

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 116

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO INSURANCE; REPEALING SECTION 41-2210D, IDAHO CODE, RELATING
2 TO CONVERSION PLANS; AMENDING SECTION 41-4703, IDAHO CODE, TO RE-
3 MOVE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
4 41-4706, IDAHO CODE, TO REMOVE A CODE REFERENCE AND TO MAKE TECHNICAL
5 CORRECTIONS; AMENDING SECTION 41-4707, IDAHO CODE, TO PROVIDE A
6 CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; REPEALING
7 SECTION 41-4708B, IDAHO CODE, RELATING TO CONVERSION PLANS; REPEALING
8 SECTION 41-4709, IDAHO CODE, RELATING TO NOTICE OF INTENT TO OPERATE
9 AS A RISK-ASSUMING CARRIER OR A REINSURING CARRIER; REPEALING SECTION
10 41-4710, IDAHO CODE, RELATING TO APPLICATIONS TO BECOME A RISK-ASSUM-
11 ING CARRIER; REPEALING SECTION 41-4711, IDAHO CODE, RELATING TO THE
12 SMALL EMPLOYER CARRIER REINSURANCE PROGRAM; REPEALING SECTION 41-4712,
13 IDAHO CODE, RELATING TO SMALL EMPLOYER HEALTH BENEFIT PLANS; REPEALING
14 SECTION 41-4713, IDAHO CODE, RELATING TO PERIODIC MARKET EVALUATION;
15 AMENDING SECTION 41-5206, IDAHO CODE, TO REMOVE A CODE REFERENCE AND
16 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-5210, IDAHO CODE,
17 TO REMOVE A PROVISION REGARDING APPLICATIONS TO BECOME A RISK-ASSUMING
18 CARRIER AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-5501,
19 IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS;
20 AMENDING SECTION 41-5502, IDAHO CODE, TO REVISE PROVISIONS REGARDING
21 CREATION OF THE INDIVIDUAL HIGH RISK REINSURANCE POOL AND TO MAKE A
22 TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY AND PROVIDING AN EF-
23 FECTIVE DATE.
24

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

26 SECTION 1. That Section [41-2210D](#), Idaho Code, be, and the same is hereby
27 repealed.

28 SECTION 2. That Section 41-4703, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 41-4703. DEFINITIONS. As used in this chapter:

31 (1) "Actuarial certification" means a written statement by a member of
32 the American academy of actuaries or other individual acceptable to the di-
33 rector that a small employer carrier is in compliance with the provisions of
34 section 41-4706, Idaho Code, based ~~upon~~ on the person's examination and in-
35 cluding a review of the appropriate records and the actuarial assumptions
36 and methods used by the small employer carrier in establishing premium rates
37 for applicable health benefit plans.

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

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

3 (4) "Base premium rate" means, for each class of business as to a rating
4 period, the lowest premium rate charged or that could have been charged under
5 a rating system for that class of business by the small employer carrier to
6 small employers with similar case characteristics for health benefit plans
7 with the same or similar coverage.

8 ~~(5) "Board" means the board of directors of the small employer reinsur-~~
9 ~~ance program and the individual high risk reinsurance pool as provided for in~~
10 ~~section 41-5502, Idaho Code.~~

11 ~~(6)~~ (5) "Carrier" means any entity that provides, or is authorized to
12 provide, health insurance in this state. For the purposes of this chap-
13 ter, carrier includes an insurance company, a hospital or professional
14 service corporation, a fraternal benefit society, a health maintenance or-
15 ganization, any entity providing health insurance coverage or benefits to
16 residents of this state as certificate holders under a group policy issued
17 or delivered outside of this state, and any other entity providing a plan of
18 health insurance or health benefits subject to state insurance regulation.

19 ~~(7)~~ (6) "Case characteristics" means demographic or other objective
20 characteristics of a small employer that are considered by the small em-
21 ployer carrier in the determination of premium rates for the small employer,
22 provided that claim experience, health status and duration of coverage shall
23 not be case characteristics for the purposes of this chapter.

24 ~~(8) "Catastrophic health benefit plan" means a higher limit health ben-~~
25 ~~efit plan developed pursuant to section 41-4712, Idaho Code.~~

26 ~~(9)~~ (7) "Class of business" means all or a separate grouping of small
27 employers established pursuant to section 41-4705, Idaho Code.

28 ~~(10)~~ (8) "Control" shall be defined in the same manner as in section
29 41-3802(2), Idaho Code.

30 ~~(11)~~ (9) "Dependent" in any new or renewing plan means a spouse, an un-
31 married child under the age of twenty-five (25) years and who receives more
32 than one-half (1/2) of his financial support from the parent, or an unmarried
33 child of any age who is medically certified as disabled and dependent upon
34 the parent.

35 ~~(12)~~ (10) "Director" means the director of the department of insurance
36 of the state of Idaho.

37 ~~(13)~~ (11) "Eligible employee" means an employee who works on a full-time
38 basis and has a normal work week of thirty (30) or more hours or, by agreement
39 between the employer and the carrier, an employee who works between twenty
40 (20) and thirty (30) hours per week. The term includes a sole proprietor, a
41 partner of a partnership, and an independent contractor, if the sole propri-
42 etor, partner or independent contractor is included as an employee under a
43 health benefit plan of a small employer, but does not include an employee who
44 works on a part-time, temporary, seasonal or substitute basis. The term el-
45 igible employee may include public officers and public employees without re-
46 gard to the number of hours worked when designated by a small employer.

47 ~~(14)~~ (12) "Established geographic service area" means a geographic
48 area, as approved by the director and based on the carrier's certificate of
49 authority to transact insurance in this state, within which the carrier is
50 authorized to provide coverage.

1 ~~(15)~~ (13) "Health benefit plan" means any hospital or medical policy or
2 certificate, any subscriber contract provided by a hospital or professional
3 service corporation, or managed care organization subscriber contract.
4 Health benefit plan does not include policies or certificates of insur-
5 ance for specific disease, hospital confinement indemnity, accident-only,
6 credit, dental, vision, medicare supplement, long-term care, or disability
7 income insurance, student health benefits only coverage issued as a supple-
8 ment to liability insurance, worker's compensation or similar insurance,
9 automobile medical payment insurance or nonrenewable short-term coverage
10 ~~issues~~ issued for a period of twelve (12) months or less.

11 ~~(16)~~ (14) "Index rate" means, for each class of business as to a rating
12 period for small employers with similar case characteristics, the arith-
13 metic average of the applicable base premium rate and the corresponding
14 highest premium rate.

15 ~~(17)~~ (15) "Late enrollee" means an eligible employee or dependent who
16 requests enrollment in a health benefit plan of a small employer following
17 the initial enrollment period during which the individual is entitled to en-
18 roll under the terms of the health benefit plan, provided that the initial
19 enrollment period is a period of at least thirty (30) days. However, an eli-
20 gible employee or dependent shall not be considered a late enrollee if:

21 (a) The individual meets each of the following:

22 (i) The individual was covered under qualifying previous cover-
23 age at the time of the initial enrollment;

24 (ii) The individual lost coverage under qualifying previous cov-
25 erage as a result of termination of employment or eligibility, or
26 the involuntary termination of the qualifying previous coverage;
27 and

28 (iii) The individual requests enrollment within thirty (30) days
29 after termination of the qualifying previous coverage.

30 (b) The individual is employed by an employer which offers multiple
31 health benefit plans and the individual elects a different plan during
32 an open enrollment period.

33 (c) A court has ordered coverage be provided for a spouse or minor or
34 dependent child under a covered employee's health benefit plan and re-
35 quest for enrollment is made within thirty (30) days after issuance of
36 the court order.

37 (d) The individual first becomes eligible.

38 (e) If an individual seeks to enroll a dependent during the first sixty
39 (60) days of eligibility, the coverage of the dependent shall become ef-
40 fective:

41 (i) In the case of marriage, not later than the first day of the
42 first month beginning after the date the completed request for en-
43 rollment is received;

44 (ii) In the case of a dependent's birth, as of the date of such
45 birth; or

46 (iii) In the case of a dependent's adoption or placement for adop-
47 tion, the date of such adoption or placement for adoption.

48 ~~(18)~~ (16) "New business premium rate" means, for each class of business
49 as to a rating period, the lowest premium rate charged or offered or which
50 could have been charged or offered by the small employer carrier to small em-

1 employers with similar case characteristics for newly issued health benefit
2 plans with the same or similar coverage.

3 ~~(19) "Plan of operation" means the plan of operation of the program es-~~
4 ~~tablished pursuant to section 41-4711, Idaho Code.~~

5 ~~(20)~~ (17) "Plan year" means the year that is designated as the plan year
6 in the plan document of a group health benefit plan, except that if the plan
7 document does not designate a plan year or if there is no plan document, the
8 plan year is:

9 (a) The deductible/limit year used under the plan;

10 (b) If the plan does not impose deductibles or limits on a yearly basis,
11 then the plan year is the policy year;

12 (c) If the plan does not impose deductibles or limits on a yearly basis
13 or the insurance policy is not renewed on an annual basis, then the plan
14 year is the employer's taxable year; or

15 (d) In any other case, the plan year is the calendar year.

16 ~~(21)~~ (18) "Premium" means all moneys paid by a small employer and eligi-
17 ble employees as a condition of receiving coverage from a small employer car-
18 rier, including any fees or other contributions associated with the health
19 benefit plan.

20 ~~(22) "Program" means the Idaho small employer reinsurance program cre-~~
21 ~~ated in section 41-4711, Idaho Code.~~

22 ~~(23)~~ (19) "Qualifying previous coverage" and "qualifying existing cov-
23 erage" 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 other group or individual health insurance policy or health
29 benefit arrangement whether or not subject to the state insurance laws,
30 including coverage provided by a health maintenance organization,
31 hospital or professional service corporation, or a fraternal benefit
32 society, that provides benefits similar to or exceeding benefits pro-
33 vided under the basic health benefit plan.

34 ~~(24)~~ (20) "Rating period" means the calendar period for which premium
35 rates established by a small employer carrier are assumed to be in effect.

36 ~~(25) "Reinsuring carrier" means a small employer carrier participating~~
37 ~~in the reinsurance program pursuant to section 41-4711, Idaho Code.~~

38 ~~(26)~~ (21) "Restricted network provision" means any provision of a
39 health benefit plan that conditions the payment of benefits, in whole or in
40 part, on the use of health care providers that have entered into a contrac-
41 tual arrangement with the carrier to provide health care services to covered
42 individuals.

43 ~~(27) "Risk-assuming carrier" means a small employer carrier whose ap-~~
44 ~~plication is approved by the director pursuant to section 41-4710, Idaho~~
45 ~~Code.~~

46 ~~(28)~~ (22) "Small employer" means any person, firm, corporation, part-
47 nership or association that is actively engaged in business that employed an
48 average of at least two (2) but no more than fifty (50) eligible employees on
49 business days during the preceding calendar year and that employs at least
50 two (2) but no more than fifty (50) eligible employees on the first day of the

1 plan year, the majority of whom were and are employed within this state. In
 2 determining the number of eligible employees, companies that are affiliated
 3 companies, or that are eligible to file a combined tax return for purposes of
 4 state taxation, shall be considered one (1) employer.

5 ~~(29) "Small employer basic health benefit plan" means a lower cost~~
 6 ~~health benefit plan developed pursuant to section 41-4712, Idaho Code.~~

7 ~~(30)~~ (23) "Small employer carrier" means a carrier that offers health
 8 benefit plans covering eligible employees of one (1) or more small employers
 9 in this state.

10 ~~(31) "Small employer catastrophic health benefit plan" means a higher~~
 11 ~~limit health benefit plan developed pursuant to section 41-4712, Idaho Code.~~

12 ~~(32) "Small employer standard health benefit plan" means a health bene-~~
 13 ~~fit plan developed pursuant to section 41-4712, Idaho Code.~~

14 SECTION 3. 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-
 43 age of the employees or dependents of the small employer as deter-
 44 mined from the small employer carrier's rate manual for the class
 45 of business; and

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

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

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

9 (f) (i) Small employer carriers shall apply rating factors, in-
10 cluding case characteristics, consistently with respect to all
11 small employers in a class of business. Rating factors shall
12 produce premiums for identical groups which differ only by the
13 amounts attributable to plan design and do not reflect differences
14 due to the nature of the groups assumed to select particular health
15 benefit plans; and

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

19 (g) For the purposes of this subsection, a health benefit plan that
20 utilizes a restricted provider network shall not be considered similar
21 coverage to a health benefit plan that does not utilize such a network,
22 provided that utilization of the restricted provider network results in
23 substantial differences in claims costs.

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

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

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

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

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

43 (iii) Prescribe the manner in which a small employer carrier is to
44 demonstrate compliance with the provisions of this section, in-
45 cluding requirements that a small employer carrier provide the di-
46 rector with actuarial certification as to such compliance.

47 (2) A small employer carrier shall not transfer a small employer invol-
48 untarily into or out of a class of business. A small employer carrier shall
49 not offer to transfer a small employer into or out of a class of business un-
50 less such offer is made to transfer all small employers in the class of busi-

1 ness without regard to case characteristics, claim experience, health sta-
2 tus or duration of coverage since issue.

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

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

15 (a) The extent to which premium rates for a specified small employer are
16 established or adjusted based ~~upon~~ on the actual or expected variation
17 in claims costs or actual or expected variation in health status of the
18 employees of the small employer and their dependents;

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

22 (c) The provisions relating to renewability of policies and contracts;
23 and

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

25 (5) (a) Each small employer carrier shall maintain at its principal
26 place of business a complete and detailed description of its rating
27 practices and renewal underwriting practices, including information
28 and documentation that demonstrate that its rating methods and prac-
29 tices are based ~~upon~~ on commonly accepted actuarial assumptions and are
30 in accordance with sound actuarial principles.

31 (b) Each small employer carrier shall file with the director annually
32 on or before March 15, an actuarial certification certifying that the
33 carrier is in compliance with the provisions of this chapter and that
34 the rating methods of the small employer carrier are actuarially sound.
35 Such certification shall be in a form and manner, and shall contain such
36 information, as specified by the director. A copy of the certification
37 shall be retained by the small employer carrier at its principal place
38 of business.

39 (c) A small employer carrier shall make the information and documenta-
40 tion described in subsection (4) (a) of this section available to the di-
41 rector upon request. Except in cases of violations of the provisions of
42 this chapter, the information shall be considered proprietary and trade
43 secret information and shall not be subject to disclosure by the direc-
44 tor to persons outside of the department except as agreed to by the small
45 employer carrier or as ordered by a court of competent jurisdiction.

46 SECTION 4. That Section 41-4707, Idaho Code, be, and the same is hereby
47 amended to read as follows:

48 41-4707. RENEWABILITY OF COVERAGE. (1) A health benefit plan subject
49 to the provisions of this chapter shall be renewable with respect to all eli-

1 gible employees or dependents, at the option of the small employer, except in
2 any of the following cases:

3 (a) Nonpayment of the required premiums;

4 (b) Fraud or intentional misrepresentation of material fact by the
5 small employer;

6 (c) Noncompliance with the carrier's minimum participation require-
7 ments;

8 (d) Noncompliance with the carrier's employer contribution require-
9 ments;

10 (e) In the case of health benefit plans that are made available in the
11 small employer market only through one (1) or more associations as de-
12 fined in section 41-2202, Idaho Code, the membership of an employer in
13 the association, on the basis of which the coverage is provided ceases,
14 but only if the coverage is terminated under this paragraph uniformly
15 without regard to any health status-related factor relating to any cov-
16 ered individual;

17 (f) The small employer no longer meets the requirements of section
18 41-4703-~~(28)~~(22), Idaho Code;

19 (g) The small employer carrier elects, at the time of coverage renewal,
20 to discontinue offering a particular health benefit plan delivered or
21 issued for delivery to small employers in this state. Unless otherwise
22 authorized in advance by the department of insurance, a carrier may dis-
23 continue a product only after the product has been in use for at least
24 thirty-six (36) consecutive months, provided the carrier may not dis-
25 continue more than fifteen percent (15%) of its total number of employ-
26 ees and dependents in all lines of business regulated by this chapter in
27 a twelve (12) month period. The carrier shall:

28 (i) Provide advance written or electronic notice of its decision
29 under this paragraph to the director;

30 (ii) Provide notice of the discontinuation to all affected em-
31 ployers and employees or dependents at least ninety (90) calendar
32 days prior to the date the particular health benefit plan will be
33 discontinued by the carrier, provided that notice to the director
34 under the provisions of this paragraph shall be provided at least
35 fourteen (14) calendar days prior to the notice to the affected em-
36 ployers;

37 (iii) Offer to each affected employer, on a guaranteed issue
38 basis, the option to purchase all other health benefit plans cur-
39 rently being offered by the carrier to small employers in this
40 state;

41 (iv) In exercising the option to discontinue the health benefit
42 plan and in offering the option to purchase all other health ben-
43 efit plans under the provisions of this paragraph, act uniformly
44 without regard to:

45 1. The claims experience of an affected employer;

46 2. Any health status-related factor relating to any af-
47 fected employee or dependent; or

48 3. Any health status-related factor relating to any new em-
49 ployee or dependent who may become eligible for the cover-
50 age; and

1 (v) Offer the new products at rates that comply with section
2 41-4706(1) (c), Idaho Code.

3 (h) The small employer carrier elects to nonrenew all of its health ben-
4 efit plans delivered or issued for delivery to small employers in this
5 state. In such a case the carrier shall:

6 (i) Provide advance notice of its decision under this paragraph
7 to the director in each state in which it is licensed; and

8 (ii) Provide notice of the decision not to renew coverage to all
9 affected small employers and to the director at least one hundred
10 eighty (180) calendar days prior to the nonrenewal of any health
11 benefit plans by the carrier. Notice to the director under the
12 provisions of this paragraph shall be provided at least three (3)
13 working days prior to the notice to the affected small employers;

14 or

15 (i) The director finds that the continuation of the coverage would:

16 (i) Not be in the best interests of the policyholders or certifi-
17 cate holders; or

18 (ii) Impair the carrier's ability to meet its contractual obliga-
19 tions.

20 In such instance the director shall assist affected small employers in
21 finding replacement coverage.

22 (2) A small employer carrier that elects not to renew a health benefit
23 plan under the provisions of subsection (1) (h) of this section shall be pro-
24 hibited from writing new business in the small employer market in this state
25 for a period of five (5) years from the date of notice to the director.

26 (3) In the case of a small employer carrier doing business in one (1) es-
27 tablished geographic service area of the state, the rules set forth in this
28 ~~subsection~~ section shall apply only to the carrier's operations in that ser-
29 vice area.

30 SECTION 5. That Section [41-4708B](#), Idaho Code, be, and the same is hereby
31 repealed.

32 SECTION 6. That Section [41-4709](#), Idaho Code, be, and the same is hereby
33 repealed.

34 SECTION 7. That Section [41-4710](#), Idaho Code, be, and the same is hereby
35 repealed.

36 SECTION 8. That Section [41-4711](#), Idaho Code, be, and the same is hereby
37 repealed.

38 SECTION 9. That Section [41-4712](#), Idaho Code, be, and the same is hereby
39 repealed.

40 SECTION 10. That Section [41-4713](#), Idaho Code, be, and the same is hereby
41 repealed.

42 SECTION 11. That Section 41-5206, Idaho Code, be, and the same is hereby
43 amended to read as follows:

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

4 (a) The premium rates charged during a rating period to individuals
5 with similar case characteristics for the same or similar coverage, or
6 the rates that could be charged to such individuals under the rating
7 system, shall not vary from the index rate by more than fifty percent
8 (50%) of the index rate.

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

11 (i) The percentage change in the new business premium rate mea-
12 sured from the first day of the prior rating period to the first
13 day of the new rating period. In the case of a health benefit plan
14 into which the individual carrier is no longer enrolling new indi-
15 viduals, the individual carrier shall use the percentage change in
16 the base premium rate, provided that such change does not exceed,
17 on a percentage basis, the change in the new business premium rate
18 for the most similar health benefit plan into which the individual
19 carrier is actively enrolling new individuals.

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

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

28 (c) Premium rates for health benefit plans shall comply with the re-
29 quirements of this section notwithstanding any assessments paid or
30 payable by carriers pursuant to ~~section 41-4711, Idaho Code, or~~ chapter
31 55, title 41, Idaho Code.

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

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

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

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

49 (g) An individual carrier may utilize age as a case characteristic in
50 establishing premium rates, provided that the same rating factor shall

1 be applied to all dependents under twenty-five (25) years of age, and
2 the same rating factor may be applied on an annual basis as to individu-
3 als or nondependents twenty (20) years of age or older.

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

8 (i) Assure that differences in rates charged for health benefit
9 plans by individual carriers are reasonable and reflect objective
10 differences in plan design, not including differences due to the
11 nature of the individuals assumed to select particular health ben-
12 efit plans;

13 (ii) Prescribe the manner in which case characteristics may be
14 used by individual carriers; and

15 (iii) Prescribe the manner in which an individual carrier is to
16 demonstrate compliance with the provisions of this section, in-
17 cluding requirements that an individual carrier provide the di-
18 rector with actuarial certification as to such compliance.

19 (2) The director may suspend for a specified period the application of
20 subsection (1) (a) of this section as to the premium rates applicable to one
21 (1) or more individuals for one (1) or more rating periods upon a filing by
22 the individual carrier and a finding by the director either that the suspen-
23 sion is reasonable in light of the financial condition of the individual car-
24 rier or that the suspension would enhance the efficiency and fairness of the
25 marketplace for individual health insurance.

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

29 (a) The extent to which premium rates for an individual are established
30 or adjusted based ~~upon~~ on the actual or expected variation in claims
31 costs or actual or expected variation in health status of the individual
32 and his dependents;

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

36 (c) The provisions relating to renewability of policies and contracts;
37 and

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

39 (4) (a) Each individual carrier shall maintain at its principal place
40 of business a complete and detailed description of its rating practices
41 and renewal underwriting practices, including information and documen-
42 tation that demonstrate that its rating methods and practices are based
43 ~~upon~~ on commonly accepted actuarial assumptions and are in accordance
44 with sound actuarial principles.

45 (b) Each individual carrier shall file with the director annually on
46 or before September 15, an actuarial certification certifying that the
47 carrier is in compliance with the provisions of this chapter and that
48 the rating methods of the individual carrier are actuarially sound.
49 Such certification shall be in a form and manner, and shall contain such
50 information, as specified by the director. A copy of the certification

1 shall be retained by the individual carrier at its principal place of
2 business.

3 (c) An individual carrier shall make the information and documentation
4 described in subsection (4) (a) of this section available to the direc-
5 tor upon request. Except in cases of violations of the provisions of
6 this chapter, the information shall be considered proprietary and trade
7 secret information and shall not be subject to disclosure by the direc-
8 tor to persons outside of the department except as agreed to by the indi-
9 vidual carrier or as ordered by a court of competent jurisdiction.

10 SECTION 12. That Section 41-5210, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 41-5210. APPLICATION TO BECOME A RISK-ASSUMING CARRIER. (1) An indi-
13 vidual carrier may apply to become a risk-assuming carrier by filing an ap-
14 plication with the director in a form and manner prescribed by the director.

15 (2) The director shall consider the following factors in evaluating an
16 application filed under the provisions of subsection (1) of this section:

17 (a) The carrier's financial condition;

18 (b) The carrier's history of rating and underwriting individuals;

19 (c) The carrier's commitment to market fairly to all individuals in the
20 state or its established geographic service area, as applicable;

21 (d) The carrier's experience with managing the risk of individuals; and

22 (e) The extent to which a carrier has and will be able to maintain
23 reinsurance pursuant to the provisions of subsection (3) of section
24 41-5204, Idaho Code.

25 (3) The director shall provide public notice of an application by an in-
26 dividual carrier to be a risk-assuming carrier and shall provide at least a
27 sixty (60) day period for public comment prior to making a decision on the ap-
28 plication. If the application is not acted ~~upon~~ on within ninety (90) days
29 of the receipt of the application by the director, the carrier may request a
30 hearing.

31 (4) The director may rescind the approval granted to a risk-assuming
32 carrier under the provisions of this section if the director finds that:

33 (a) The carrier's financial condition will no longer support the as-
34 sumption of risk from issuing coverage to individuals in compliance
35 with the provisions of section 41-5208, Idaho Code, without the protec-
36 tion afforded by the program;

37 (b) The carrier has failed to market fairly to all individuals in the
38 state or its established geographic service area, as applicable; or

39 (c) The carrier has failed to provide coverage to eligible individuals
40 as required in section 41-5208, Idaho Code.

41 ~~(5) An individual carrier electing to be a risk-assuming carrier shall
42 not be subject to the provisions of section 41-4711, Idaho Code, except to
43 the extent such individual carrier is subject to assessment for additional
44 funding pursuant to the provisions of subsection (12) (c) of section 41-4711,
45 Idaho Code.~~

46 SECTION 13. That Section 41-5501, Idaho Code, be, and the same is hereby
47 amended to read as follows:

1 41-5501. DEFINITIONS. As used in this chapter:

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

4 (2) "Board" means the board of directors of the Idaho individual high
5 risk reinsurance pool established in this chapter ~~and the Idaho small em-~~
6 ~~ployer health reinsurance program established in section 41-4711, Idaho~~
7 Code.

8 (3) "Carrier" means any entity that provides, or is authorized to pro-
9 vide, health insurance in this state. For purposes of this chapter, car-
10 rier includes an insurance company, any other entity providing reinsurance
11 including excess or stop loss coverage, a hospital or professional service
12 corporation, a fraternal benefit society, a managed care organization, any
13 entity providing health insurance coverage or benefits to residents of this
14 state as certificate holders under a group policy issued or delivered out-
15 side of this state, and any other entity providing a plan of health insurance
16 or health benefits subject to state insurance regulation.

17 (4) "Dependent" means a spouse, a child or any other individual listed
18 as having coverage under the primary ~~policy holder's~~ policyholder's or sub-
19 scriber's health benefit plan.

20 (5) "Director" means the director of the department of insurance of the
21 state of Idaho.

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

24 (a) Not eligible for coverage under a group health benefit plan, part
25 A or part B of title XVIII of the social security act (medicare), or a
26 state plan under title XIX (medicaid) or any successor program, and who
27 does not have other health insurance coverage; and

28 (b) Enrolled in an individual health benefit plan.

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

39 (8) "High risk medical condition" means a medical condition or diagno-
40 sis identified by the board in its plan of operation as making an individual
41 eligible for reinsurance through the pool.

42 (9) "High risk pool plan" means an individual basic, standard, cata-
43 strophic A, catastrophic B, or HSA compatible health benefit plan issued
44 pursuant to this chapter prior to April 1, 2017.

45 (10) "High risk pool plan premium" means all moneys paid by an individ-
46 ual or a dependent as a condition of receiving coverage from a carrier, in-
47 cluding any fees or other contributions associated with the health benefit
48 plan.

49 (11) "Individual carrier" means a carrier that offers individual health
50 benefit plans.

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

3 (13) "Pool" means the Idaho individual high risk reinsurance pool.

4 (14) "Reinsurance premium" means the premium set by the board pursuant
5 to section 41-5506, Idaho Code, to be paid by a reinsuring carrier for eligi-
6 ble individuals ceded to the pool.

7 (15) "Reinsuring carrier" means a carrier participating in the individ-
8 ual high risk reinsurance pool established by this chapter.

9 SECTION 14. That Section 41-5502, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 41-5502. CREATION OF THE INDIVIDUAL HIGH RISK REINSURANCE POOL --
12 BOARD. (1) There is hereby created an independent public body corporate and
13 politic to be known as the Idaho individual high risk reinsurance pool. The
14 pool will perform an essential governmental function in the exercise of
15 powers conferred ~~upon~~ on it in this chapter. The pool and any assessments
16 imposed or collected pursuant to the operation of the pool shall at all times
17 be free from taxation of every kind.

18 (2) The pool created by this chapter ~~and the small employer reinsurance~~
19 ~~program established in section 41-4711, Idaho Code,~~ shall operate subject to
20 the supervision and control of the board. The board shall consist of ten (10)
21 members. Eight (8) members shall be appointed by the director and serve at
22 the pleasure of the director. The director or his designated representative
23 shall serve as an ex officio member of the board. In selecting the members of
24 the board the director shall appoint four (4) members representing carriers,
25 two (2) disability agents and two (2) members representing consumer inter-
26 ests. One (1) member shall be a member of the senate appointed by the pres-
27 ident pro tempore of the senate and one (1) member shall be a member of the
28 house of representatives appointed by the speaker of the house.

29 (3) The initial nonlegislative board members shall be appointed as fol-
30 lows: two (2) of the members to serve a term of two (2) years; three (3) of
31 the members to serve a term of four (4) years; and three (3) of the members to
32 serve a term of six (6) years. Subsequent nonlegislative board members shall
33 serve for a term of three (3) years. Legislative members of the board shall
34 serve for a term of two (2) years. A vacancy in a legislative member's posi-
35 tion on the board shall be filled in the same manner as the original appoint-
36 ment. All other vacancies on the board shall be filled by the director. A
37 nonlegislative board member may be removed by the director for cause.

38 SECTION 15. An emergency existing therefor, which emergency is hereby
39 declared to exist, this act shall be in full force and effect on and after
40 July 1, 2025.