho Code, prior to April 1, 2017.

"New business premium rate" means, as to a rating period, the lowest premium rate charged or offered or which could have been charged or offered by the individual carrier to individuals with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

"Premium" means all moneys paid by an individual and eligible dependents as a condition of receiving coverage from a carrier, including any fees or other contributions associated with the health benefit plan.

"Qualifying previous coverage" and "qualifying existing coverage" mean benefits or coverage provided under:

(a) Medicare or medicaid, civilian health and medical program for uniformed services (CHAMPUS), the Indian health service program, a state health benefit risk pool, or any other similar publicly sponsored program; or

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

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

"Reinsuring carrier" means a carrier participating in the Idaho individual high-risk reinsurance pool established in chapter 55, title 41, Idaho Code.

"Restricted network provision" means any provision of a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier to provide health care services to covered individuals.

"Risk-assuming carrier" means a carrier whose application is approved by the director pursuant to section 41-5210, Idaho Code.

"Individual carrier" means a carrier that offers health benefit plans covering eligible individuals and their dependents.

SECTION 2. That Section 41-5207, Idaho Code, be, and the same is hereby amended to read as follows:
41-5207. RENEWABILITY OF COVERAGE. (1) A health benefit plan subject to the provisions of this chapter shall be renewable with respect to the individual or dependents, at the option of the individual, except in any of the following cases:
(a) Nonpayment of the required premiums;
(b) Fraud or intentional misrepresentation of material fact by the individual insured or his representatives. An individual whose coverage is terminated for fraud or misrepresentation shall not be deemed to be an "eligible individual" for a period of twelve (12) months from the effective date of the termination of the individual's coverage and shall not be deemed to have "qualifying previous coverage" under chapter 22, 47 or 52, title 41, Idaho Code;
(c) The individual ceases to be an eligible individual as defined in section 41-5203(10), Idaho Code;
(d) In the case of health benefit plans that are made available in the individual market only through one (1) or more associations, as defined in section 41-2202, Idaho Code, the membership of an individual in the association, on the basis of which the coverage is provided ceases, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor relating to any covered individual;
(e) The individual carrier elects, at the time of coverage renewal, to discontinue offering a particular health benefit plan delivered or issued for delivery to individuals in this state. Unless otherwise authorized in advance by the department of insurance, a carrier may discontinue a product only after the product has been in use for at least thirty-six (36) consecutive months, provided the carrier may not discontinue more than fifteen percent (15%) of its total number of individuals and dependents in all lines of business regulated by this chapter in a twelve (12) month period. The carrier shall:
(i) Provide advance written or electronic notice of its decision under this paragraph to the director;
(ii) Provide notice of the discontinuation to all affected individuals at least ninety (90) calendar days prior to the date the particular health benefit plan will be discontinued by the carrier, provided that notice to the director under the provisions of this paragraph shall be provided at least fourteen (14) calendar days prior to the notice to the affected individuals;
(iii) Offer to each affected individual, on a guaranteed issue basis, the option to purchase all other health benefit plans currently being offered by the carrier to individuals in this state;
(iv) Act uniformly without regard to any health status-related factor of an affected individual or dependent of an affected individual who may become eligible for the coverage; and
(v) Offer the new products at rates that comply with section 41-5206(1)(b), Idaho Code.
(f) The individual carrier elects to nonrenew all of its health benefit plans delivered or issued for delivery to individuals in this state. In such a case the carrier shall:
(i) Provide advance notice of its decision under this paragraph to the director; and
(ii) Provide notice of the decision not to renew coverage to all affected individuals and to the director at least one hundred eighty (180) calendar days prior to the nonrenewal of any health benefit plans by the carrier. Notice to the director under the provisions of this paragraph shall be provided at least three (3) working days prior to the notice to the affected individuals; or

(g) The director finds that the continuation of the coverage would:
   (i) Not be in the best interests of the policyholders or certificate holders; or
   (ii) Impair the carrier's ability to meet its contractual obligations.

In such instance, the director shall assist affected individuals in finding replacement coverage; or

(h) The plan is an enhanced short-term plan that has reached the limit of renewability established in rules issued by the director and the individual carrier offers the individual the opportunity to reapply for coverage in accordance with the rules issued by the director.

(2) An individual carrier that elects not to renew a health benefit plan under the provisions of subsection (1)(f) of this section shall be prohibited from writing new business in the individual market in this state for a period of five (5) years from the date of notice to the director.

(3) In the case of an individual carrier doing business in one (1) established geographic service area of the state, the rules set forth in this subsection section shall apply only to the carrier's operations in that service area.

SECTION 3. That Chapter 52, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-5214, Idaho Code, and to read as follows:

41-5214. ENHANCED SHORT-TERM PLANS. The director shall adopt reasonable rules to establish specific standards for enhanced short-term plans. The standards shall be in addition to and in accordance with applicable laws of this state, including this chapter. The standards:

(1) Shall include requirements for renewability that are consistent with federal law regarding short-term, limited duration insurance; and

(2) May include, but need not be limited to:
   (a) A scope of covered benefits, which may be as broad as the scope of covered benefits required to be included in individual health benefit plans that are not deemed short-term, limited duration insurance under federal law;
   (b) Restrictions on premium rate increases when an enhanced short-term plan ceases to be renewable and the individual policyholder reapplies for coverage from the same carrier; and
   (c) Conversion of enhanced short-term plans into fully renewable coverage upon a finding by the director that the conversion complies with law and is in the best interests of the public.
SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.