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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

A N A C T

RELATING TO INSURANCE -- GENDER RATING

Introduced By: Senators Sosnowski, Miller, Nesselbush, Cool Rumsey, and Gallo

Date Introduced: February 06, 2013

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

SECTION 1. Chapter 27-18 of the General Laws entitled "Accident and Sickness Insurance Policies" is hereby amended by adding thereto the following section:

27-18-79. Gender rating. – (a) No individual and/or group health insurance contract, plan, or policy delivered, issued for delivery, or renewed in this state, which provides medical coverage that includes coverage for physician services in a physician's office, and no policy which provides major medical and/or similar comprehensive-type coverage, excluding disability income, long-term care, and insurance supplemental policies which only provide coverage for specified diseases or other supplemental policies, shall vary the premium rate for a health coverage plan based on the gender of the individual policy holders, enrollees, subscribers, or members.

(b) This section shall not apply to insurance coverage providing benefits for any of the following:

(1) Hospital confinement indemnity;

(2) Disability income;

(3) Accident only;

(4) Long-term care;

(5) Medicare supplement;

(6) Limited benefit health;

(7) Specified diseased indemnity;

(8) Sickness of bodily injury or death by accident or both; and/or

(9) Other limited benefit policies.

SECTION 2. Chapter 27-19 of the General Laws entitled "Nonprofit Hospital Service Corporations" is hereby amended by adding thereto the following section:

27-19-70. Gender rating. – (a) No individual and/or group health insurance contract, plan, or policy delivered, issued for delivery, or renewed in this state, which provides medical coverage that includes coverage for physician services in a physician's office, and no policy which provides major medical and/or similar comprehensive-type coverage, excluding disability income, long-term care, and insurance supplemental policies which only provide coverage for specified diseases or other supplemental policies, shall vary the premium rate for a health coverage plan based on the gender of the individual policy holders, enrollees, subscribers, or members.

(b) This section shall not apply to insurance coverage providing benefits for any of the following:

(1) Hospital confinement indemnity;

(2) Disability income;

(3) Accident only;

(4) Long-term care;

(5) Medicare supplement;

(6) Limited benefit health;

(7) Specified diseased indemnity;

(8) Sickness of bodily injury or death by accident or both; and/or

(9) Other limited benefit policies.

SECTION 3. Chapter 27-20 of the General Laws entitled "Nonprofit Medical Service Corporations" is hereby amended by adding thereto the following section:

27-20-65. Gender rating. – (a) No individual and/or group health insurance contract, plan, or policy delivered, issued for delivery, or renewed in this state, which provides medical coverage that includes coverage for physician services in a physician's office, and no policy which provides major medical and/or similar comprehensive-type coverage, excluding disability income, long-term care, and insurance supplemental policies which only provide coverage for specified diseases or other supplemental policies, shall vary the premium rate for a health coverage plan based on the gender of the individual policy holders, enrollees, subscribers, or members.

(b) This section shall not apply to insurance coverage providing benefits for any of the

following:

(1) Hospital confinement indemnity;

(2) Disability income;

(3) Accident only;

(4) Long-term care;

(5) Medicare supplement;

(6) Limited benefit health;

(7) Specified diseased indemnity;

(8) Sickness of bodily injury or death by accident or both; and/or

(9) Other limited benefit policies.

SECTION 4. Chapter 27-41 of the General Laws entitled "Health Maintenance Organizations" is hereby amended by adding thereto the following section:

27-41-83. Gender rating. – (a) No individual and/or group health insurance contract, plan, or policy delivered, issued for delivery, or renewed in this state, which provides medical coverage that includes coverage for physician services in a physician's office, and no policy which provides major medical and/or similar comprehensive-type coverage, excluding disability income, long-term care, and insurance supplemental policies which only provide coverage for specified diseases or other supplemental policies, shall vary the premium rate for a health coverage plan based on the gender of the individual policy holders, enrollees, subscribers, or members.

(b) This section shall not apply to insurance coverage providing benefits for any of the following:

(1) Hospital confinement indemnity;

(2) Disability income;

(3) Accident only;

(4) Long-term care;

(5) Medicare supplement;

(6) Limited benefit health;

(7) Specified diseased indemnity;

(8) Sickness of bodily injury or death by accident or both; and/or

(9) Other limited benefit policies.

SECTION 5. Section 27-50-5 of the General Laws in Chapter 27-50 entitled "Small Employer Health Insurance Availability Act" is hereby amended to read as follows:

27-50-5. Restrictions relating to premium rates. -- (a) Premium rates for health benefit

plans subject to this chapter are subject to the following provisions:

(1) Subject to subdivision (2) of this subsection, a small employer carrier shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

(i) Age; and

~~(ii) Gender; and~~

~~(iii)~~(ii) Family composition;

(2) The adjustment for age in paragraph (1)(i) of this subsection may not use age brackets smaller than five (5) year increments and these shall begin with age thirty (30) and end with age sixty-five (65).

(3) The small employer carriers are permitted to develop separate rates for individuals age sixty-five (65) or older for coverage for which Medicare is the primary payer and coverage for which Medicare is not the primary payer. Both rates are subject to the requirements of this subsection.

(4) For each health benefit plan offered by a carrier, the highest premium rate for each family composition type shall not exceed four (4) times the premium rate that could be charged to a small employer with the lowest premium rate for that family composition.

(5) Premium rates for bona fide associations except for the Rhode Island Builders' Association whose membership is limited to those who are actively involved in supporting the construction industry in Rhode Island shall comply with the requirements of section 27-50-5.

(6) For a small employer group renewing its health insurance with the same small employer carrier which provided it small employer health insurance in the prior year, the combined adjustment factor for age and gender for that small employer group will not exceed one hundred twenty percent (120%) of the combined adjustment factor for age and gender for that small employer group in the prior rate year.

(b) The premium charged for a health benefit plan may not be adjusted more frequently than annually except that the rates may be changed to reflect:

(1) Changes to the enrollment of the small employer;

(2) Changes to the family composition of the employee; or

(3) Changes to the health benefit plan requested by the small employer.

(c) Premium rates for health benefit plans shall comply with the requirements of this section.

(d) Small employer carriers shall apply rating factors consistently with respect to all small employers. Rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the

groups assumed to select particular health benefit plans. Two groups that are otherwise identical, but which have different prior year rate factors may, however, have rating factors that produce premiums that differ because of the requirements of subdivision 27-50-5(a)(6). Nothing in this section shall be construed to prevent a group health plan and a health insurance carrier offering health insurance coverage from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention, including those included in affordable health benefit plans, provided that the resulting rates comply with the other requirements of this section, including subdivision (a)(5) of this section.

The calculation of premium discounts, rebates, or modifications to otherwise applicable copayments or deductibles for affordable health benefit plans shall be made in a manner consistent with accepted actuarial standards and based on actual or reasonably anticipated small employer claims experience. As used in the preceding sentence, "accepted actuarial standards" includes actuarially appropriate use of relevant data from outside the claims experience of small employers covered by affordable health plans, including, but not limited to, experience derived from the large group market, as this term is defined in section 27-18.6-2(19).

(e) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restriction of benefits to network providers results in substantial differences in claim costs.

(f) The health insurance commissioner may establish regulations to implement the provisions of this section and to assure that rating practices used by small employer carriers are consistent with the purposes of this chapter, including regulations that assure that differences in rates charged for health benefit plans by small employer carriers are reasonable and reflect objective differences in plan design or coverage (not including differences due to the nature of the groups assumed to select particular health benefit plans or separate claim experience for individual health benefit plans) and to ensure that small employer groups with one eligible subscriber are notified of rates for health benefit plans in the individual market.

(g) In connection with the offering for sale of any health benefit plan to a small employer, a small employer carrier shall make a reasonable disclosure, as part of its solicitation and sales materials, of all of the following:

(1) The provisions of the health benefit plan concerning the small employer carrier's right to change premium rates and the factors, other than claim experience, that affect changes in premium rates;

(2) The provisions relating to renewability of policies and contracts;

(3) The provisions relating to any preexisting condition provision; and

(4) A listing of and descriptive information, including benefits and premiums, about all benefit plans for which the small employer is qualified.

(h) (1) Each small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(2) Each small employer carrier shall file with the commissioner annually on or before March 15 an actuarial certification certifying that the carrier is in compliance with this chapter and that the rating methods of the small employer carrier are actuarially sound. The certification shall be in a form and manner, and shall contain the information, specified by the commissioner. A copy of the certification shall be retained by the small employer carrier at its principal place of business.

(3) A small employer carrier shall make the information and documentation described in subdivision (1) of this subsection available to the commissioner upon request. Except in cases of violations of this chapter, the information shall be considered proprietary and trade secret information and shall not be subject to disclosure by the director to persons outside of the department except as agreed to by the small employer carrier or as ordered by a court of competent jurisdiction.

(4) For the wellness health benefit plan described in section 27-50-10, the rates proposed to be charged and the plan design to be offered by any carrier shall be filed by the carrier at the office of the commissioner no less than thirty (30) days prior to their proposed date of use. The carrier shall be required to establish that the rates proposed to be charged and the plan design to be offered are consistent with the proper conduct of its business and with the interest of the public. The commissioner may approve, disapprove, or modify the rates and/or approve or disapprove the plan design proposed to be offered by the carrier. Any disapproval by the commissioner of a plan design proposed to be offered shall be based upon a determination that the plan design is not consistent with the criteria established pursuant to subsection 27-50-10(b).

(i) The requirements of this section apply to all health benefit plans issued or renewed on or after October 1, 2000.

SECTION 6. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

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RELATING TO INSURANCE -- GENDER RATING

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This act would provide that insurance companies shall not vary the premium rates charged for a health coverage plan based on the gender of the individual policy holder, enrollee, subscriber, or member.

This act would take effect upon passage.

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