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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO INSURANCE -- HEALTH INSURANCE COVERAGE -- THE MARKET
STABILITY AND CONSUMER PROTECTION ACT

Introduced By: Senators Miller, Coyne, DiPalma, Goldin, and Ruggerio

Date Introduced: April 05, 2018

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 27-18-2.1, 27-18-73 and 27-18-75 of the General Laws in Chapter
2 27-18 entitled "Accident and Sickness Insurance Policies" are hereby amended to read as follows:

3 **27-18-2.1. Uniform explanation of benefits and coverage.**

4 (a) A health insurance carrier shall provide a summary of benefits and coverage
5 explanation and definitions to policyholders and others required by, and at the times and in the
6 format required, by the federal regulations adopted under section 2715 [42 U.S.C. § 300gg-15] of
7 the Public Health Service Act, as amended by the federal Affordable Care Act, so long as they
8 remain in effect, and if struck then those in effect as of the date immediately prior to their repeal
9 shall control. The forms required by this section shall be made available to the commissioner on
10 request. Nothing in this section shall be construed to limit the authority of the commissioner
11 under existing state law.

12 (b) The provisions of this section shall apply to grandfathered health plans. This section
13 shall not apply to insurance coverage providing benefits for: (1) hospital confinement indemnity;
14 (2) disability income; (3) accident only; (4) long term care; (5) Medicare supplement; (6) limited
15 benefit health; (7) specified disease indemnity; (8) sickness or bodily injury or death by accident
16 or both; and (9) other limited benefit policies.

17 (c) ~~If the commissioner of the office of the health insurance commissioner determines~~
18 ~~that the corresponding provision of the federal Patient Protection and Affordable Care Act has~~

1 ~~been declared invalid by a final judgment of the federal judicial branch or has been repealed by~~
2 ~~an act of Congress, on the date of the commissioner's determination this section shall have its~~
3 ~~effectiveness suspended indefinitely, and the commissioner shall take no action to enforce this~~
4 ~~section. Nothing in this section shall be construed to limit the authority of the commissioner~~
5 ~~under existing state law.~~

6 **27-18-73. Prohibition on annual and lifetime limits.**

7 (a) Annual limits.

8 (1) ~~For plan or policy years beginning prior to January 1, 2014, for any individual, a~~
9 ~~health insurance carrier and a health benefit plan subject to the jurisdiction of the commissioner~~
10 ~~under this chapter may establish an annual limit on the dollar amount of benefits that are essential~~
11 ~~health benefits provided the restricted annual limit is not less than the following:~~

12 (A) ~~For a plan or policy year beginning after September 22, 2011, but before September~~
13 ~~23, 2012 — one million two hundred fifty thousand dollars (\$1,250,000); and~~

14 (B) ~~For a plan or policy year beginning after September 22, 2012, but before January 1,~~
15 ~~2014 — two million dollars (\$2,000,000).~~

16 (2) ~~For plan or policy years beginning on or after January 1, 2014, a A health insurance~~
17 carrier and a health benefit plan shall not establish any annual limit on the dollar amount of
18 essential health benefits for any individual, except:

19 (A) A health flexible spending arrangement, as defined in Section 106(c)(2)(i) of the
20 Federal Internal Revenue Code, a medical savings account, as defined in section 220 of the
21 federal Internal Revenue Code, and a health savings account, as defined in Section 223 of the
22 federal Internal Revenue Code are not subject to the requirements of ~~subdivisions (1) and (2) of~~
23 ~~this subsection~~ subsection (a)(1) of this section.

24 (B) The provisions of this subsection shall not prevent a health insurance carrier and a
25 health benefit plan from placing annual dollar limits for any individual on specific covered
26 benefits that are not essential health benefits to the extent that such limits are otherwise permitted
27 under applicable federal law or the laws and regulations of this state.

28 (3) ~~In determining whether an individual has received benefits that meet or exceed the~~
29 ~~allowable limits, as provided in subdivision (1) of this subsection, a health insurance carrier and a~~
30 ~~health benefit plan shall take into account only essential health benefits.~~

31 (b) Lifetime limits.

32 (1) A health insurance carrier and health benefit plan offering group or individual health
33 insurance coverage shall not establish a lifetime limit on the dollar value of essential health
34 benefits for any individual.

1 (2) Notwithstanding subdivision (1) above, a health insurance carrier and health benefit
2 plan is not prohibited from placing lifetime dollar limits for any individual on specific covered
3 benefits that are not essential health benefits, in accordance with federal laws and regulations.

4 (c) ~~(1)~~ The provisions of this section relating to lifetime and annual limits apply to any
5 health insurance carrier providing coverage under an individual or group health plan, including
6 grandfathered health plans.

7 ~~(2) The provisions of this section relating to annual limits apply to any health insurance~~
8 ~~carrier providing coverage under a group health plan, including grandfathered health plans, but~~
9 ~~the prohibition and limits on annual limits do not apply to grandfathered health plans providing~~
10 ~~individual health insurance coverage.~~

11 (d) ~~This section shall not apply to a plan or to policy years prior to January 1, 2014 for~~
12 ~~which the Secretary of the U.S. Department of Health and Human Services issued a waiver~~
13 ~~pursuant to 45 C.F.R. § 147.126(d)(3).~~ This section ~~also~~ shall not apply to insurance coverage
14 providing benefits for: (1) hospital confinement indemnity; (2) disability income; (3) accident
15 only; (4) long term care; (5) Medicare supplement; (6) limited benefit health; (7) specified disease
16 indemnity; (8) sickness or bodily injury or death by accident or both; and (9) other limited benefit
17 policies.

18 (e) ~~If the commissioner of the office of the health insurance commissioner determines~~
19 ~~that the corresponding provision of the federal Patient Protection and Affordable Care Act has~~
20 ~~been declared invalid by a final judgment of the federal judicial branch or has been repealed by~~
21 ~~an act of Congress, on the date of the commissioner's determination this section shall have its~~
22 ~~effectiveness suspended indefinitely, and the commissioner shall take no action to enforce this~~
23 ~~section. Nothing in this subsection shall be construed to limit the authority of the Commissioner~~
24 ~~to regulate health insurance under existing state law.~~

25 **27-18-75. Medical loss ratio reporting and rebates.**

26 (a) A health insurance carrier offering group or individual health insurance coverage of a
27 health benefit plan, including a grandfathered health plan, shall comply with the provisions of
28 Section 2718 [42 U.S.C. § 300gg-18] of the Public Health Service Act as amended by the federal
29 Affordable Care Act, in accordance with regulations adopted thereunder, and state regulations
30 regarding medical loss ratio consistent with federal law and regulations adopted thereunder, so
31 long as they remain in effect, and if struck then those in effect as of the date immediately prior to
32 their repeal shall control.

33 (b) Health insurance carriers required to report medical loss ratio and rebate calculations
34 and other medical loss ratio and rebate information to the U.S. Department of Health and Human

1 Services shall concurrently file such information with the commissioner.

2 SECTION 2. Sections 27-18.5-2, 27-18.5-3, 27-18.5-4, 27-18.5-5, 27-18.5-6 and 27-
3 18.5-10 of the General Laws in Chapter 27-18.5 entitled "Individual Health Insurance Coverage"
4 are hereby amended to read as follows:

5 **27-18.5-2. Definitions.**

6 The following words and phrases as used in this chapter have the following meanings
7 consistent with federal law and regulations adopted thereunder, so long as they remain in effect,
8 and if struck then those in effect as of the date immediately prior to their repeal, unless a different
9 meaning is required by the context:

10 (1) "Actuarial value" means the level of coverage of a plan, determined on the basis that
11 the essential health benefits are provided to a standard population

12 (2) "Actuarial value tiers" means one of the four (4) levels of coverage, such that a plan at
13 each level is designed to provide benefits that are actuarially equivalent to a percent of the full
14 actuarial value of the benefits provided under the plan. The actuarially equivalent levels are sixty
15 percent (60%), seventy percent (70%), eighty percent (80%), and ninety percent (90%), and
16 further adjusted to reflect de minimus variations from those levels.

17 ~~(3)~~(3) "Bona fide association" means, with respect to health insurance coverage offered in
18 this state, an association which:

- 19 (i) Has been actively in existence for at least five (5) years;
- 20 (ii) Has been formed and maintained in good faith for purposes other than obtaining
21 insurance;
- 22 (iii) Does not condition membership in the association on any health status-related factor
23 relating to an individual (including an employee of an employer or a dependent of an employee);
- 24 (iv) Makes health insurance coverage offered through the association available to all
25 members regardless of any health status-related factor relating to the members (or individuals
26 eligible for coverage through a member);
- 27 (v) Does not make health insurance coverage offered through the association available
28 other than in connection with a member of the association;
- 29 (vi) Is composed of persons having a common interest or calling;
- 30 (vii) Has a constitution and bylaws; and
- 31 (viii) Meets any additional requirements that the director may prescribe by regulation;

32 ~~(4)~~(4) "COBRA continuation provision" means any of the following:

- 33 (i) Section 4980(B) of the Internal Revenue Code of 1986, 26 U.S.C. § 4980B, other than
34 subsection (f)(1) of that section insofar as it relates to pediatric vaccines;

1 (ii) Part 6 of subtitle B of Title I of the Employee Retirement Income Security Act of
2 1974, 29 U.S.C. § 1161 et seq., other than Section 609 of that act, 29 U.S.C. § 1169; or

3 (iii) Title XXII of the United States Public Health Service Act, 42 U.S.C. § 300bb-1 et
4 seq.;

5 ~~(3)~~(5) "Creditable coverage" has the same meaning as defined in the United States Public
6 Health Service Act, Section 2701(c), 42 U.S.C. § 300gg(c), as added by P.L. 104-191;

7 ~~(4)~~(6) "~~Director~~" "Commissioner" means the ~~director of the department of business~~
8 ~~regulation~~ health insurance commissioner;

9 (7) "Dependent" means a spouse, child under the age of twenty-six (26) years, and an
10 unmarried child of any age who is financially dependent upon the parent and is medically
11 determined to have a physical or mental impairment which can be expected to result in death or
12 which has lasted or can be expected to last for a continuous period of not less than twelve (12)
13 months;

14 ~~(5)~~(8) "Eligible individual" means an individual resident of this state;

15 ~~(i) For whom, as of the date on which the individual seeks coverage under this chapter,~~
16 ~~the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose~~
17 ~~most recent prior creditable coverage was under a group health plan, a governmental plan~~
18 ~~established or maintained for its employees by the government of the United States or by any of~~
19 ~~its agencies or instrumentalities, or church plan (as defined by the Employee Retirement Income~~
20 ~~Security Act of 1974, 29 U.S.C. § 1001 et seq.);~~

21 ~~(ii) Who is not eligible for coverage under a group health plan, part A or part B of title~~
22 ~~XVIII of the Social Security Act, 42 U.S.C. § 1395c et seq. or 42 U.S.C. § 1395j et seq., or any~~
23 ~~state plan under title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (or any successor~~
24 ~~program), and does not have other health insurance coverage;~~

25 ~~(iii) With respect to whom the most recent coverage within the coverage period was not~~
26 ~~terminated based on a factor described in § 27-18.5-4(b) (relating to nonpayment of premiums or~~
27 ~~fraud);~~

28 ~~(iv) If the individual had been offered the option of continuation coverage under a~~
29 ~~COBRA continuation provision, or under chapter 19.1 of this title or under a similar state~~
30 ~~program of this state or any other state, who elected the coverage; and~~

31 ~~(v) Who, if the individual elected COBRA continuation coverage, has exhausted the~~
32 ~~continuation coverage under the provision or program;~~

33 (9) "Essential health benefits" means the following general categories and the items and
34 services covered within the following ten (10) categories that are consistent with the Rhode Island

1 benchmark plan. The benchmark plan shall be periodically selected and reselected by the
2 commissioner as needed through the regulatory process. The essential health benefits in the
3 benchmark plan shall provide the following ten (10) categories of benefits:

4 (i) Ambulatory patient services;

5 (ii) Emergency services;

6 (iii) Hospitalization;

7 (iv) Maternity and newborn care;

8 (v) Mental health and substance use disorder services, including behavioral health
9 treatment;

10 (vi) Prescription drugs;

11 (vii) Rehabilitative and habilitative services and devices;

12 (viii) Laboratory services;

13 (ix) Preventive services, wellness services and chronic disease management; and

14 (x) Pediatric services, including oral and vision care;

15 ~~(6)~~(10) "Group health plan" means an employee welfare benefit plan as defined in section
16 3(1) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(1), to the extent
17 that the plan provides medical care and including items and services paid for as medical care to
18 employees or their dependents as defined under the terms of the plan directly or through
19 insurance, reimbursement or otherwise;

20 ~~(7)~~(11) "Health insurance carrier" or "carrier" means any entity subject to the insurance
21 laws and regulations of this state, or subject to the jurisdiction of the ~~director~~ commissioner, that
22 contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the
23 costs of health care services, including, without limitation, an insurance company offering
24 accident and sickness insurance, a health maintenance organization, a nonprofit hospital, medical
25 or dental service corporation, or any other entity providing a plan of health insurance or health
26 benefits by which health care services are paid or financed for an eligible individual or his or her
27 dependents by such entity on the basis of a periodic premium, paid directly or through an
28 association, trust, or other intermediary, and issued, renewed, or delivered within or without
29 Rhode Island to cover a natural person who is a resident of this state, including a certificate issued
30 to a natural person which evidences coverage under a policy or contract issued to a trust or
31 association;

32 ~~(8)~~(12) (i) "Health insurance coverage" means a policy, contract, certificate, or agreement
33 offered by a health insurance carrier to provide, deliver, arrange for, pay for or reimburse any of
34 the costs of health care services.

1 (ii) "Health insurance coverage" does not include one or more, or any combination of, the
2 following, [if coverage complies with all other applicable state and federal regulations for limited](#)
3 [or excepted benefits](#):

4 (A) Coverage only for accident, or disability income insurance, or any combination of
5 those;

6 (B) Coverage issued as a supplement to liability insurance;

7 (C) Liability insurance, including general liability insurance and automobile liability
8 insurance;

9 (D) Workers' compensation or similar insurance;

10 (E) Automobile medical payment insurance;

11 (F) Credit-only insurance;

12 (G) Coverage for on-site medical clinics;

13 (H) Other similar insurance coverage, specified in ~~federal~~ [state](#) regulations issued
14 pursuant to P.L. 104-191, under which benefits for medical care are secondary or incidental to
15 other insurance benefits; and

16 (I) Short term limited duration insurance [in accordance with regulations adopted by the](#)
17 [commissioner](#);

18 (iii) "Health insurance coverage" does not include the following benefits if they are
19 provided under a separate policy, certificate, or contract of insurance or are not an integral part of
20 the coverage:

21 (A) Limited scope dental or vision benefits;

22 (B) Benefits for long-term care, nursing home care, home health care, community-based
23 care, or any combination of these;

24 (C) Any other similar, limited benefits that are specified in [state and](#) federal regulation
25 issued pursuant to P.L. 104-191;

26 (iv) "Health insurance coverage" does not include the following benefits if the benefits
27 are provided under a separate policy, certificate, or contract of insurance, there is no coordination
28 between the provision of the benefits and any exclusion of benefits under any group health plan
29 maintained by the same plan sponsor, and the benefits are paid with respect to an event without
30 regard to whether benefits are provided with respect to the event under any group health plan
31 maintained by the same plan sponsor [if coverage complies with all other applicable state and](#)
32 [federal regulations for limited or excepted benefit plans](#):

33 (A) Coverage only for a specified disease or illness; or

34 (B) Hospital indemnity or other fixed indemnity insurance; and

1 (v) "Health insurance coverage" does not include the following if it is offered as a
2 separate policy, certificate, or contract of insurance:

3 (A) Medicare supplemental health insurance as defined under section 1882(g)(1) of the
4 Social Security Act, 42 U.S.C. § 1395ss(g)(1);

5 (B) Coverage supplemental to the coverage provided under 10 U.S.C. § 1071 et seq.; and

6 (C) Similar supplemental coverage provided to coverage under a group health plan;

7 ~~(9)~~(13) "Health status-related factor" means and includes, but is not limited to, any of the
8 following factors:

9 (i) Health status;

10 (ii) Medical condition, including both physical and mental illnesses;

11 (iii) Claims experience;

12 (iv) Receipt of health care;

13 (v) Medical history;

14 (vi) Genetic information;

15 (vii) Evidence of insurability, including conditions arising out of acts of domestic
16 violence; and

17 (viii) Disability;

18 ~~(10)~~(14) "Individual market" means the market for health insurance coverage offered to
19 individuals other than in connection with a group health plan;

20 ~~(11)~~(15) "Network plan" means health insurance coverage offered by a health insurance
21 carrier under which the financing and delivery of medical care including items and services paid
22 for as medical care are provided, in whole or in part, through a defined set of providers under
23 contract with the carrier;

24 ~~(12)~~(16) "Preexisting condition exclusion" means, with respect to health insurance
25 coverage, ~~a condition (whether physical or mental), regardless of the cause of the condition, that~~
26 ~~was present before the date of enrollment for the coverage, for which medical advice, diagnosis,~~
27 ~~care, or treatment was recommended or received within the six (6) month period ending on the~~
28 ~~enrollment date. Genetic information shall not be treated as a preexisting condition in the absence~~
29 ~~of a diagnosis of the condition related to that information; and~~ a limitation or exclusion of
30 benefits (including a denial of coverage) based on the fact that the condition was present before
31 the effective date of coverage (or if coverage is denied, the date of the denial), whether or not any
32 medical advice, diagnosis, care, or treatment was recommended or received before that day. A
33 preexisting condition exclusion includes any limitation or exclusion of benefits (including a
34 denial of coverage) applicable to an individual as a result of information relating to an

1 individual's health status before the individual's effective date of coverage (or if coverage is
2 denied, the date of the denial), such as a condition identified as a result of a pre-enrollment
3 questionnaire or physical examination given to the individual, or review of medical records
4 relating to the pre-enrollment period.

5 (17) "Preventive services" means those services described in 42 USC § 300gg-13 and
6 implementing regulations and guidance, and shall be covered without any cost-sharing for the
7 enrollee when delivered by in-network providers, as those terms and obligations are therein
8 described, and if repealed then the preventive services as may be described in 26 USC § 223
9 relating to the Internal Revenue Service high deductible health plan safe harbor rules.

10 ~~(13) "High risk individuals" means those individuals who do not pass medical~~
11 ~~underwriting standards, due to high health care needs or risks;~~

12 ~~(14) "Wellness health benefit plan" means that health benefit plan offered in the~~
13 ~~individual market pursuant to § 27-18.5-8; and~~

14 ~~(15) "Commissioner" means the health insurance commissioner.~~

15 **27-18.5-3. Guaranteed availability to certain individuals.**

16 (a) ~~Notwithstanding any of the provisions of this title to the contrary~~ Subject to
17 subsections (b) through (g) of this section, all health insurance carriers that offer health insurance
18 coverage in the individual market in this state shall provide for the guaranteed availability of
19 coverage to an eligible individual. A carrier offering health insurance coverage in the individual
20 market must offer to any eligible individual in the state all health insurance coverage plans of that
21 carrier that are approved for sale in the individual market, and must accept any eligible individual
22 that applies for coverage under those plans. ~~or an individual who has had health insurance~~
23 ~~coverage, including coverage in the individual market, or coverage under a group health plan or~~
24 ~~coverage under 5 U.S.C. § 8901 et seq. and had that coverage continuously for at least twelve~~
25 ~~(12) consecutive months and who applies for coverage in the individual market no later than~~
26 ~~sixty three (63) days following termination of the coverage, desiring to enroll in individual health~~
27 ~~insurance coverage, and who is not eligible for coverage under a group health plan, part A or part~~
28 ~~B or title XVIII of the Social Security Act, 42 U.S.C. § 1395c et seq. or 42 U.S.C. § 1395j et seq.,~~
29 ~~or any state plan under title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (or any~~
30 ~~successor program) and does not have other health insurance coverage (provided, that eligibility~~
31 ~~for the other coverage shall not disqualify an individual with twelve (12) months of consecutive~~
32 ~~coverage if that individual applies for coverage in the individual market for the primary purpose~~
33 ~~of obtaining coverage for a specific pre-existing condition, and the other available coverage~~
34 ~~excludes coverage for that pre-existing condition) and A carrier may not:~~

1 (1) Decline to offer the coverage to, or deny enrollment of, the individual; or

2 (2) Impose any preexisting condition exclusion with respect to the coverage.

3 (b)(1) All health insurance carriers that offer health insurance coverage in the individual
4 market in this state shall offer, to all eligible individuals, all policy forms of health insurance
5 coverage. Such policies shall offer coverage of essential health benefits and shall offer plans in
6 accordance with the actuarial value tiers. A carrier may offer plans with reduced cost sharing for
7 eligible individuals, based on available federal funds as described by 42 U.S.C. §18071, or based
8 on a program established with state funds.

9 ~~Provided, the carrier may elect to limit the coverage offered so long as it offers at least~~
10 ~~two (2) different policy forms of health insurance coverage (policy forms which have different~~
11 ~~cost-sharing arrangements or different riders shall be considered to be different policy forms)~~
12 ~~both of which:~~

13 (i) ~~Are designed for, made generally available to, and actively market to, and enroll both~~
14 ~~eligible and other individuals by the carrier; and~~

15 (ii) ~~Meet the requirements of subparagraph (A) or (B) of this paragraph as elected by the~~
16 ~~carrier:~~

17 (A) ~~If the carrier offers the policy forms with the largest, and next to the largest, premium~~
18 ~~volume of all the policy forms offered by the carrier in this state; or~~

19 (B) ~~If the carrier offers a choice of two (2) policy forms with representative coverage,~~
20 ~~consisting of a lower level coverage policy form and a higher level coverage policy form each of~~
21 ~~which includes benefits substantially similar to other individual health insurance coverage offered~~
22 ~~by the carrier in this state and each of which is covered under a method that provides for risk~~
23 ~~adjustment, risk spreading, or financial subsidization.~~

24 (2) ~~For the purposes of this subsection, "lower level coverage" means a policy form for~~
25 ~~which the actuarial value of the benefits under the coverage is at least eighty five percent (85%)~~
26 ~~but not greater than one hundred percent (100%) of the policy form weighted average.~~

27 (3) ~~For the purposes of this subsection, "higher level coverage" means a policy form for~~
28 ~~which the actuarial value of the benefits under the coverage is at least fifteen percent (15%)~~
29 ~~greater than the actuarial value of lower level coverage offered by the carrier in this state, and the~~
30 ~~actuarial value of the benefits under the coverage is at least one hundred percent (100%) but not~~
31 ~~greater than one hundred twenty percent (120%) of the policy form weighted average.~~

32 (4) ~~For the purposes of this subsection, "policy form weighted average" means the~~
33 ~~average actuarial value of the benefits provided by all the health insurance coverage issued (as~~
34 ~~elected by the carrier) either by that carrier or, if the data are available, by all carriers in this state~~

1 ~~in the individual market during the previous year (not including coverage issued under this~~
2 ~~subsection), weighted by enrollment for the different coverage. The actuarial value of benefits~~
3 ~~shall be calculated based on a standardized population and a set of standardized utilization and~~
4 ~~cost factors.~~

5 (5) ~~The carrier elections under this subsection shall apply uniformly to all eligible~~
6 ~~individuals in this state for that carrier. The election shall be effective for policies offered during~~
7 ~~a period of not shorter than two (2) years.~~

8 (c) (1) A carrier may deny health insurance coverage in the individual market to an
9 eligible individual if the carrier has demonstrated to the ~~director~~ commissioner that:

10 (i) It does not have the financial reserves necessary to underwrite additional coverage;
11 and

12 (ii) It is applying this subsection uniformly to all individuals in the individual market in
13 this state consistent with applicable state law and without regard to any health status-related
14 factor of the individuals and without regard to whether the individuals are eligible individuals.

15 (2) A carrier upon denying individual health insurance coverage in this state in
16 accordance with this subsection may not offer that coverage in the individual market in this state
17 for a period of one hundred eighty (180) days after the date the coverage is denied or until the
18 carrier has demonstrated to the ~~director~~ commissioner that the carrier has sufficient financial
19 reserves to underwrite additional coverage, whichever is later.

20 ~~(d) Nothing in this section shall be construed to require that a carrier offering health~~
21 ~~insurance coverage only in connection with group health plans or through one or more bona fide~~
22 ~~associations, or both, offer health insurance coverage in the individual market.~~

23 ~~(e)~~(d) A carrier offering health insurance coverage in connection with group health plans
24 under this title shall not be deemed to be a health insurance carrier offering individual health
25 insurance coverage solely because the carrier offers a conversion policy.

26 (e) A carrier shall develop its rates based on an adjusted community rate and may only
27 vary the adjusted community rate for age. The age of an enrollee shall be determined as of the
28 date of plan issuance or renewal. For each health benefit plan offered by a carrier, the premium
29 rate for the sixty-four (64) years of age or older bracket shall not exceed three (3) times the rate
30 for a twenty-one (21) year old.

31 (f) ~~Except for any high risk pool rating rules to be established by the Office of the Health~~
32 ~~Insurance Commissioner (OHIC) as described in this section, nothing~~ Nothing in this section
33 shall be construed to ~~create additional restrictions on the amount of premium rates that a carrier~~
34 ~~may charge an individual for health insurance coverage provided in the individual market; or to~~

1 prevent a health insurance carrier offering health insurance coverage in the individual market
2 from establishing ~~premium rates~~ discounts or rebates or modifying applicable copayments or
3 deductibles in return for ~~adherence to~~ participation in programs of health promotion ~~and or~~
4 disease prevention provided the application of these discounts, rebates and/or cost-sharing
5 modifications and the wellness programs satisfy the requirements of federal and state laws and
6 regulations, including, without limitation, nondiscrimination and mental health parity provisions
7 of federal and state laws and regulations.

8 (g) OHIC may pursue federal funding in support of the development of a high risk pool
9 program, reinsurance program, a risk adjustment program, or any other program designed to
10 maintain market stability for the individual market, ~~as defined in § 27-18.5-2, contingent upon a~~
11 ~~thorough assessment of any financial obligation of the state related to the receipt of said federal~~
12 ~~funding being presented to, and approved by, the general assembly by passage of concurrent~~
13 ~~general assembly resolution.~~ Such authority includes to work in collaboration with the health
14 benefit exchange and any other state department to develop a waiver application under §1332 of
15 the Affordable Care Act or successor programs. The components of ~~the high risk pool program~~
16 such programs, including, but not limited to, rating rules, eligibility requirements and
17 administrative processes, shall be designed in accordance with ~~§ 2745 of the Public Health~~
18 ~~Service Act (42 U.S.C. § 300gg-45) also known as the State High Risk Pool Funding Extension~~
19 ~~Act of 2006 and defined in regulations promulgated by the office of the health insurance~~
20 ~~commissioner on or before October 1, 2007~~ federal and state laws and regulations.

21 (h) (1) In the case of a health insurance carrier that offers health insurance coverage in the
22 individual market through a network plan, the carrier may limit the individuals who may be
23 enrolled under that coverage to those who live, reside, or work within the service areas ~~for~~ which
24 can be served by the providers and facilities that are participating in the network plan, consistent
25 with state and federal network adequacy requirements; and within the service areas of the plan,
26 deny coverage to individuals if the carrier has demonstrated to the ~~director~~ commissioner that:

27 (i) It will not have the capacity to deliver services adequately to additional individual
28 enrollees because of its obligations to existing group contract holders and enrollees and individual
29 enrollees; and

30 (ii) It is applying this subsection uniformly to individuals without regard to any health
31 status-related factor of the individuals and without regard to whether the individuals are eligible
32 individuals.

33 (2) Upon denying health insurance coverage in any service area in accordance with the
34 terms of this subsection, a carrier may not offer coverage in the individual market within the

1 service area for a period of one hundred eighty (180) days after the coverage is denied.

2 (i) Open enrollment. An eligible individual is entitled to enroll under the terms of the
3 health benefit plan during an open enrollment period held annually for a period to be between
4 thirty (30) and sixty (60) days.

5 **27-18.5-4. Continuation of coverage -- Renewability.**

6 (a) A health insurance carrier that provides individual health insurance coverage to an
7 eligible individual in this state shall renew or continue in force that coverage at the option of the
8 individual.

9 (b) A health insurance carrier may ~~nonrenew~~ non-renew or discontinue health insurance
10 coverage of an eligible individual in the individual market based only on one or more of the
11 following:

12 (1) The eligible individual has failed to pay premiums or contributions in accordance
13 with the terms of the health insurance coverage, including terms relating to ~~or the carrier has not~~
14 ~~received~~ timely premium payments;

15 (2) The eligible individual has performed an act or practice that constitutes fraud or made
16 an intentional misrepresentation of material fact under the terms of the coverage within two (2)
17 years after the act or practice. After two (2) years, the carrier may not renew or discontinue under
18 this subsection only if the eligible individual has failed to reimburse the carrier for the costs
19 associated with the fraud or misrepresentation;

20 (3) The carrier is ceasing to offer coverage in accordance with subsections (c) and (d) of
21 this section;

22 (4) In the case of a carrier that offers health insurance coverage in the market through a
23 geographically-restricted network plan, the individual no longer resides, lives, or works in the
24 service area (or in an area for which the carrier is authorized to do business) but only if the
25 coverage is terminated uniformly without regard to any health status-related factor of covered
26 individuals; or

27 (5) In the case of health insurance coverage that is made available in the individual
28 market only through one or more bona fide associations, the membership of the eligible
29 individual in the association (on the basis of which the coverage is provided) ceases but only if
30 the coverage is terminated uniformly and without regard to any health status-related factor of
31 covered individuals.

32 (c) In any case in which a carrier decides to discontinue offering a ~~particular type of~~
33 health insurance coverage ~~offered~~ plan policy form in the individual market, coverage ~~of that type~~
34 under that form may be discontinued only if:

1 (1) The carrier provides notice, to each covered individual provided coverage of this type
2 in the market, of the discontinuation at least ninety (90) days prior to the date of discontinuation
3 of the coverage;

4 (2) The carrier offers to each individual in the individual market provided coverage of
5 this type, the opportunity to purchase any other individual health insurance coverage currently
6 being offered by the carrier for individuals in the market; and

7 (3) In exercising this option to discontinue coverage of this type and in offering the
8 option of coverage under subdivision (2) of this subsection, the carrier acts uniformly without
9 regard to any health status-related factor of enrolled individuals or individuals who may become
10 eligible for the coverage.

11 (d) In any case in which a carrier elects to discontinue offering all health insurance
12 coverage in the individual market in this state, health insurance coverage may be discontinued
13 only if:

14 (1) The carrier provides notice to the ~~director~~ [commissioner](#) and to each individual of the
15 discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the
16 coverage; and

17 (2) All health insurance issued or delivered in this state in the market is discontinued and
18 coverage under this health insurance coverage in the market is not renewed.

19 (e) In the case of a discontinuation under subsection (d) of this section, the carrier may
20 not provide for the issuance of any health insurance coverage in the individual market in this state
21 during the five (5) year period beginning on the date the carrier filed its notice with the
22 department to withdraw from the individual health insurance market in this state. This five (5)
23 year period may be reduced to a minimum of three (3) years at the discretion of the health
24 insurance commissioner, based on his/her analysis of market conditions and other related factors.

25 (f) The provisions of subsections (d) and (e) of this section do not apply if, at the time of
26 coverage renewal, a health insurance carrier modifies the health insurance coverage for a policy
27 form offered to individuals in the individual market so long as the modification is consistent with
28 this chapter and other applicable law and effective on a uniform basis among all individuals with
29 that policy form.

30 (g) In applying this section in the case of health insurance coverage made available by a
31 carrier in the individual market to individuals only through one or more associations, a reference
32 to an "individual" includes a reference to the association (of which the individual is a member).

33 **27-18.5-5. Enforcement -- Limitation on actions.**

34 The ~~director~~ [commissioner](#) has the power to enforce the provisions of this chapter in

1 accordance with § 42-14-16 and all other applicable laws.

2 **27-18.5-6. Rules and regulations.**

3 The ~~director~~ commissioner may promulgate rules and regulations necessary to effectuate
4 the purposes of this chapter. If provisions of the federal Patient Protection and Affordable Care
5 Act and implementing regulations, corresponding to the provisions of this chapter, are repealed,
6 then the commissioner may promulgate regulations reflecting relevant federal law and
7 implementing regulations in effect immediately prior to their repeal. In the event of such changes
8 to the law and related regulations, the commissioner, in conjunction with the health benefit
9 exchange or other state department, shall report to the general assembly as soon as possible to
10 describe the impact of the change and to make recommendations regarding consumer protections,
11 consumer choices, and stabilization and affordability of the Rhode Island insurance market.

12 **27-18.5-10. Prohibition on preexisting condition exclusions.**

13 (a) A health insurance policy, subscriber contract, or health plan offered, issued, issued
14 for delivery, or issued to cover a resident of this state by a health insurance company licensed
15 pursuant to this title and/or chapter: shall not limit or exclude coverage for any individual by
16 imposing a preexisting condition exclusion on that individual.

17 ~~(1) Shall not limit or exclude coverage for an individual under the age of nineteen (19) by~~
18 ~~imposing a preexisting condition exclusion on that individual.~~

19 ~~(2) For plan or policy years beginning on or after January 1, 2014, shall not limit or~~
20 ~~exclude coverage for any individual by imposing a preexisting condition exclusion on that~~
21 ~~individual.~~

22 ~~(b) As used in this section:~~

23 ~~(1) "Preexisting condition exclusion" means a limitation or exclusion of benefits,~~
24 ~~including a denial of coverage, based on the fact that the condition (whether physical or mental)~~
25 ~~was present before the effective date of coverage, or if the coverage is denied, the date of denial,~~
26 ~~under a health benefit plan whether or not any medical advice, diagnosis, care or treatment was~~
27 ~~recommended or received before the effective date of coverage.~~

28 ~~(2) "Preexisting condition exclusion" means any limitation or exclusion of benefits,~~
29 ~~including a denial of coverage, applicable to an individual as a result of information relating to an~~
30 ~~individual's health status before the individual's effective date of coverage, or if the coverage is~~
31 ~~denied, the date of denial, under the health benefit plan, such as a condition (whether physical or~~
32 ~~mental) identified as a result of a pre-enrollment questionnaire or physical examination given to~~
33 ~~the individual, or review of medical records relating to the pre-enrollment period.~~

34 ~~(e)~~(b) This section shall not apply to grandfathered health plans providing individual

1 health insurance coverage.

2 ~~(d)(c)~~ This section shall not apply to insurance coverage providing benefits for: (1)
3 Hospital confinement indemnity; (2) Disability income; (3) Accident only; (4) Long-term care;
4 (5) Medicare supplement; (6) Limited benefit health; (7) Specified disease indemnity; (8)
5 Sickness or bodily injury or death by accident or both; and (9) Other limited benefit policies.

6 SECTION 3. Sections 27-18.5-8 and 27-18.5-9 of the General Laws in Chapter 27-18.5
7 entitled "Individual Health Insurance Coverage" are hereby repealed.

8 ~~**27-18.5-8. Wellness health benefit plan.**~~

9 ~~All carriers that offer health insurance in the individual market shall actively market and~~
10 ~~offer the wellness health direct benefit plan to eligible individuals. The wellness health direct~~
11 ~~benefit plan shall be determined by regulation promulgated by the office of the health insurance~~
12 ~~commissioner (OHIC). The OHIC shall develop the criteria for the direct wellness health benefit~~
13 ~~plan, including, but not limited to, benefit levels, cost sharing levels, exclusions and limitations in~~
14 ~~accordance with the following:~~

15 ~~(1) Form and utilize an advisory committee in accordance with subsection 27-50-10(5).~~

16 ~~(2) Set a target for the average annualized individual premium rate for the direct wellness~~
17 ~~health benefit plan to be less than ten percent (10%) of the average annual statewide wage,~~
18 ~~dependent upon the availability of reinsurance funds, as reported by the Rhode Island department~~
19 ~~of labor and training, in their report entitled "Quarterly Census of Rhode Island Employment and~~
20 ~~Wages." In the event that this report is no longer available, or the OHIC determines that it is no~~
21 ~~longer appropriate for the determination of maximum annualized premium, an alternative method~~
22 ~~shall be adopted in regulation by the OHIC. The maximum annualized individual premium rate~~
23 ~~shall be determined no later than August 1st of each year, to be applied to the subsequent calendar~~
24 ~~year premiums rates.~~

25 ~~(3) Ensure that the direct wellness health benefit plan creates appropriate incentives for~~
26 ~~employers, providers, health plans and consumers to, among other things:~~

27 ~~(i) Focus on primary care, prevention and wellness;~~

28 ~~(ii) Actively manage the chronically ill population;~~

29 ~~(iii) Use the least cost, most appropriate setting; and~~

30 ~~(iv) Use evidence based, quality care.~~

31 ~~(4) The plan shall be made available in accordance with title 27, chapter 18.5 as required~~
32 ~~by regulation on or before May 1, 2007.~~

33 ~~**27-18.5-9. Affordable health plan reinsurance program for individuals.**~~

34 ~~(a) The commissioner shall allocate funds from the affordable health plan reinsurance~~

1 ~~fund for the affordable health reinsurance program.~~

2 ~~(b) The affordable health reinsurance program for individuals shall only be available to~~
3 ~~high risk individuals as defined in § 27-18.5-2, and who purchase the direct wellness health~~
4 ~~benefit plan pursuant to the provisions of this section. Eligibility shall be determined based on~~
5 ~~state and federal income tax filings.~~

6 ~~(c) The affordable health plan reinsurance shall be in the form of a carrier cost sharing~~
7 ~~arrangement, which encourages carriers to offer a discounted premium rate to participating~~
8 ~~individuals, and whereby the reinsurance fund subsidizes the carriers' losses within a prescribed~~
9 ~~corridor of risk as determined by regulation.~~

10 ~~(d) The specific structure of the reinsurance arrangement shall be defined by regulations~~
11 ~~promulgated by the commissioner.~~

12 ~~(e) The commissioner shall determine total eligible enrollment under qualifying~~
13 ~~individual health insurance contracts by dividing the funds available for distribution from the~~
14 ~~reinsurance fund by the estimated per member annual cost of claims reimbursement from the~~
15 ~~reinsurance fund.~~

16 ~~(f) The commissioner shall suspend the enrollment of new individuals under qualifying~~
17 ~~individual health insurance contracts if the director determines that the total enrollment reported~~
18 ~~under such contracts is projected to exceed the total eligible enrollment, thereby resulting in~~
19 ~~anticipated annual expenditures from the reinsurance fund in excess of ninety five percent (95%)~~
20 ~~of the total funds available for distribution from the fund.~~

21 ~~(g) The commissioner shall provide the health maintenance organization, health insurers~~
22 ~~and health plans with notification of any enrollment suspensions as soon as practicable after~~
23 ~~receipt of all enrollment data.~~

24 ~~(h) The premiums of qualifying individual health insurance contracts must be no more~~
25 ~~than ninety percent (90%) of the actuarially determined and commissioner approved premium for~~
26 ~~this health plan without the reinsurance program assistance.~~

27 ~~(i) The commissioner shall prepare periodic public reports in order to facilitate evaluation~~
28 ~~and ensure orderly operation of the funds, including, but not limited to, an annual report of the~~
29 ~~affairs and operations of the fund, containing an accounting of the administrative expenses~~
30 ~~charged to the fund. Such reports shall be delivered to the co chairs of the joint legislative~~
31 ~~committee on health care oversight by March 1st of each year.~~

32 SECTION 4. Sections 27-18.6-2, 27-18.6-3, 27-18.6-5, 27-18.6-8 and 27-18.6-9 of the
33 General Laws in Chapter 27-18.6 entitled "Large Group Health Insurance Coverage" are hereby
34 amended to read as follows:

1 **27-18.6-2. Definitions.**

2 The following words and phrases as used in this chapter have the following meanings
3 consistent with federal law and regulations adopted thereunder, so long as they remain in effect,
4 and if struck then those in effect as of the date immediately prior to their repeal unless a different
5 meaning is required by the context:

6 ~~(1) "Affiliation period" means a period which, under the terms of the health insurance~~
7 ~~coverage offered by a health maintenance organization, must expire before the health insurance~~
8 ~~coverage becomes effective. The health maintenance organization is not required to provide~~
9 ~~health care services or benefits during the period and no premium shall be charged to the~~
10 ~~participant or beneficiary for any coverage during the period;~~

11 ~~(2)~~(1) "Beneficiary" has the meaning given that term under section 3(8) of the Employee
12 Retirement Security Act of 1974, 29 U.S.C. § 1002(8);

13 ~~(3)~~(2) "Bona fide association" means, with respect to health insurance coverage in this
14 state, an association which:

15 (i) Has been actively in existence for at least five (5) years;

16 (ii) Has been formed and maintained in good faith for purposes other than obtaining
17 insurance;

18 (iii) Does not condition membership in the association on any health status-relating factor
19 relating to an individual (including an employee of an employer or a dependent of an employee);

20 (iv) Makes health insurance coverage offered through the association available to all
21 members regardless of any health status-related factor relating to the members (or individuals
22 eligible for coverage through a member);

23 (v) Does not make health insurance coverage offered through the association available
24 other than in connection with a member of the association;

25 (vi) Is composed of persons having a common interest or calling;

26 (vii) Has a constitution and bylaws; and

27 (viii) Meets any additional requirements that the director may prescribe by regulation;

28 ~~(4)~~(3) "COBRA continuation provision" means any of the following:

29 (i) Section 4980(B) of the Internal Revenue Code of 1986, 26 U.S.C. § 4980B, other than
30 the subsection (f)(1) of that section insofar as it relates to pediatric vaccines;

31 (ii) Part 6 of subtitle B of title 1 of the Employee Retirement Income Security Act of
32 1974, 29 U.S.C. § 1161 et seq., other than section 609 of that act, 29 U.S.C. § 1169; or

33 (iii) Title XXII of the United States Public Health Service Act, 42 U.S.C. § 300bb-1 et
34 seq.;

1 ~~(5)~~(4) "Creditable coverage" has the same meaning as defined in the United States Public
2 Health Service Act, section 2701(c), 42 U.S.C. § 300gg(c), as added by P.L. 104-191;

3 ~~(6)~~(5) "Church plan" has the meaning given that term under section 3(33) of the
4 Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(33);

5 ~~(7)~~(6) "~~Director~~" "Commissioner" means the ~~director~~ health insurance commissioner ~~of~~
6 ~~the department of business regulation~~;

7 (7) "Dependent" means a spouse, child under the age of twenty-six (26) years, and an
8 unmarried child of any age who is financially dependent upon the parent and is medically
9 determined to have a physical or mental impairment which can be expected to result in death or
10 which has lasted or can be expected to last for a continuous period of not less than twelve (12)
11 months

12 (8) "Employee" has the meaning given that term under section 3(6) of the Employee
13 Retirement Income Security Act of 1974, 29 U.S.C. § 1002(6);

14 (9) "Employer" has the meaning given that term under section 3(5) of the Employee
15 Retirement Income Security Act of 1974, 29 U.S.C. § 1002(5), except that the term includes only
16 employers of two (2) or more employees;

17 (10) "Enrollment date" means, with respect to an individual covered under a group health
18 plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage
19 or, if earlier, the first day of the waiting period for the enrollment;

20 (11) "Governmental plan" has the meaning given that term under section 3(32) of the
21 Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(32), and includes any
22 governmental plan established or maintained for its employees by the government of the United
23 States, the government of any state or political subdivision of the state, or by any agency or
24 instrumentality of government;

25 (12) "Group health insurance coverage" means, in connection with a group health plan,
26 health insurance coverage offered in connection with that plan;

27 (13) "Group health plan" means an employee welfare benefits plan as defined in section
28 3(1) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(1), to the extent
29 that the plan provides medical care and including items and services paid for as medical care to
30 employees or their dependents as defined under the terms of the plan directly or through
31 insurance, reimbursement or otherwise;

32 (14) "Health insurance carrier" or "carrier" means any entity subject to the insurance laws
33 and regulations of this state, or subject to the jurisdiction of the director, that contracts or offers to
34 contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care

1 services, including, without limitation, an insurance company offering accident and sickness
2 insurance, a health maintenance organization, a nonprofit hospital, medical or dental service
3 corporation, or any other entity providing a plan of health insurance, health benefits, or health
4 services;

5 (15)(i) "Health insurance coverage" means a policy, contract, certificate, or agreement
6 offered by a health insurance carrier to provide, deliver, arrange for, pay for, or reimburse any of
7 the costs of health care services. Health insurance coverage does include short-term and
8 catastrophic health insurance policies, and a policy that pays on a cost-incurred basis, except as
9 otherwise specifically exempted in this definition.

10 (ii) "Health insurance coverage" does not include one or more, or any combination of, the
11 following "excepted benefits":

12 (A) Coverage only for accident, or disability income insurance, or any combination of
13 those;

14 (B) Coverage issued as a supplement to liability insurance;

15 (C) Liability insurance, including general liability insurance and automobile liability
16 insurance;

17 (D) Workers' compensation or similar insurance;

18 (E) Automobile medical payment insurance;

19 (F) Credit-only insurance;

20 (G) Coverage for on-site medical clinics; and

21 (H) Other similar insurance coverage, specified in [state and](#) federal regulations ~~issued~~
22 ~~pursuant to P.L. 104-191~~, under which benefits for medical care are secondary or incidental to
23 other insurance benefits;

24 (iii) "Health insurance coverage" does not include the following "limited, excepted
25 benefits" if they are provided under a separate policy, certificate of insurance, or are not an
26 integral part of the plan:

27 (A) Limited scope dental or vision benefits;

28 (B) Benefits for long-term care, nursing home care, home health care, community-based
29 care, or any combination of those; and

30 (C) Any other similar, limited benefits that are specified in [state and](#) federal regulations
31 ~~issued pursuant to P.L. 104-191~~;

32 (iv) "Health insurance coverage" does not include the following "noncoordinated,
33 excepted benefits" if the benefits [meet state and federal regulations for excepted benefits and](#) are
34 provided under a separate policy, certificate, or contract of insurance, there is no coordination

1 between the provision of the benefits and any exclusion of benefits under any group health plan
2 maintained by the same plan sponsor, and the benefits are paid with respect to an event without
3 regard to whether benefits are provided with respect to the event under any group health plan
4 maintained by the same plan sponsor:

5 (A) Coverage only for a specified disease or illness; and

6 (B) Hospital indemnity or other fixed indemnity insurance;

7 (v) "Health insurance coverage" does not include the following "supplemental, excepted
8 benefits" if offered as a separate policy, certificate, or contract of insurance [under state or federal
9 regulations](#):

10 (A) Medicare supplemental health insurance as defined under section 1882(g)(1) of the
11 Social Security Act, 42 U.S.C. § 1395ss(g)(1);

12 (B) Coverage supplemental to the coverage provided under 10 U.S.C. § 1071 et seq.; and

13 (C) Similar supplemental coverage provided to coverage under a group health plan;

14 (16) "Health maintenance organization" ("HMO") means a health maintenance
15 organization licensed under chapter 41 of this title;

16 (17) "Health status-related factor" means [and includes, but is not limited to](#), any of the
17 following factors:

18 (i) Health status;

19 (ii) Medical condition, including both physical and mental illnesses;

20 (iii) Claims experience;

21 (iv) Receipt of health care;

22 (v) Medical history;

23 (vi) Genetic information;

24 (vii) Evidence of insurability, including contributions arising out of acts of domestic
25 violence; and

26 (viii) Disability;

27 (18) "Large employer" means, in connection with a group health plan with respect to a
28 calendar year and a plan year, an employer who employed an average of at least fifty-one (51)
29 employees on business days during the preceding calendar year and who employs at least two (2)
30 employees on the first day of the plan year. In the case of an employer which was not in existence
31 throughout the preceding calendar year, the determination of whether the employer is a large
32 employer shall be based on the average number of employees that is reasonably expected the
33 employer will employ on business days in the current calendar year;

34 [\(19\) "Large group health plan" means health insurance coverage offered to a large](#)

1 [employer in the large group market.](#)

2 ~~(19)~~[\(20\)](#) "Large group market" means the health insurance market under which
3 individuals obtain health insurance coverage (directly or through any arrangement) on behalf of
4 themselves (and their dependents) through a group health plan maintained by a large employer;

5 ~~(20)~~[\(21\)](#) "Late enrollee" means, with respect to coverage under a group health plan, a
6 participant or beneficiary who enrolls under the plan other than during:

7 (i) The first period in which the individual is eligible to enroll under the plan; or

8 (ii) A special enrollment period;

9 ~~(21)~~[\(22\)](#) "Medical care" means amounts paid for:

10 (i) The diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid
11 for the purpose of affecting any structure or function of the body;

12 (ii) Amounts paid for transportation primarily for and essential to medical care referred to
13 in paragraph (i) of this subdivision; and

14 (iii) Amounts paid for insurance covering medical care referred to in paragraphs (i) and
15 (ii) of this subdivision;

16 ~~(22)~~[\(23\)](#) "Network plan" means health insurance coverage offered by a health insurance
17 carrier under which the financing and delivery of medical care including items and services paid
18 for as medical care are provided, in whole or in part, through a defined set of providers under
19 contract with the carrier;

20 ~~(23)~~[\(24\)](#) "Participant" has the meaning given such term under section 3(7) of the
21 Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(7);

22 ~~(24) "Placed for adoption" means, in connection with any placement for adoption of a
23 child with any person, the assumption and retention by that person of a legal obligation for total
24 or partial support of the child in anticipation of adoption of the child. The child's placement with
25 the person terminates upon the termination of the legal obligation;~~

26 (25) "Plan sponsor" has the meaning given that term under section 3(16)(B) of the
27 Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(16)(B). "Plan sponsor"
28 also includes any bona fide association, as defined in this section;

29 (26) "Preexisting condition exclusion" means, with respect to health insurance coverage,
30 a limitation or exclusion of benefits ~~relating to a condition based on the fact that the condition
31 was present before the date of enrollment for the coverage, whether or not any medical advice,
32 diagnosis, care or treatment was recommended or received before the date~~ [\(including a denial of
33 coverage\) based on the fact that the condition was present before the effective date of coverage
34 \(or if coverage is denied, the date of the denial\), whether or not any medical advice, diagnosis,](#)

1 care, or treatment was recommended or received before that day. A preexisting condition
2 exclusion includes any limitation or exclusion of benefits (including a denial of coverage)
3 applicable to an individual as a result of information relating to an individual's health status
4 before the individual's effective date of coverage (or if coverage is denied, the date of the denial),
5 such as a condition identified as a result of a pre-enrollment questionnaire or physical
6 examination given to the individual, or review of medical records relating to the pre-enrollment
7 period; and

8 (27) "Waiting period" means, with respect to a group health plan and an individual who is
9 a potential participant or beneficiary in the plan, the period that must pass with respect to the
10 individual before the individual is eligible to be covered for benefits under the terms of the plan.

11 **27-18.6-3. Limitation on preexisting condition exclusion. Preexisting conditions.**

12 ~~(a) (1) Notwithstanding any of the provisions of this title to the contrary, a group health~~
13 ~~plan and a health insurance carrier offering group health insurance coverage shall not deny,~~
14 ~~exclude, or limit benefits with respect to a participant or beneficiary because of a preexisting~~
15 ~~condition exclusion except if:~~

16 ~~(i) The exclusion relates to a condition (whether physical or mental), regardless of the~~
17 ~~cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended~~
18 ~~or received within the six (6) month period ending on the enrollment date;~~

19 ~~(ii) The exclusion extends for a period of not more than twelve (12) months (or eighteen~~
20 ~~(18) months in the case of a late enrollee) after the enrollment date; and~~

21 ~~(iii) The period of the preexisting condition exclusion is reduced by the aggregate of the~~
22 ~~periods of creditable coverage, if any, applicable to the participant or the beneficiary as of the~~
23 ~~enrollment date.~~

24 ~~(2) For purposes of this section, genetic information shall not be treated as a preexisting~~
25 ~~condition in the absence of a diagnosis of the condition related to that information.~~

26 ~~(b) With respect to paragraph (a)(1)(iii) of this section, a period of creditable coverage~~
27 ~~shall not be counted, with respect to enrollment of an individual under a group health plan, if,~~
28 ~~after that period and before the enrollment date, there was a sixty three (63) day period during~~
29 ~~which the individual was not covered under any creditable coverage.~~

30 ~~(c) Any period that an individual is in a waiting period for any coverage under a group~~
31 ~~health plan or for group health insurance or is in an affiliation period shall not be taken into~~
32 ~~account in determining the continuous period under subsection (b) of this section.~~

33 ~~(d) Except as otherwise provided in subsection (e) of this section, for purposes of~~
34 ~~applying paragraph (a)(1)(iii) of this section, a group health plan and a health insurance carrier~~

1 ~~offering group health insurance coverage shall count a period of creditable coverage without~~
2 ~~regard to the specific benefits covered during the period.~~

3 ~~(e) (1) A group health plan or a health insurance carrier offering group health insurance~~
4 ~~may elect to apply paragraph (a)(1)(iii) of this section based on coverage of benefits within each~~
5 ~~of several classes or categories of benefits. Those classes or categories of benefits are to be~~
6 ~~determined by the secretary of the United States Department of Health and Human Services~~
7 ~~pursuant to regulation. The election shall be made on a uniform basis for all participants and~~
8 ~~beneficiaries. Under the election, a group health plan or carrier shall count a period of creditable~~
9 ~~coverage with respect to any class or category of benefits if any level of benefits is covered~~
10 ~~within the class or category.~~

11 ~~(2) In the case of an election under this subsection with respect to a group health plan~~
12 ~~(whether or not health insurance coverage is provided in connection with that plan), the plan~~
13 ~~shall:~~

14 ~~(i) Prominently state in any disclosure statements concerning the plan, and state to each~~
15 ~~enrollee under the plan, that the plan has made the election; and~~

16 ~~(ii) Include in the statements a description of the effect of this election.~~

17 ~~(3) In the case of an election under this subsection with respect to health insurance~~
18 ~~coverage offered by a carrier in the large group market, the carrier shall:~~

19 ~~(i) Prominently state in any disclosure statements concerning the coverage, and to each~~
20 ~~employer at the time of the offer or sale of the coverage, that the carrier has made the election;~~
21 ~~and~~

22 ~~(ii) Include in the statements a description of the effect of the election.~~

23 ~~(f) (1) A group health plan and a health insurance carrier offering group health insurance~~
24 ~~coverage may not impose any preexisting condition exclusion in the case of an individual who, as~~
25 ~~of the last day of the thirty (30) day period beginning with the date of birth, is covered under~~
26 ~~creditable coverage.~~

27 ~~(2) Subdivision (1) of this subsection shall no longer apply to an individual after the end~~
28 ~~of the first sixty three (63) day period during all of which the individual was not covered under~~
29 ~~any creditable coverage. Moreover, any period that an individual is in a waiting period for any~~
30 ~~coverage under a group health plan (or for group health insurance coverage) or is in an affiliation~~
31 ~~period shall not be taken into account in determining the continuous period for purposes of~~
32 ~~determining creditable coverage.~~

33 ~~(g) (1) A group health plan and a health insurance carrier offering group health insurance~~
34 ~~coverage may not impose any preexisting condition exclusion in the case of a child who is~~

1 ~~adopted or placed for adoption before attaining eighteen (18) years of age and who, as of the last~~
2 ~~day of the thirty (30) day period beginning on the date of the adoption or placement for adoption,~~
3 ~~is covered under creditable coverage. The previous sentence does not apply to coverage before~~
4 ~~the date of the adoption or placement for adoption.~~

5 ~~(2) Subdivision (1) of this subsection shall no longer apply to an individual after the end~~
6 ~~of the first sixty three (63) day period during all of which the individual was not covered under~~
7 ~~any creditable coverage. Any period that an individual is in a waiting period for any coverage~~
8 ~~under a group health plan (or for group health insurance coverage) or is in an affiliation period~~
9 ~~shall not be taken into account in determining the continuous period for purposes of determining~~
10 ~~creditable coverage.~~

11 ~~(h) A group health plan and a health insurance carrier offering group health insurance~~
12 ~~coverage may not impose any preexisting condition exclusion relating to pregnancy as a~~
13 ~~preexisting condition or with regard to an individual who is under nineteen (19) years of age.~~

14 ~~(i) (1) Periods of creditable coverage with respect to an individual shall be established~~
15 ~~through presentation of certifications. A group health plan and a health insurance carrier offering~~
16 ~~group health insurance coverage shall provide certifications:~~

17 ~~(i) At the time an individual ceases to be covered under the plan or becomes covered~~
18 ~~under a COBRA continuation provision;~~

19 ~~(ii) In the case of an individual becoming covered under a continuation provision, at the~~
20 ~~time the individual ceases to be covered under that provision; and~~

21 ~~(iii) On the request of an individual made not later than twenty four (24) months after the~~
22 ~~date of cessation of the coverage described in paragraph (i) or (ii) of this subdivision, whichever~~
23 ~~is later.~~

24 ~~(2) The certification under this subsection may be provided, to the extent practicable, at a~~
25 ~~time consistent with notices required under any applicable COBRA continuation provision.~~

26 ~~(3) The certification described in this subsection is a written certification of:~~

27 ~~(i) The period of creditable coverage of the individual under the plan and the coverage (if~~
28 ~~any) under the COBRA continuation provision; and~~

29 ~~(ii) The waiting period (if any) (and affiliation period, if applicable) imposed with respect~~
30 ~~to the individual for any coverage under the plan.~~

31 ~~(4) To the extent that medical care under a group health plan consists of group health~~
32 ~~insurance coverage, the plan is deemed to have satisfied the certification requirement under this~~
33 ~~subsection if the health insurance carrier offering the coverage provides for the certification in~~
34 ~~accordance with this subsection.~~

1 ~~(5) In the case of an election taken pursuant to subsection (e) of this section by a group~~
2 ~~health plan or a health insurance carrier, if the plan or carrier enrolls an individual for coverage~~
3 ~~under the plan and the individual provides a certification of creditable coverage, upon request of~~
4 ~~the plan or carrier, the entity which issued the certification shall promptly disclose to the~~
5 ~~requisition plan or carrier information on coverage of classes and categories of health benefits~~
6 ~~available under that entity's plan or coverage, and the entity may charge the requesting plan or~~
7 ~~carrier for the reasonable cost of disclosing the information.~~

8 ~~(6) Failure of an entity to provide information under this subsection with respect to~~
9 ~~previous coverage of an individual so as to adversely affect any subsequent coverage of the~~
10 ~~individual under another group health plan or health insurance coverage, as determined in~~
11 ~~accordance with rules and regulations established by the secretary of the United States~~
12 ~~Department of Health and Human Services, is a violation of this chapter.~~

13 ~~(j) A group health plan and a health insurance carrier offering group health insurance~~
14 ~~coverage in connection with a group health plan shall permit an employee who is eligible, but not~~
15 ~~enrolled, for coverage under the terms of the plan (or a dependent of an employee if the~~
16 ~~dependent is eligible, but not enrolled, for coverage under the terms) to enroll for coverage under~~
17 ~~the terms of the plan if each of the following conditions are met:~~

18 ~~(1) The employee or dependent was covered under a group health plan or had health~~
19 ~~insurance coverage at the time coverage was previously offered to the employee or dependent;~~

20 ~~(2) The employee stated in writing at the time that coverage under a group health plan or~~
21 ~~health insurance coverage was the reason for declining enrollment, but only if the plan sponsor or~~
22 ~~carrier (if applicable) required a statement at the time and provided the employee with notice of~~
23 ~~that requirement (and the consequences of the requirement) at the time;~~

24 ~~(3) The employee's or dependent's coverage described in subsection (j)(1):~~

25 ~~(i) Was under a COBRA continuation provision and the coverage under that provision~~
26 ~~was exhausted; or~~

27 ~~(ii) Was not under a continuation provision and either the coverage was terminated as a~~
28 ~~result of loss of eligibility for the coverage (including as a result of legal separation, divorce,~~
29 ~~death, termination of employment, or reduction in the number of hours of employment) or~~
30 ~~employer contributions towards the coverage were terminated; and~~

31 ~~(4) Under the terms of the plan, the employee requests enrollment not later than thirty~~
32 ~~(30) days after the date of exhaustion of coverage described in paragraph (3)(i) of this subsection~~
33 ~~or termination of coverage or employer contribution described in paragraph (3)(ii) of this~~
34 ~~subsection.~~

1 ~~(k) (1) If a group health plan makes coverage available with respect to a dependent of an~~
2 ~~individual, the individual is a participant under the plan (or has met any waiting period applicable~~
3 ~~to becoming a participant under the plan and is eligible to be enrolled under the plan but for a~~
4 ~~failure to enroll during a previous enrollment period), and a person becomes a dependent of the~~
5 ~~individual through marriage, birth, or adoption or placement through adoption, the group health~~
6 ~~plan shall provide for a dependent special enrollment period during which the person (or, if not~~
7 ~~enrolled, the individual) may be enrolled under the plan as a dependent of the individual, and in~~
8 ~~the case of the birth or adoption of a child, the spouse of the individual may be enrolled as a~~
9 ~~dependent of the individual if the spouse is eligible for coverage.~~

10 ~~(2) A dependent special enrollment period shall be a period of not less than thirty (30)~~
11 ~~days and shall begin on the later of:~~

12 ~~(i) The date dependent coverage is made available; or~~

13 ~~(ii) The date of the marriage, birth, or adoption or placement for adoption (as the case~~
14 ~~may be).~~

15 ~~(3) If an individual seeks to enroll a dependent during the first thirty (30) days of a~~
16 ~~dependent special enrollment period, the coverage of the dependent shall become effective:~~

17 ~~(i) In the case of marriage, not later than the first day of the first month beginning after~~
18 ~~the date the completed request for enrollment is received;~~

19 ~~(ii) In the case of a dependent's birth, as of the date of the birth; or~~

20 ~~(iii) In the case of a dependent's adoption or placement for adoption, the date of the~~
21 ~~adoption or placement for adoption.~~

22 ~~(l) (1) A health maintenance organization which offers health insurance coverage in~~
23 ~~connection with a group health plan and which does not impose any preexisting condition~~
24 ~~exclusion allowed under subsection (a) of this section with respect to any particular coverage~~
25 ~~option may impose an affiliation period for the coverage option, but only if that period is applied~~
26 ~~uniformly without regard to any health status related factors, and the period does not exceed two~~
27 ~~(2) months (or three (3) months in the case of a late enrollee).~~

28 ~~(2) For the purposes of this subsection, an affiliation shall begin on the enrollment date.~~

29 ~~(3) An affiliation period under a plan shall run concurrently with any waiting period~~
30 ~~under the plan.~~

31 ~~(4) The director may approve alternative methods from those described under this~~
32 ~~subsection to address adverse selection.~~

33 ~~(m) For the purpose of determining creditable coverage pursuant to this chapter, no~~
34 ~~period before July 1, 1996, shall be taken into account. Individuals who need to establish~~

1 ~~creditable coverage for periods before July 1, 1996, and who would have the coverage credited~~
2 ~~but for the prohibition in the preceding sentence may be given credit for creditable coverage for~~
3 ~~those periods through the presentation of documents or other means in accordance with any rule~~
4 ~~or regulation that may be established by the secretary of the United States Department of Health~~
5 ~~and Human Services.~~

6 ~~(n) In the case of an individual who seeks to establish creditable coverage for any period~~
7 ~~for which certification is not required because it relates to an event occurring before June 30,~~
8 ~~1996, the individual may present other credible evidence of coverage in order to establish the~~
9 ~~period of creditable coverage. The group health plan and a health insurance carrier shall not be~~
10 ~~subject to any penalty or enforcement action with respect to the plan's or carrier's crediting (or not~~
11 ~~crediting) the coverage if the plan or carrier has sought to comply in good faith with the~~
12 ~~applicable requirements of this section.~~

13 ~~(e)~~ Notwithstanding the provisions of any general or public law to the contrary, for plan
14 or policy years beginning on and after January 1, 2014, a group health plan and a health insurance
15 carrier offering group health insurance coverage shall not deny, exclude, or limit coverage or
16 benefits with respect to a participant or beneficiary because of a preexisting condition exclusion.

17 **27-18.6-5. Continuation of coverage -- Renewability.**

18 (a) Notwithstanding any of the provisions of this title to the contrary, a health insurance
19 carrier that offers health insurance coverage in the large group market in this state in connection
20 with a group health plan shall renew or continue in force that coverage at the option of the plan
21 sponsor of the plan.

22 (b) A health insurance carrier may ~~nonrenew~~ non-renew or discontinue health insurance
23 coverage offered in connection with a group health plan in the large group market based only on
24 one or more of the following:

25 (1) The plan sponsor has failed to pay premiums or contributions in accordance with the
26 terms of the health insurance coverage or the carrier has not received timely premium payments;

27 (2) The plan sponsor has performed an act or practice that constitutes fraud or made an
28 intentional misrepresentation of material fact under the terms of the coverage within two (2) years
29 from the date of coverage application. After two (2) years, the carrier may non-renew under this
30 subsection only if the plan sponsor has failed to reimburse the carrier for the costs associated with
31 the fraud or misrepresentation;

32 (3) The plan sponsor has failed to comply with a material plan provision relating to
33 employer contribution or group participation rules, as permitted by the ~~director~~ commissioner
34 pursuant to rule or regulation;

1 (4) The carrier is ceasing to offer coverage in accordance with subsections (c) and (d) of
2 this section;

3 (5) The ~~director~~ commissioner finds that the continuation of the coverage would:

4 (i) Not be in the best interests of the policyholders or certificate holders; or

5 (ii) Impair the carrier's ability to meet its contractual obligations;

6 (6) In the case of a health insurance carrier that offers health insurance coverage in the
7 large group market through a restricted provider network plan, there is no longer any enrollee in
8 connection with that plan who resides, lives, or works in the service area of the carrier (or in an
9 area for which the carrier is authorized to do business); and

10 (7) In the case of health insurance coverage that is made available in the large group
11 market only through one or more bona fide associations, the membership of an employer in the
12 association (on the basis of which the coverage is provided) ceases, but only if the coverage is
13 terminated under this section uniformly without regard to any health status-related factor relating
14 to any covered individual.

15 (c) In any case in which a carrier decides to discontinue offering a particular type of
16 group health insurance coverage offered in the large group market, coverage of that type may be
17 discontinued by the carrier only if:

18 (1) The carrier provides notice of the decision to all affected plan sponsors, participants,
19 and beneficiaries at least ninety (90) days prior to the date of discontinuation of coverage;

20 (2) The carrier offers to each plan sponsor provided coverage of this type in the large
21 group market the option to purchase any other health insurance coverage currently being offered
22 by the carrier to a group health plan in the market; and

23 (3) In exercising this option to discontinue coverage of this type and in offering the
24 option of coverage under subdivision ~~(3)~~(2) of this subsection, the carrier acts uniformly without
25 regard to the claims experience of those plan sponsors or any health status-related factor relating
26 to any participants or beneficiaries covered or new participants or beneficiaries who may become
27 eligible for coverage.

28 (d) In any case in which a carrier elects to discontinue offering and to ~~nonrenew~~ non-
29 renew all of its health insurance coverage in the large group market in this state, the carrier shall:

30 (1) Provide advance notice to the ~~director~~ commissioner, to the insurance commissioner
31 in each state in which the carrier is licensed, and to each plan sponsor (and participants and
32 beneficiaries covered under that coverage and to the insurance commissioner in each state in
33 which an affected insured individual is known to reside) of the decision at least one hundred
34 eighty (180) days prior to the date of the discontinuation of coverage. Notice to the insurance

1 commissioner shall be provided at least three (3) working days prior to the notice to the affected
2 plan sponsors, participants, and beneficiaries; and

3 (2) Discontinue all health insurance issued or delivered for issuance in this state's large
4 group market and not renew coverage under any health insurance coverage issued to a large
5 employer.

6 (e) In the case of a discontinuation under subsection (d) of this section, the carrier shall
7 be prohibited from the issuance of any health insurance coverage in the large group market in this
8 state for a period of five (5) years from the date of notice to the ~~director~~ [commissioner](#).

9 (f) At the time of coverage renewal, a health insurance carrier may modify the health
10 insurance coverage for a product offered to a group health plan in the large group market.

11 (g) In applying this section in the case of health insurance coverage that is made available
12 by a carrier in the large group market to employers only through one or more associations, a
13 reference to a "plan sponsor" is deemed, with respect to coverage provided to an employer
14 member of the association, to include a reference to that employer.

15 **27-18.6-8. Enforcement -- Limitation on actions.**

16 The ~~director~~ [commissioner](#) has the power to enforce the provisions of this chapter in
17 accordance with § 42-14-16 and all other applicable state law.

18 **27-18.6-9. Rules and regulations.**

19 The ~~director~~ [commissioner](#) may promulgate rules and regulations necessary to effectuate
20 the purposes of this chapter. [If provisions of the federal Patient Protection and Affordable Care
21 Act and implementing regulations, corresponding to the provisions of this chapter, are repealed,
22 then the commissioner may promulgate regulations reflecting relevant federal law and
23 implementing regulations in effect immediately prior to their repeal. In the event of such changes
24 to the law and related regulations, the commissioner, in conjunction with the health benefit
25 exchange or other state department, shall report to the general assembly as soon as possible to
26 describe the impact of the change and to make recommendations regarding consumer protections,
27 consumer choices, and stabilization and affordability of the Rhode Island insurance market.](#)

28 SECTION 5. Sections 27-19-7.1, 27-19-63 and 27-19-65 of the General Laws in Chapter
29 27-19 entitled "Nonprofit Hospital Service Corporations" are hereby amended to read as follows:

30 **27-19-7.1. Uniform explanation of benefits and coverage.**

31 (a) A nonprofit hospital service corporation shall provide a summary of benefits and
32 coverage explanation and definitions to policyholders and others required by, and at the times and
33 in the format required, by the federal regulations adopted under section 2715 of the Public Health
34 Service Act, as amended by the federal Affordable Care Act [42 U.S.C. § 300gg-15] [so long as](#)

1 [they remain in effect, and if struck then those in effect as of the date immediately prior to their](#)
2 [repeal shall control](#). The forms required by this section shall be made available to the
3 commissioner on request. Nothing in this section shall be construed to limit the authority of the
4 commissioner under existing state law.

5 (b) The provisions of this section shall apply to grandfathered health plans. This section
6 shall not apply to insurance coverage providing benefits for: (1) Hospital confinement indemnity;
7 (2) Disability income; (3) Accident only; (4) Long-term care; (5) Medicare supplement; (6)
8 Limited benefit health; (7) Specified disease indemnity; (8) Sickness or bodily injury or death by
9 accident or both; and (9) Other limited benefit policies.

10 ~~(c) If the commissioner of the office of the health insurance commissioner determines~~
11 ~~that the corresponding provision of the federal Patient Protection and Affordable Care Act has~~
12 ~~been declared invalid by a final judgment of the federal judicial branch or has been repealed by~~
13 ~~an act of Congress, on the date of the commissioner's determination this section shall have its~~
14 ~~effectiveness suspended indefinitely, and the commissioner shall take no action to enforce this~~
15 ~~section. Nothing in this section shall be construed to limit the authority of the commissioner~~
16 ~~under existing state law.~~

17 **27-19-63. Prohibition on annual and lifetime limits.**

18 (a) Annual limits.

19 ~~(1) For plan or policy years beginning prior to January 1, 2014, for any individual, a~~
20 ~~health insurance carrier and health benefit plan subject to the jurisdiction of the commissioner~~
21 ~~under this chapter may establish an annual limit on the dollar amount of benefits that are essential~~
22 ~~health benefits provided the restricted annual limit is not less than the following:~~

23 ~~(A) For a plan or policy year beginning after September 22, 2011, but before September~~
24 ~~23, 2012 — one million two hundred fifty thousand dollars (\$1,250,000); and~~

25 ~~(B) For a plan or policy year beginning after September 22, 2012, but before January 1,~~
26 ~~2014 — two million dollars (\$2,000,000).~~

27 (2) ~~For plan or policy years beginning on or after January 1, 2014, a~~ [A](#) health insurance
28 carrier and health benefit plan shall not establish any annual limit on the dollar amount of
29 essential health benefits for any individual, except:

30 (A) A health flexible spending arrangement, as defined in Section 106(c)(2) of the federal
31 Internal Revenue Code, a medical savings account, as defined in Section 220 of the federal
32 Internal Revenue Code, and a health savings account, as defined in Section 223 of the federal
33 Internal Revenue Code, are not subject to the requirements of ~~subdivisions (1) and (2) of this~~
34 ~~subsection~~ [subsection \(a\)\(1\) of this section](#).

1 (B) The provisions of this subsection shall not prevent a health insurance carrier and
2 health benefit plan from placing annual dollar limits for any individual on specific covered
3 benefits that are not essential health benefits to the extent that such limits are otherwise permitted
4 under applicable federal law or the laws and regulations of this state.

5 (3) ~~In determining whether an individual has received benefits that meet or exceed the~~
6 ~~allowable limits, as provided in subdivision (1) of this subsection, a health insurance carrier and~~
7 ~~health benefit plan shall take into account only essential health benefits.~~

8 (b) Lifetime limits.

9 (1) A health insurance carrier and health benefit plan offering group or individual health
10 insurance coverage shall not establish a lifetime limit on the dollar value of essential health
11 benefits for any individual.

12 (2) Notwithstanding subdivision (1) above, a health insurance carrier and health benefit
13 plan is not prohibited from placing lifetime dollar limits for any individual on specific covered
14 benefits that are not essential health benefits in accordance with federal laws and regulations.

15 (c) ~~(1)~~ The provisions of this section relating to lifetime and annual limits apply to any
16 health insurance carrier providing coverage under an individual or group health plan, including
17 grandfathered health plans.

18 ~~(2) The provisions of this section relating to annual limits apply to any health insurance~~
19 ~~carrier providing coverage under a group health plan, including grandfathered health plans, but~~
20 ~~the prohibition and limits on annual limits do not apply to grandfathered health plans providing~~
21 ~~individual health insurance coverage.~~

22 ~~(d) This section shall not apply to a plan or to policy years prior to January 1, 2014 for~~
23 ~~which the Secretary of the U.S. Department of Health and Human Services issued a waiver~~
24 ~~pursuant to 45 C.F.R. § 147.126(d)(3). This section also shall not apply to insurance coverage~~
25 providing benefits for: (1) Hospital confinement indemnity; (2) Disability income; (3) Accident
26 only; (4) Long-term care; (5) Medicare supplement; (6) Limited benefit health; (7) Specified
27 disease indemnity; (8) Sickness or bodily injury or death by accident or both; and (9) Other
28 limited benefit policies.

29 ~~(e) If the commissioner of the office of the health insurance commissioner determines~~
30 ~~that the corresponding provision of the federal Patient Protection and Affordable Care Act has~~
31 ~~been declared invalid by a final judgment of the federal judicial branch or has been repealed by~~
32 ~~an act of Congress, on the date of the commissioner's determination this section shall have its~~
33 ~~effectiveness suspended indefinitely, and the commissioner shall take no action to enforce this~~
34 ~~section. Nothing in this subsection shall be construed to limit the authority of the Commissioner~~

1 ~~to regulate health insurance under existing state law.~~

2 **27-19-65. Medical loss ratio reporting and rebates.**

3 (a) A nonprofit hospital service corporation offering group or individual health insurance
4 coverage of a health benefit plan, including a grandfathered health plan, shall comply with the
5 provisions of Section 2718 of the Public Health Service Act as amended by the federal
6 Affordable Care Act [42 U.S.C. § 300gg-18] in accordance with regulations adopted thereunder
7 and state regulations regarding medical loss ratio consistent with federal law and regulations
8 adopted thereunder, so long as they remain in effect, and if struck then those in effect as of the
9 date immediately prior to their repeal shall control.

10 (b) Health insurance carriers required to report medical loss ratio and rebate calculations
11 and other medical loss ratio and rebate information to the U.S. Department of Health and Human
12 Services shall concurrently file such information with the commissioner.

13 SECTION 6. Sections 27-20-6.1, 27-20-59 and 27-20-61 of the General Laws in Chapter
14 27-20 entitled "Nonprofit Medical Service Corporations" are hereby amended to read as follows:

15 **27-20-6.1. Uniform explanation of benefits and coverage.**

16 (a) A nonprofit medical service corporation shall provide a summary of benefits and
17 coverage explanation and definitions to policyholders and others required by, and at the times and
18 in the format required, by the federal regulations adopted under section 2715 of the Public Health
19 Service Act, as amended by the federal Affordable Care Act [42 U.S.C. § 300gg-15] so long as
20 they remain in effect, and if struck then those in effect as of the date immediately prior to their
21 repeal shall control. The forms required by this section shall be made available to the
22 commissioner on request. Nothing in this section shall be construed to limit the authority of the
23 commissioner under existing state law.

24 (b) The provisions of this section shall apply to grandfathered health plans. This section
25 shall not apply to insurance coverage providing benefits for: (1) Hospital confinement indemnity;
26 (2) Disability income; (3) Accident only; (4) Long-term care; (5) Medicare supplement; (6)
27 Limited benefit health; (7) Specified disease indemnity; (8) Sickness or bodily injury or death by
28 accident or both; and (9) Other limited benefit policies.

29 (c) ~~If the commissioner of the office of the health insurance commissioner determines~~
30 ~~that the corresponding provision of the federal Patient Protection and Affordable Care Act has~~
31 ~~been declared invalid by a final judgment of the federal judicial branch or has been repealed by~~
32 ~~an act of Congress, on the date of the commissioner's determination this section shall have its~~
33 ~~effectiveness suspended indefinitely, and the commissioner shall take no action to enforce this~~
34 ~~section. Nothing in this section shall be construed to limit the authority of the commissioner~~

1 ~~under existing state law.~~

2 **27-20-59. Annual and lifetime limits.**

3 (a) Annual limits.

4 (1) ~~For plan or policy years beginning prior to January 1, 2014, for any individual, a~~
5 ~~health insurance carrier and health benefit plan subject to the jurisdiction of the commissioner~~
6 ~~under this chapter may establish an annual limit on the dollar amount of benefits that are essential~~
7 ~~health benefits provided the restricted annual limit is not less than the following:~~

8 (A) ~~For a plan or policy year beginning after September 22, 2011, but before September~~
9 ~~23, 2012 — one million two hundred fifty thousand dollars (\$1,250,000); and~~

10 (B) ~~For a plan or policy year beginning after September 22, 2012, but before January 1,~~
11 ~~2014 — two million dollars (\$2,000,000).~~

12 (2) ~~For plan or policy years beginning on or after January 1, 2014, a~~ A health insurance
13 carrier and health benefit plan shall not establish any annual limit on the dollar amount of
14 essential health benefits for any individual, except:

15 (A) A health flexible spending arrangement, as defined in section 106(c)(2)(i) of the
16 federal Internal Revenue Code, a medical savings account, as defined in section 220 of the federal
17 Internal Revenue Code, and a health savings account, as defined in section 223 of the federal
18 Internal Revenue Code are not subject to the requirements of ~~subdivisions (1) and (2) of this~~
19 ~~subsection~~ subsection (a)(1) of this section.

20 (B) The provisions of this subsection shall not prevent a health insurance carrier from
21 placing annual dollar limits for any individual on specific covered benefits that are not essential
22 health benefits to the extent that such limits are otherwise permitted under applicable federal law
23 or the laws and regulations of this state.

24 (3) ~~In determining whether an individual has received benefits that meet or exceed the~~
25 ~~allowable limits, as provided in subdivision (1) of this subsection, a health insurance carrier shall~~
26 ~~take into account only essential health benefits.~~

27 (b) Lifetime limits.

28 (1) A health insurance carrier and health benefit plan offering group or individual health
29 insurance coverage shall not establish a lifetime limit on the dollar value of essential health
30 benefits for any individual.

31 (2) Notwithstanding subdivision (1) above, a health insurance carrier and health benefit
32 plan is not prohibited from placing lifetime dollar limits for any individual on specific covered
33 benefits that are not essential health benefits, as designated pursuant to a state determination and
34 in accordance with federal laws and regulations.

1 (c) (1) Except as provided in subdivision (2) of this subsection, this section applies to any
2 health insurance carrier providing coverage under an individual or group health plan.

3 (2) (A) The prohibition on lifetime limits applies to grandfathered health plans.

4 (B) The prohibition and limits on annual limits apply to grandfathered health plans
5 providing group health insurance coverage, ~~but the prohibition and limits on annual limits do not~~
6 ~~apply to grandfathered health plans providing individual health insurance coverage.~~

7 (d) ~~This section shall not apply to a plan or to policy years prior to January 1, 2014 for~~
8 ~~which the Secretary of the U.S. Department of Health and Human Services issued a waiver~~
9 ~~pursuant to 45 C.F.R. § 147.126(d)(3).~~ This section also shall not apply to insurance coverage
10 providing benefits for: (1) Hospital confinement indemnity; (2) Disability income; (3) Accident
11 only; (4) Long-term care; (5) Medicare supplement; (6) Limited benefit health; (7) Specified
12 disease indemnity; (8) Sickness or bodily injury or death by accident or both; and (9) Other
13 limited benefit policies.

14 (e) ~~If the commissioner of the office of the health insurance commissioner determines~~
15 ~~that the corresponding provision of the federal Patient Protection and Affordable Care Act has~~
16 ~~been declared invalid by a final judgment of the federal judicial branch or has been repealed by~~
17 ~~an act of Congress, on the date of the commissioner's determination this section shall have its~~
18 ~~effectiveness suspended indefinitely, and the commissioner shall take no action to enforce this~~
19 ~~section. Nothing in this subsection shall be construed to limit the authority of the Commissioner~~
20 ~~to regulate health insurance under existing state law.~~

21 **27-20-61. Medical loss ratio reporting and rebates.**

22 (a) A nonprofit medical service corporation offering group or individual health insurance
23 coverage of a health benefit plan, including a grandfathered health plan, shall comply with the
24 provisions of Section 2718 of the Public Health Service Act as amended by the federal
25 Affordable Care Act [42 U.S.C. § 300gg-18] in accordance with regulations adopted thereunder,
26 and state regulations regarding medical loss ratio consistent with federal law and regulations
27 adopted thereunder, so long as they remain in effect, and if struck then those in effect as of the
28 date immediately prior to their repeal shall control.

29 (b) Nonprofit medical service corporations required to report medical loss ratio and
30 rebate calculations and any other medical loss ratio and rebate information to the U.S.
31 Department of Health and Human Services shall concurrently file such information with the
32 commissioner.

33 SECTION 7. Sections 27-41-29.1, 27-41-76 and 27-41-78 of the General Laws in
34 Chapter 27-41 entitled "Health Maintenance Organizations" are hereby amended to read as

1 follows:

2 **27-41-29.1. Uniform explanation of benefits and coverage.**

3 (a) A health maintenance organization shall provide a summary of benefits and coverage
4 explanation and definitions to policyholders and others required by, and at the times and in the
5 format required, by the federal regulations adopted under section 2715 of the Public Health
6 Service Act, as amended by the federal Affordable Care Act [42 U.S.C. § 300gg-15] so long as
7 they remain in effect, and if struck then those in effect as of the date immediately prior to their
8 repeal shall control. The forms required by this section shall be made available to the
9 commissioner on request. Nothing in this section shall be construed to limit the authority of the
10 commissioner under existing state law.

11 (b) The provisions of this section shall apply to grandfathered health plans. This section
12 shall not apply to insurance coverage providing benefits for: (1) Hospital confinement indemnity;
13 (2) Disability income; (3) Accident only; (4) Long-term care; (5) Medicare supplement; (6)
14 Limited benefit health; (7) Specified disease indemnity; (8) Sickness or bodily injury or death by
15 accident or both; and (9) Other limited benefit policies.

16 ~~(c) If the commissioner of the office of the health insurance commissioner determines~~
17 ~~that the corresponding provision of the federal Patient Protection and Affordable Care Act has~~
18 ~~been declared invalid by a final judgment of the federal judicial branch or has been repealed by~~
19 ~~an act of Congress, on the date of the commissioner's determination this section shall have its~~
20 ~~effectiveness suspended indefinitely, and the commissioner shall take no action to enforce this~~
21 ~~section. Nothing in this section shall be construed to limit the authority of the commissioner~~
22 ~~under existing state law.~~

23 **27-41-76. Prohibition on annual and lifetime limits.**

24 (a) Annual limits.

25 ~~(1) For plan or policy years beginning prior to January 1, 2014, for any individual, a~~
26 ~~health maintenance organization subject to the jurisdiction of the commissioner under this chapter~~
27 ~~may establish an annual limit on the dollar amount of benefits that are essential health benefits~~
28 ~~provided the restricted annual limit is not less than the following:~~

29 ~~(A) For a plan or policy year beginning after September 22, 2011, but before September~~
30 ~~23, 2012 — one million two hundred fifty thousand dollars (\$1,250,000); and~~

31 ~~(B) For a plan or policy year beginning after September 22, 2012, but before January 1,~~
32 ~~2014 — two million dollars (\$2,000,000).~~

33 (2) ~~For plan or policy years beginning on or after January 1, 2014, a~~ A health
34 maintenance organization shall not establish any annual limit on the dollar amount of essential

1 health benefits for any individual, except:

2 (A) A health flexible spending arrangement, as defined in section 106(c)(2)(i) of the
3 federal Internal Revenue Code, a medical savings account, as defined in section 220 of the federal
4 Internal Revenue Code, and a health savings account, as defined in section 223 of the federal
5 Internal Revenue Code are not subject to the requirements of ~~subdivisions (1) and (2) of this~~
6 ~~subsection~~ subsection (a)(1) of this section.

7 (B) The provisions of this subsection shall not prevent a health maintenance organization
8 from placing annual dollar limits for any individual on specific covered benefits that are not
9 essential health benefits to the extent that such limits are otherwise permitted under applicable
10 federal law or the laws and regulations of this state.

11 ~~(3) In determining whether an individual has received benefits that meet or exceed the~~
12 ~~allowable limits, as provided in subdivision (1) of this subsection, a health maintenance~~
13 ~~organization shall take into account only essential health benefits.~~

14 (b) Lifetime limits.

15 (1) A health insurance carrier and health benefit plan offering group or individual health
16 insurance coverage shall not establish a lifetime limit on the dollar value of essential health
17 benefits for any individual.

18 (2) Notwithstanding subdivision (1) above, a health insurance carrier and health benefit
19 plan is not prohibited from placing lifetime dollar limits for any individual on specific covered
20 benefits that are not essential health benefits in accordance with federal laws and regulations.

21 (c) (1) The provisions of this section relating to annual and lifetime limits apply to any
22 health maintenance organization or health insurance carrier providing coverage under an
23 individual or group health plan, including grandfathered health plans.

24 ~~(2) The provisions of this section relating to annual limits apply to any health~~
25 ~~maintenance organization or health insurance carrier providing coverage under a group health~~
26 ~~plan, including grandfathered health plans, but the prohibition and limits on annual limits do not~~
27 ~~apply to grandfathered health plans providing individual health insurance coverage.~~

28 ~~(d) This section shall not apply to a plan or to policy years prior to January 1, 2014 for~~
29 ~~which the Secretary of the U.S. Department of Health and Human Services issued a waiver~~
30 ~~pursuant to 45 C.F.R. § 147.126(d)(3).~~ This section ~~also~~ shall not apply to insurance coverage
31 providing benefits for: (1) Hospital confinement indemnity; (2) Disability income; (3) Accident
32 only; (4) Long-term care; (5) Medicare supplement; (6) Limited benefit health; (7) Specified
33 disease indemnity; (8) Sickness or bodily injury or death by accident or both; and (9) Other
34 limited benefit policies.

1 (e) ~~If the commissioner of the office of the health insurance commissioner determines~~
2 ~~that the corresponding provision of the federal Patient Protection and Affordable Care Act has~~
3 ~~been declared invalid by a final judgment of the federal judicial branch or has been repealed by~~
4 ~~an act of Congress, on the date of the commissioner's determination this section shall have its~~
5 ~~effectiveness suspended indefinitely, and the commissioner shall take no action to enforce this~~
6 ~~section. Nothing in this subsection shall be construed to limit the authority of the Commissioner~~
7 ~~to regulate health insurance under existing state law.~~

8 **27-41-78. Medical loss ratio reporting and rebates.**

9 (a) A health maintenance organization offering group or individual health insurance
10 coverage of a health benefit plan, including a grandfathered health plan, shall comply with the
11 provisions of Section 2718 of the Public Health Service Act as amended by the federal
12 Affordable Care Act [42 U.S.C. § 300gg-18] in accordance with regulations adopted thereunder,
13 and state regulations regarding medical loss ratio consistent with federal law and regulations
14 adopted thereunder, so long as they remain in effect, and if struck then those in effect as of the
15 date immediately prior to their repeal shall control.

16 (b) Health maintenance organizations required to report medical loss ratio and rebate
17 calculations and any other medical loss ratio or rebate information to the U.S. Department of
18 Health and Human Services shall concurrently file such information with the commissioner.

19 SECTION 8. Sections 27-50-3, 27-50-4, 27-50-5, 27-50-6, 27-50-7, 27-50-11, 27-50-12,
20 27-50-14, and 27-50-15 of the General Laws in Chapter 27-50 entitled "Small Employer Health
21 Insurance Availability Act" are hereby amended to read as follows:

22 **27-50-3. Definitions.**

23 The following words and phrases, as used in this chapter, have the following meanings
24 consistent with federal law and regulations adopted thereunder, so long as they remain in effect,
25 and if struck then those in effect as of the date immediately prior to their repeal unless a different
26 meaning is required by the context:

27 (a) "Actuarial certification" means a written statement signed by a member of the
28 American Academy of Actuaries or other individual acceptable to the director that a small
29 employer carrier is in compliance with the provisions of § 27-50-5, based upon the person's
30 examination and including a review of the appropriate records and the actuarial assumptions and
31 methods used by the small employer carrier in establishing premium rates for applicable health
32 benefit plans.

33 (b) "Actuarial value" means the level of coverage of a plan, determined on the basis that
34 the essential health benefits are provided to a standard population.

1 (c) "Actuarial value tiers" means one of the four (4) levels of coverage, such that a plan at
2 each level is designed to provide benefits that are actuarially equivalent to a percent of the full
3 actuarial value of the benefits provided under the plan. The actuarially equivalent levels are: sixty
4 percent (60%), seventy percent (70%), eighty percent (80%), and ninety percent (90%), and
5 further adjusted to reflect de minimus variations from those levels.

6 ~~(b)~~(d) "Adjusted community rating" means a method used to develop a carrier's premium
7 which spreads financial risk across the carrier's entire small group population in accordance with
8 the requirements in § 27-50-5.

9 ~~(e)~~(e) "Affiliate" or "affiliated" means any entity or person who directly or indirectly
10 through one or more intermediaries controls or is controlled by, or is under common control with,
11 a specified entity or person.

12 ~~(f)~~(f) "Affiliation period" means a period of time that must expire before health insurance
13 coverage provided by a carrier becomes effective, and during which the carrier is not required to
14 provide benefits.

15 ~~(g)~~(g) "Bona fide association" means, with respect to health benefit plans offered in this
16 state, an association which:

- 17 (1) Has been actively in existence for at least five (5) years;
- 18 (2) Has been formed and maintained in good faith for purposes other than obtaining
19 insurance;
- 20 (3) Does not condition membership in the association on any health-status related factor
21 relating to an individual (including an employee of an employer or a dependent of an employee);
- 22 (4) Makes health insurance coverage offered through the association available to all
23 members regardless of any health status-related factor relating to those members (or individuals
24 eligible for coverage through a member);
- 25 (5) Does not make health insurance coverage offered through the association available
26 other than in connection with a member of the association;
- 27 (6) Is composed of persons having a common interest or calling;
- 28 (7) Has a constitution and bylaws; and
- 29 (8) Meets any additional requirements that the ~~director~~ commissioner may prescribe by
30 regulation.

31 ~~(h)~~(h) "Carrier" or "small employer carrier" means all entities licensed, or required to be
32 licensed, in this state that offer health benefit plans covering eligible employees of one or more
33 small employers pursuant to this chapter. For the purposes of this chapter, carrier includes an
34 insurance company, a nonprofit hospital or medical service corporation, a fraternal benefit

1 society, a health maintenance organization as defined in chapter 41 of this title or as defined in
2 chapter 62 of title 42, or any other entity subject to state insurance regulation that provides
3 medical care as defined in subsection (y) that is paid or financed for a small employer by such
4 entity on the basis of a periodic premium, paid directly or through an association, trust, or other
5 intermediary, and issued, renewed, or delivered within or without Rhode Island to a small
6 employer pursuant to the laws of this or any other jurisdiction, including a certificate issued to an
7 eligible employee which evidences coverage under a policy or contract issued to a trust or
8 association.

9 ~~(e)~~(i) "Church plan" has the meaning given this term under § 3(33) of the Employee
10 Retirement Income Security Act of 1974 [29 U.S.C. § 1002(33)].

11 ~~(h)~~(j) "Control" is defined in the same manner as in chapter 35 of this title.

12 ~~(h)~~(k)(1) "Creditable coverage" means, with respect to an individual, health benefits or
13 coverage provided under any of the following:

14 (i) A group health plan;

15 (ii) A health benefit plan;

16 (iii) Part A or part B of Title XVIII of the Social Security Act, 42 U.S.C. § 1395c et seq.,
17 or 42 U.S.C. § 1395j et seq., (Medicare);

18 (iv) Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., (Medicaid), other than
19 coverage consisting solely of benefits under 42 U.S.C. § 1396s (the program for distribution of
20 pediatric vaccines);

21 (v) 10 U.S.C. § 1071 et seq., (medical and dental care for members and certain former
22 members of the uniformed services, and for their dependents)(Civilian Health and Medical
23 Program of the Uniformed Services)(CHAMPUS). For purposes of 10 U.S.C. § 1071 et seq.,
24 "uniformed services" means the armed forces and the commissioned corps of the National
25 Oceanic and Atmospheric Administration and of the Public Health Service;

26 (vi) A medical care program of the Indian Health Service or of a tribal organization;

27 (vii) A state health benefits risk pool;

28 (viii) A health plan offered under 5 U.S.C. § 8901 et seq., (Federal Employees Health
29 Benefits Program (FEHBP));

30 (ix) A public health plan, which for purposes of this chapter, means a plan established or
31 maintained by a state, county, or other political subdivision of a state that provides health
32 insurance coverage to individuals enrolled in the plan; or

33 (x) A health benefit plan under § 5(e) of the Peace Corps Act (22 U.S.C. § 2504(e)).

34 (2) A period of creditable coverage shall not be counted, with respect to enrollment of an

1 individual under a group health plan, if, after the period and before the enrollment date, the
2 individual experiences a significant break in coverage.

3 ~~(j)~~(l) "Dependent" means a spouse, child under the age twenty-six (26) years, and an
4 unmarried child of any age who is financially dependent upon, the parent and is medically
5 determined to have a physical or mental impairment which can be expected to result in death or
6 which has lasted or can be expected to last for a continuous period of not less than twelve (12)
7 months.

8 ~~(k) "Director" means the director of the department of business regulation.~~

9 ~~(l)~~(m) [Deleted by P.L. 2006, ch. 258, § 2, and P.L. 2006, ch. 296, § 2.]

10 ~~(m)~~(n) "~~Eligible employee~~" "Employee" means an individual employed by an employer.
11 ~~employee who works on a full-time basis with a normal work week of thirty (30) or more hours,~~
12 ~~except that at the employer's sole discretion, the term shall also include an employee who works~~
13 ~~on a full-time basis with a normal work week of anywhere between at least seventeen and one-~~
14 ~~half (17.5) and thirty (30) hours, so long as this eligibility criterion is applied uniformly among all~~
15 ~~of the employer's employees and without regard to any health status related factor. The term~~
16 ~~includes a self-employed individual, a sole proprietor, a partner of a partnership, and may include~~
17 ~~an independent contractor, if the self-employed individual, sole proprietor, partner, or~~
18 ~~independent contractor is included as an employee under a health benefit plan of a small~~
19 ~~employer, but does not include an employee who works on a temporary or substitute basis or who~~
20 ~~works less than seventeen and one-half (17.5) hours per week. Any retiree under contract with~~
21 ~~any independently incorporated fire district is also included in the definition of eligible employee,~~
22 ~~as well as any former employee of an employer who retired before normal retirement age, as~~
23 ~~defined by 42 U.S.C. 18002(a)(2)(c) while the employer participates in the early retiree~~
24 ~~reinsurance program defined by that chapter. Persons covered under a health benefit plan~~
25 ~~pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1986 shall not be considered~~
26 ~~"eligible employees" for purposes of minimum participation requirements pursuant to § 27-50-~~
27 ~~7(d)(9).~~

28 ~~(n)~~(o) "Enrollment date" means the first day of coverage or, if there is a waiting period,
29 the first day of the waiting period, whichever is earlier.

30 (p) "Essential health benefits" means the following general categories and the items and
31 services covered within the following ten (10) categories that are consistent with the Rhode Island
32 benchmark plan. The benchmark plan shall be periodically selected and reselected by the
33 commissioner as needed through the regulatory process. The essential health benefits in the
34 benchmark plan shall provide the following ten (10) categories of benefits provide the following

- 1 ten (10) categories of benefits.
- 2 (1) Ambulatory patient services;
- 3 (2) Emergency services;
- 4 (3) Hospitalization;
- 5 (4) Maternity and newborn care;
- 6 (5) Mental health and substance use disorder services, including behavioral health
- 7 treatment;
- 8 (6) Prescription drugs;
- 9 (7) Rehabilitative and habilitative services and devices;
- 10 (8) Laboratory services;
- 11 (9) Preventive services, wellness services and chronic disease management; and
- 12 (10) Pediatric services, including oral and vision care;

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

16 ~~(p) "Family composition" means:~~

17 ~~(1) Enrollee;~~

18 ~~(2) Enrollee, spouse and children;~~

19 ~~(3) Enrollee and spouse; or~~

20 ~~(4) Enrollee and children.~~

21 ~~(q) "Genetic information" means information about genes, gene products, and inherited~~
22 ~~characteristics that may derive from the individual or a family member. This includes information~~
23 ~~regarding carrier status and information derived from laboratory tests that identify mutations in~~
24 ~~specific genes or chromosomes, physical medical examinations, family histories, and direct~~
25 ~~analysis of genes or chromosomes.~~

26 (r) "Governmental plan" has the meaning given the term under § 3(32) of the Employee
27 Retirement Income Security Act of 1974, 29 U.S.C. § 1002(32), and any federal governmental
28 plan.

29 (s) (1) "Group health plan" means an employee welfare benefit plan as defined in § 3(1)
30 of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(1), to the extent that
31 the plan provides medical care, as defined in subsection ~~(y)~~(w) of this section, and including
32 items and services paid for as medical care to employees or their dependents as defined under the
33 terms of the plan directly or through insurance, reimbursement, or otherwise.

34 (2) For purposes of this chapter:

1 (i) Any plan, fund, or program that would not be, but for PHSA Section 2721(e), 42
2 U.S.C. § 300gg(e), as added by P.L. 104-191, an employee welfare benefit plan and that is
3 established or maintained by a partnership, to the extent that the plan, fund or program provides
4 medical care, including items and services paid for as medical care, to present or former partners
5 in the partnership, or to their dependents, as defined under the terms of the plan, fund or program,
6 directly or through insurance, reimbursement or otherwise, shall be treated, subject to paragraph
7 (ii) of this subdivision, as an employee welfare benefit plan that is a group health plan;

8 (ii) In the case of a group health plan, the term "employer" also includes the partnership
9 in relation to any partner; and

10 (iii) In the case of a group health plan, the term "participant" also includes an individual
11 who is, or may become, eligible to receive a benefit under the plan, or the individual's beneficiary
12 who is, or may become, eligible to receive a benefit under the plan, if:

13 (A) In connection with a group health plan maintained by a partnership, the individual is
14 a partner in relation to the partnership; or

15 (B) In connection with a group health plan maintained by a self-employed individual,
16 under which one or more employees are participants, the individual is the self-employed
17 individual.

18 (t) (1) "Health benefit plan" means any hospital or medical policy or certificate, major
19 medical expense insurance, hospital or medical service corporation subscriber contract, or health
20 maintenance organization subscriber contract. Health benefit plan includes short-term and
21 catastrophic health insurance policies, and a policy that pays on a cost-incurred basis, except as
22 otherwise specifically exempted in this definition.

23 (2) "Health benefit plan" does not include one or more, or any combination of, the
24 following:

25 (i) Coverage only for accident or disability income insurance, or any combination of
26 those;

27 (ii) Coverage issued as a supplement to liability insurance;

28 (iii) Liability insurance, including general liability insurance and automobile liability
29 insurance;

30 (iv) Workers' compensation or similar insurance;

31 (v) Automobile medical payment insurance;

32 (vi) Credit-only insurance;

33 (vii) Coverage for on-site medical clinics; and

34 (viii) Other similar insurance coverage, specified in federal [and state](#) regulations **issued**

1 ~~pursuant to Pub. L. No. 104-191~~, under which benefits for medical care are secondary or
2 incidental to other insurance benefits.

3 (3) "Health benefit plan" does not include the following benefits if they are provided
4 under a separate policy, certificate, or contract of insurance or are otherwise not an integral part
5 of the plan:

6 (i) Limited scope dental or vision benefits;

7 (ii) Benefits for long-term care, nursing home care, home health care, community-based
8 care, or any combination of those; or

9 (iii) Other similar, limited benefits specified in federal and state regulations ~~issued~~
10 ~~pursuant to Pub. L. No. 104-191~~.

11 (4) "Health benefit plan" does not include the following benefits if the benefits are
12 provided under a separate policy, certificate or contract of insurance, there is no coordination
13 between the provision of the benefits and any exclusion of benefits under any group health plan
14 maintained by the same plan sponsor, and the benefits are paid with respect to an event without
15 regard to whether benefits are provided with respect to such an event under any group health plan
16 maintained by the same plan sponsor if coverage complies with all other applicable state and
17 federal regulations:

18 (i) Coverage only for a specified disease or illness; or

19 (ii) Hospital indemnity or other fixed indemnity insurance.

20 (5) "Health benefit plan" does not include the following if offered as a separate policy,
21 certificate, or contract of insurance:

22 (i) Medicare supplemental health insurance as defined under § 1882(g)(1) of the Social
23 Security Act, 42 U.S.C. § 1395ss(g)(1);

24 (ii) Coverage supplemental to the coverage provided under 10 U.S.C. § 1071 et seq.; or

25 (iii) Similar supplemental coverage provided to coverage under a group health plan.

26 ~~(6) A carrier offering policies or certificates of specified disease, hospital confinement~~
27 ~~indemnity, or limited benefit health insurance shall comply with the following:~~

28 ~~(i) The carrier files on or before March 1 of each year a certification with the director that~~
29 ~~contains the statement and information described in paragraph (ii) of this subdivision;~~

30 ~~(ii) The certification required in paragraph (i) of this subdivision shall contain the~~
31 ~~following:~~

32 ~~(A) A statement from the carrier certifying that policies or certificates described in this~~
33 ~~paragraph are being offered and marketed as supplemental health insurance and not as a substitute~~
34 ~~for hospital or medical expense insurance or major medical expense insurance; and~~

1 ~~(B) A summary description of each policy or certificate described in this paragraph,~~
2 ~~including the average annual premium rates (or range of premium rates in cases where premiums~~
3 ~~vary by age or other factors) charged for those policies and certificates in this state; and~~

4 ~~(iii) In the case of a policy or certificate that is described in this paragraph and that is~~
5 ~~offered for the first time in this state on or after July 13, 2000, the carrier shall file with the~~
6 ~~director the information and statement required in paragraph (ii) of this subdivision at least thirty~~
7 ~~(30) days prior to the date the policy or certificate is issued or delivered in this state.~~

8 (u) "Health maintenance organization" or "HMO" means a health maintenance
9 organization licensed under chapter 41 of this title.

10 (v) "Health status-related factor" means and includes, but is not limited to, any of the
11 following factors:

- 12 (1) Health status;
- 13 (2) Medical condition, including both physical and mental illnesses;
- 14 (3) Claims experience;
- 15 (4) Receipt of health care;
- 16 (5) Medical history;
- 17 (6) Genetic information;
- 18 (7) Evidence of insurability, including conditions arising out of acts of domestic violence;

19 or

- 20 (8) Disability.

21 ~~(w) (1) "Late enrollee" means an eligible employee or dependent who requests~~
22 ~~enrollment in a health benefit plan of a small employer following the initial enrollment period~~
23 ~~during which the individual is entitled to enroll under the terms of the health benefit plan,~~
24 ~~provided that the initial enrollment period is a period of at least thirty (30) days.~~

25 ~~(2) "Late enrollee" does not mean an eligible employee or dependent:~~

26 ~~(i) Who meets each of the following provisions:~~

27 ~~(A) The individual was covered under creditable coverage at the time of the initial~~
28 ~~enrollment;~~

29 ~~(B) The individual lost creditable coverage as a result of cessation of employer~~
30 ~~contribution, termination of employment or eligibility, reduction in the number of hours of~~
31 ~~employment, involuntary termination of creditable coverage, or death of a spouse, divorce or~~
32 ~~legal separation, or the individual and/or dependents are determined to be eligible for RItCare~~
33 ~~under chapter 5.1 of title 40 or chapter 12.3 of title 42 or for RItShare under chapter 8.4 of title~~
34 ~~40; and~~

1 ~~(C) The individual requests enrollment within thirty (30) days after termination of the~~
2 ~~creditable coverage or the change in conditions that gave rise to the termination of coverage;~~

3 ~~(ii) If, where provided for in contract or where otherwise provided in state law, the~~
4 ~~individual enrolls during the specified bona fide open enrollment period;~~

5 ~~(iii) If the individual is employed by an employer which offers multiple health benefit~~
6 ~~plans and the individual elects a different plan during an open enrollment period;~~

7 ~~(iv) If a court has ordered coverage be provided for a spouse or minor or dependent child~~
8 ~~under a covered employee's health benefit plan and a request for enrollment is made within thirty~~
9 ~~(30) days after issuance of the court order;~~

10 ~~(v) If the individual changes status from not being an eligible employee to becoming an~~
11 ~~eligible employee and requests enrollment within thirty (30) days after the change in status;~~

12 ~~(vi) If the individual had coverage under a COBRA continuation provision and the~~
13 ~~coverage under that provision has been exhausted; or~~

14 ~~(vii) Who meets the requirements for special enrollment pursuant to § 27-50-7 or 27-50-~~
15 ~~8.~~

16 ~~(x) "Limited benefit health insurance" means that form of coverage that pays stated~~
17 ~~predetermined amounts for specific services or treatments or pays a stated predetermined amount~~
18 ~~per day or confinement for one or more named conditions, named diseases or accidental injury.~~

19 ~~(y)~~(w) "Medical care" means amounts paid for:

20 (1) The diagnosis, care, mitigation, treatment, or prevention of disease, or amounts paid
21 for the purpose of affecting any structure or function of the body;

22 (2) Transportation primarily for and essential to medical care referred to in subdivision
23 (1); and

24 (3) Insurance covering medical care referred to in subdivisions (1) and (2) of this
25 subsection.

26 ~~(z)~~(x) "Network plan" means a health benefit plan issued by a carrier under which the
27 financing and delivery of medical care, including items and services paid for as medical care, are
28 provided, in whole or in part, through a defined set of providers under contract with the carrier.

29 ~~(aa)~~(y) "Person" means an individual, a corporation, a partnership, an association, a joint
30 venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any
31 combination of the foregoing.

32 ~~(bb)~~(z) "Plan sponsor" has the meaning given this term under § 3(16)(B) of the Employee
33 Retirement Income Security Act of 1974, 29 U.S.C. § 1002(16)(B).

34 ~~(cc)~~~~(1)~~ (aa)(1) "Preexisting condition exclusion" means ~~a condition, regardless of the~~

1 ~~cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended~~
2 ~~or received during the six (6) months immediately preceding the enrollment date of the coverage~~
3 a limitation or exclusion of benefits (including a denial of coverage) based on the fact that the
4 condition was present before the effective date of coverage (or if coverage is denied, the date of
5 the denial), whether or not any medical advice, diagnosis, care, or treatment was recommended or
6 received before that day. A preexisting condition exclusion includes any limitation or exclusion
7 of benefits (including a denial of coverage) applicable to an individual as a result of information
8 relating to an individual's health status before the individual's effective date of coverage (or if
9 coverage is denied, the date of the denial), such as a condition identified as a result of a pre-
10 enrollment questionnaire or physical examination given to the individual, or review of medical
11 records relating to the pre-enrollment period.

12 ~~(2) "Preexisting condition" does not mean a condition for which medical advice,~~
13 ~~diagnosis, care, or treatment was recommended or received for the first time while the covered~~
14 ~~person held creditable coverage and that was a covered benefit under the health benefit plan,~~
15 ~~provided that the prior creditable coverage was continuous to a date not more than ninety (90)~~
16 ~~days prior to the enrollment date of the new coverage.~~

17 ~~(3)~~(2) Genetic information shall not be treated as a condition under subdivision (1) of this
18 subsection for which a preexisting condition exclusion may be imposed in the absence of a
19 diagnosis of the condition related to the information.

20 ~~(dd)~~(bb) "Premium" means all moneys paid by a small employer and eligible employees
21 as a condition of receiving coverage from a small employer carrier, including any fees or other
22 contributions associated with the health benefit plan.

23 (cc) "Preventive services" means those services described in 42 USC § 300gg-13 and
24 implementing regulations and guidance, and shall be covered without any cost-sharing for the
25 enrollee when delivered by in-network providers, as those terms and obligations are therein
26 described, and if repealed then the preventive services as may be described in 26 USC § 223
27 relating to the Internal Revenue Service high deductible health plan safe harbor rules.

28 ~~(ee)~~(dd) "Producer" means any insurance producer licensed under chapter 2.4 of this title.

29 ~~(ff)~~(ee) "Rating period" means the calendar period for which premium rates established
30 by a small employer carrier are assumed to be in effect.

31 ~~(gg)~~(ff) "Restricted network provision" means any provision of a health benefit plan that
32 conditions the payment of benefits, in whole or in part, on the use of health care providers that
33 have entered into a contractual arrangement with the carrier ~~pursuant~~ to provide health care
34 services to covered individuals.

1 ~~(hh) "Risk adjustment mechanism" means the mechanism established pursuant to § 27-~~
2 ~~50-16.~~

3 ~~(ii)(gg)~~ "Self-employed individual" means an individual or sole proprietor who derives a
4 substantial portion of his or her income from a trade or business through which the individual or
5 sole proprietor has attempted to earn taxable income and for which he or she has filed the
6 appropriate Internal Revenue Service Form 1040, Schedule C or F, for the previous taxable year.

7 ~~(jj) "Significant break in coverage" means a period of ninety (90) consecutive days during~~
8 ~~all of which the individual does not have any creditable coverage, except that neither a waiting~~
9 ~~period nor an affiliation period is taken into account in determining a significant break in~~
10 ~~coverage.~~

11 ~~(kk)(hh)(1)~~ "Small employer" means, ~~except for its use in § 27-50-7, any person, firm,~~
12 ~~corporation, partnership, association, political subdivision, or self-employed individual that is~~
13 ~~actively engaged in business including, but not limited to, a business or a corporation organized~~
14 ~~under the Rhode Island Non-Profit Corporation Act, chapter 6 of title 7, or a similar act of~~
15 ~~another state that, on at least fifty percent (50%) of its working days during the preceding~~
16 ~~calendar quarter, employed no more than fifty (50) eligible employees, with a normal work week~~
17 ~~of thirty (30) or more hours, the majority of whom were employed within this state, and is not~~
18 ~~formed primarily for purposes of buying health insurance and in which a bona fide employer-~~
19 ~~employee relationship exists. In determining the number of eligible employees, companies that~~
20 ~~are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation~~
21 ~~by this state, shall be considered one employer. Subsequent to the issuance of a health benefit~~
22 ~~plan to a small employer and for the purpose of determining continued eligibility, the size of a~~
23 ~~small employer shall be determined annually. Except as otherwise specifically provided,~~
24 ~~provisions of this chapter that apply to a small employer shall continue to apply at least until the~~
25 ~~plan anniversary following the date the small employer no longer meets the requirements of this~~
26 ~~definition. The term small employer includes a self-employed individual. to the extent allowed by~~
27 ~~federal law and regulation in connection with a group health plan with respect to a calendar year~~
28 ~~and a plan year, an employer who is a self-employed individual or an entity who employed an~~
29 ~~average of at least one, but not more than fifty (50) employees, on business days during the~~
30 ~~preceding calendar year, and is a self-employed individual or an entity who employs at least one~~
31 ~~employee on the first day of the plan year.~~

32 (2) Special rules for determining small employer status:

33 (i) Application of aggregation rule for employers. All persons treated as a single
34 employer under subsections (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of

1 1986 (26 U.S.C. §414) shall be treated as a single employer.

2 (ii) Employer not in existence in preceding year. In the case of an employer which was
3 not in existence throughout the preceding calendar year, the determination of whether such
4 employer is a small employer shall be based on the average number of employees that it is
5 reasonably expected such employer will employ on business days in the current calendar year.

6 (iii) Predecessors. Any reference in this subsection to an employer shall include a
7 reference to any predecessor of such employer.

8 (iv) Continuation of participation for growing small employers. If:

9 (A) A small employer makes enrollment in qualified health plans offered in the small
10 group market available to its employees through an exchange; and

11 (B) The employer ceases to be a small employer by reason of an increase in the number
12 of employees of such employer, then the employer shall continue to be treated as a small
13 employer for purposes of this chapter for the period beginning with the increase and ending with
14 the first day on which the employer does not make such enrollment available to its employees.

15 ~~(H)(ii) "Waiting period" means, with respect to a group health plan and an individual who~~
16 ~~is a potential enrollee in the plan, the period that must pass with respect to the individual before~~
17 ~~the individual is eligible to be covered for benefits under the terms of the plan. For purposes of~~
18 ~~calculating periods of creditable coverage pursuant to subsection (j)(2) of this section, a waiting~~
19 ~~period shall not be considered a gap in coverage.~~

20 ~~(mm) "Wellness health benefit plan" means a plan developed pursuant to § 27-50-10.~~

21 ~~(nn)(jj) "Health insurance commissioner" or "commissioner" means that individual~~
22 ~~appointed pursuant to § 42-14.5-1 of the general laws and afforded those powers and duties as set~~
23 ~~forth in §§ 42-14.5-2 and 42-14.5-3 of title 42.~~

24 ~~(oo) "Low wage firm" means those with average wages that fall within the bottom~~
25 ~~quartile of all Rhode Island employers.~~

26 ~~(pp) "Wellness health benefit plan" means the health benefit plan offered by each small~~
27 ~~employer carrier pursuant to § 27-50-7.~~

28 ~~(qq) "Commissioner" means the health insurance commissioner.~~

29 **27-50-4. Applicability and scope.**

30 (a) This chapter applies to any health benefit plan that provides coverage to the
31 employees of a small employer in this state, whether issued directly by a carrier or through a
32 trust, association, or other intermediary, and regardless of issuance or delivery of the policy, if
33 any of the following conditions are met:

34 (1) Any portion of the premium or benefits is paid by or on behalf of the small employer;

1 (2) An eligible employee or dependent is reimbursed, whether through wage adjustments
2 or otherwise, by or on behalf of the small employer for any portion of the premium;

3 (3) The health benefit plan is treated by the employer or any of the eligible employees or
4 dependents as part of a plan or program for the purposes of Section 162, Section 125, or Section
5 106 of the United States Internal Revenue Code, 26 U.S.C. § 162, 125, or 106; or

6 (4) The health benefit plan is marketed to individual employees through an employer.

7 (b) (1) Except as provided in subdivision (2) of this subsection, for the purposes of this
8 chapter, carriers that are affiliated companies or that are eligible to file a consolidated tax return
9 shall be treated as one carrier and any restrictions or limitations imposed by this chapter shall
10 apply as if all health benefit plans delivered or issued for delivery to small employers in this state
11 by the affiliated carriers were issued by one carrier.

12 (2) An affiliated carrier that is a health maintenance organization having a license under
13 chapter 41 of this title or a health maintenance organization as defined in chapter 62 of title 42
14 may be considered to be a separate carrier for the purposes of this chapter.

15 (3) Unless otherwise authorized by the ~~director~~ commissioner, a small employer carrier
16 shall not enter into one or more ceding arrangements with another carrier with respect to health
17 benefit plans delivered or issued for delivery to small employers in this state if those
18 arrangements would result in less than fifty percent (50%) of the insurance obligation or risk for
19 the health benefit plans being retained by the ceding carrier. The ~~department of business~~
20 ~~regulation's~~ statutory provisions relating to licensing and the regulation of licensed insurers under
21 this title shall apply if a small employer carrier cedes or assumes ~~all~~ any material portion of the
22 insurance obligation or risk with respect to one or more health benefit plans delivered or issued
23 for delivery to small employers in this state.

24 **27-50-5. Restrictions relating to premium rates.**

25 (a) Premium rates for health benefit plans subject to this chapter are subject to the
26 following provisions:

27 (1) ~~Subject to subdivision (2) of this subsection, a~~ A small employer carrier shall develop
28 its rates based on an adjusted community rate and may only vary the adjusted community rate for:
29 age. The age of an enrollee shall be determined as of the date of plan issuance or renewal.

30 ~~(i) Age;~~

31 ~~(ii) Gender; and~~

32 ~~(iii) Family composition;~~

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

1 ~~sixty five (65)~~. The small employer carrier shall determine premium rates for a small employer
2 by summing the premium amounts for each covered employee and dependent, in accordance with
3 federal and state laws and regulations.

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

8 (4) For each health benefit plan offered by a carrier, the ~~highest~~ premium rate for ~~each~~
9 ~~family composition type~~ the sixty-four (64) years of age or older bracket shall not exceed ~~four (4)~~
10 three (3) times the premium rate that could be charged to a small employer ~~with the lowest~~
11 ~~premium rate for that family composition~~ for the rate for a twenty-one (21) year old.

12 (5)(4) Premium rates for bona fide associations except for the Rhode Island Builders'
13 Association whose membership is limited to those who are actively involved in supporting the
14 construction industry in Rhode Island shall comply with the requirements of § 27-50-5 and all
15 other requirements of state law and regulation relating to rates.

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

21 (b)(5) The premium charged for a health benefit plan may not be adjusted more
22 frequently than annually except that the rates may be changed to reflect: changes to the health
23 benefit plan requested by the small employer.

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

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

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

27 (e)(b) Premium rates for health benefit plans shall comply with the requirements of this
28 section.

29 (d)(c) Small employer carriers shall apply rating factors consistently with respect to all
30 small employers. Rating factors shall produce premiums for identical groups that differ only by
31 the amounts attributable to plan design, such as different cost sharing or provider network
32 restrictions, and do not reflect differences due to the nature of the groups or individuals assumed
33 to select particular health benefit plans. ~~Two groups that are otherwise identical, but which have~~
34 ~~different prior year rate factors may, however, have rating factors that produce premiums that~~

1 ~~differ because of the requirements of subdivision 27-50-5(a)(6).~~ Nothing in this section shall be
2 construed to prevent a group health plan and a health insurance carrier offering health insurance
3 coverage from establishing premium discounts or rebates or modifying otherwise applicable
4 copayments or deductibles in return for ~~adherence to~~ participation in programs of health
5 promotion ~~and or~~ or disease prevention, provided the application of these discounts, rebates and
6 cost-sharing modifications, and the wellness programs satisfy the requirements of federal and
7 state laws and regulations, including, without limitation, nondiscrimination and mental health
8 parity provisions of federal and state laws, including those included in affordable health benefit
9 plans, provided that the resulting rates comply with the other requirements of this section,
10 including subdivision (a)(5) of this section.

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

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

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

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

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

1 premium rates;

2 (2) The provisions relating to [the availability and](#) renewability of policies and contracts;
3 [and](#)

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

5 ~~(4)(3)~~ A listing of and descriptive information, including benefits and premiums, about
6 all benefit plans for which the small employer is qualified.

7 ~~(h)-(1)(g)~~ Each small employer carrier shall maintain at its principal place of business a
8 complete and detailed description of its rating practices and renewal underwriting practices,
9 including information and documentation that demonstrate that its rating methods and practices
10 are based upon commonly accepted actuarial assumptions and are in accordance with sound
11 actuarial principles. [Any changes to the carrier's rating and underwriting practices shall be subject](#)
12 [to the provisions of §§ 27-18-8, 27-41-27.2, and 42-62-13.](#)

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

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

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

34 ~~(i) The requirements of this section apply to all health benefit plans issued or renewed on~~

1 ~~or after October 1, 2000.~~

2 **27-50-6. Renewability of coverage.**

3 (a) A health benefit plan subject to this chapter is renewable with respect to all eligible
4 employees or dependents, at the option of the small employer, except in any of the following
5 cases:

6 (1) The plan sponsor has failed to pay premiums or contributions in accordance with the
7 terms of the health benefit plan or the carrier has not received timely premium payments;

8 (2) The plan sponsor or, with respect to coverage of individual insured under the health
9 benefit plan, the insured or the insured's representative has performed an act or practice that
10 constitutes fraud or made an intentional misrepresentation of material fact under the terms of
11 coverage and the non-renewal is made within two (2) years after the act or practice. After two (2)
12 years, the carrier may non-renew under this subsection only if the plan sponsor has failed to
13 reimburse the carrier for the costs associated with the fraud or misrepresentation;

14 (3) Noncompliance with the carrier's minimum participation requirements;

15 (4) Noncompliance with the carrier's employer contribution requirements;

16 (5) The small employer carrier elects to discontinue offering all of its health benefit plans
17 delivered or issued for delivery to small employers in this state if the carrier:

18 (i) Provides advance notice of its decision under this paragraph to the commissioner in
19 each state in which it is licensed; and

20 (ii) Provides notice of the decision to:

21 (A) All affected small employers and enrollees and their dependents; and

22 (B) The insurance commissioner in each state in which an affected insured individual is
23 known to reside at least one hundred and eighty (180) days prior to the ~~nonrenewal~~ non-renewal
24 of any health benefit plans by the carrier, provided the notice to the commissioner under this
25 subparagraph is sent at least three (3) working days prior to the date the notice is sent to the
26 affected small employers and enrollees and their dependents;

27 (6) The ~~director~~ commissioner:

28 (i) Finds that the continuation of the coverage would not be in the best interests of the
29 policyholders or certificate holders or would impair the carrier's ability to meet its contractual
30 obligations; and

31 (ii) Assists affected small employers in finding replacement coverage;

32 (7) The small employer carrier decides to discontinue offering a particular type of health
33 benefit plan in the state's small employer market if the carrier:

34 (i) Provides notice of the decision not to renew coverage at least ninety (90) days prior to

1 the ~~nonrenewal~~ non-renewal of any health benefit plans to all affected small employers and
2 enrollees and their dependents;

3 (ii) Offers to each small employer issued a particular type of health benefit plan the
4 option to purchase all other health benefit plans currently being offered by the carrier to small
5 employers in the state; and

6 (iii) In exercising this option to discontinue a particular type of health benefit plan and in
7 offering the option of coverage pursuant to paragraph (7)(ii) of this subsection acts uniformly
8 without regard to the claims experience of those small employers or any health status-related
9 factor relating to any enrollee or dependent of an enrollee or enrollees and their dependents
10 covered or new enrollees and their dependents who may become eligible for coverage;

11 (8) In the case of health benefit plans that are made available in the small group market
12 through a network plan, there is no longer an employee of the small employer living, working or
13 residing within the carrier's established geographic service area and the carrier would deny
14 enrollment in the plan ~~pursuant to § 27-50-7(e)(1)(ii)~~; or

15 (9) In the case of a health benefit plan that is made available in the small employer
16 market only through one or more bona fide associations, the membership of an employer in the
17 bona fide association, on the basis of which the coverage is provided, ceases, but only if the
18 coverage is terminated under this paragraph uniformly without regard to any health status-related
19 factor relating to any covered individual.

20 (b) (1) A small employer carrier that elects not to renew health benefit plan coverage
21 pursuant to subdivision (a)(2) of this section because of the small employer's fraud or intentional
22 misrepresentation of material fact under the terms of coverage may choose not to issue a health
23 benefit plan to that small employer for one year after the date of ~~nonrenewal~~ non-renewal.

24 (2) This subsection shall not be construed to affect the requirements of § 27-50-7 as to the
25 obligations of other small employer carriers to issue any health benefit plan to the small
26 employer.

27 (c) (1) A small employer carrier that elects to discontinue offering health benefit plans
28 under subdivision (a)(5) of this section is prohibited from writing new business in the small
29 employer market in this state for a period of five (5) years beginning on the date ~~the carrier~~
30 ~~ceased offering new coverage in this state~~ of discontinuance of the last coverage not renewed.

31 (2) In the case of a small employer carrier that ceases offering new coverage in this state
32 pursuant to subdivision (a)(5) of this section, the small employer carrier ~~shall, as determined by~~
33 ~~the director, may renew its existing business in the small employer market in the state or may be~~
34 ~~required to nonrenew~~ discontinue and non-renew all of its existing business in the small employer

1 market in the state upon proper notice.

2 (d) A small employer carrier offering coverage through a network plan is not required to
3 offer coverage or accept applications pursuant to subsection (a) or (b) of this section in the case of
4 the following:

5 (1) To an eligible person who no longer resides, lives, or works in the service area, or in
6 an area for which the carrier is authorized to do business, but only if coverage is terminated under
7 this subdivision uniformly without regard to any health status-related factor of covered
8 individuals; or

9 (2) To a small employer that no longer has any enrollee in connection with the plan who
10 lives, resides, or works in the service area of the carrier, or the area for which the carrier is
11 authorized to do business.

12 (e) At the time of coverage renewal, a small employer carrier may modify the health
13 insurance coverage for a product offered to a group health plan if, for coverage that is available in
14 the small group market other than only through one or more bona fide associations, such
15 modification is consistent with otherwise applicable law and effective on a uniform basis among
16 group health plans with that product.

17 **27-50-7. Availability of coverage.**

18 ~~(a) Until October 1, 2004, for purposes of this section, "small employer" includes any~~
19 ~~person, firm, corporation, partnership, association, or political subdivision that is actively~~
20 ~~engaged in business that on at least fifty percent (50%) of its working days during the preceding~~
21 ~~calendar quarter, employed a combination of no more than fifty (50) and no less than two (2)~~
22 ~~eligible employees and part-time employees, the majority of whom were employed within this~~
23 ~~state, and is not formed primarily for purposes of buying health insurance and in which a bona~~
24 ~~fide employer-employee relationship exists. After October 1, 2004, for the purposes of this~~
25 ~~section, "small employer" has the meaning used in § 27-50-3(kk).~~

26 ~~(b)~~(a) (1) Every small employer carrier shall, as a condition of transacting business in this
27 state with small employers, ~~actively~~ offer to small employers all health benefit plans ~~it actively~~
28 that are approved for sale ~~markets~~ to small employers in this state, and must accept any small
29 employer that applies for any of those health benefit plans subject to the provisions of this
30 chapter. ~~including a wellness health benefit plan. A small employer carrier shall be considered to~~
31 ~~be actively marketing a health benefit plan if it offers that plan to any small employer not~~
32 ~~currently receiving a health benefit plan from the small employer carrier.~~ Such plans shall offer
33 coverage of essential health benefits.

34 (2) Subject to ~~subdivision~~ subsection (a) (1) of this ~~subsection~~ section, a small employer

1 carrier shall issue any health benefit plan to any eligible small employer that applies for that plan
2 and agrees to make the required premium payments and to satisfy the other reasonable provisions
3 of the health benefit plan not inconsistent with this chapter. ~~However, no carrier is required to~~
4 ~~issue a health benefit plan to any self-employed individual who is covered by, or is eligible for~~
5 ~~coverage under, a health benefit plan offered by an employer.~~

6 ~~(c) (1) A small employer carrier shall file with the director, in a format and manner~~
7 ~~prescribed by the director, the health benefit plans to be used by the carrier. A health benefit plan~~
8 ~~filed pursuant to this subdivision may be used by a small employer carrier beginning thirty (30)~~
9 ~~days after it is filed unless the director disapproves its use.~~

10 ~~(2) The director may at any time may, after providing notice and an opportunity for a~~
11 ~~hearing to the small employer carrier, disapprove the continued use by a small employer carrier of~~
12 ~~a health benefit plan on the grounds that the plan does not meet the requirements of this chapter.~~

13 ~~(d) Health benefit plans covering small employers shall comply with the following~~
14 ~~provisions:~~

15 ~~(1) A health benefit plan shall not deny, exclude, or limit benefits for a covered~~
16 ~~individual for losses incurred more than six (6) months following the enrollment date of the~~
17 ~~individual's coverage due to a preexisting condition, or the first date of the waiting period for~~
18 ~~enrollment if that date is earlier than the enrollment date. A health benefit plan shall not define a~~
19 ~~preexisting condition more restrictively than as defined in § 27-50-3.~~

20 ~~(2) (i) Except as provided in subdivision (3) of this subsection, a small employer carrier~~
21 ~~shall reduce the period of any preexisting condition exclusion by the aggregate of the periods of~~
22 ~~creditable coverage without regard to the specific benefits covered during the period of creditable~~
23 ~~coverage, provided that the last period of creditable coverage ended on a date not more than~~
24 ~~ninety (90) days prior to the enrollment date of new coverage.~~

25 ~~(ii) The aggregate period of creditable coverage does not include any waiting period or~~
26 ~~affiliation period for the effective date of the new coverage applied by the employer or the carrier,~~
27 ~~or for the normal application and enrollment process following employment or other triggering~~
28 ~~event for eligibility.~~

29 ~~(iii) A carrier that does not use preexisting condition limitations in any of its health~~
30 ~~benefit plans may impose an affiliation period that:~~

31 ~~(A) Does not exceed sixty (60) days for new entrants and not to exceed ninety (90) days~~
32 ~~for late enrollees;~~

33 ~~(B) During which the carrier charges no premiums and the coverage issued is not~~
34 ~~effective; and~~

1 ~~(C) Is applied uniformly, without regard to any health status related factor.~~

2 ~~(iv)(b)~~ This section does not preclude application of any waiting period applicable to all
3 new enrollees under the health benefit plan, provided that any carrier-imposed waiting period is
4 no longer than sixty (60) days.

5 ~~(3) (i) Instead of as provided in paragraph (2)(i) of this subsection, a small employer~~
6 ~~carrier may elect to reduce the period of any preexisting condition exclusion based on coverage of~~
7 ~~benefits within each of several classes or categories of benefits specified in federal regulations.~~

8 ~~(ii) A small employer electing to reduce the period of any preexisting condition exclusion~~
9 ~~using the alternative method described in paragraph (i) of this subdivision shall:~~

10 ~~(A) Make the election on a uniform basis for all enrollees; and~~

11 ~~(B) Count a period of creditable coverage with respect to any class or category of benefits~~
12 ~~if any level of benefits is covered within the class or category.~~

13 ~~(iii) A small employer carrier electing to reduce the period of any preexisting condition~~
14 ~~exclusion using the alternative method described under paragraph (i) of this subdivision shall:~~

15 ~~(A) Prominently state that the election has been made in any disclosure statements~~
16 ~~concerning coverage under the health benefit plan to each enrollee at the time of enrollment under~~
17 ~~the plan and to each small employer at the time of the offer or sale of the coverage; and~~

18 ~~(B) Include in the disclosure statements the effect of the election.~~

19 ~~(4) (i) A health benefit plan shall accept late enrollees, but may exclude coverage for late~~
20 ~~enrollees for preexisting conditions for a period not to exceed twelve (12) months.~~

21 ~~(ii) A small employer carrier shall reduce the period of any preexisting condition~~
22 ~~exclusion pursuant to subdivision (2) or (3) of this subsection.~~

23 ~~(5) A small employer carrier shall not impose a preexisting condition exclusion:~~

24 ~~(i) Relating to pregnancy as a preexisting condition; or~~

25 ~~(ii) With regard to a child who is covered under any creditable coverage within thirty (30)~~
26 ~~days of birth, adoption, or placement for adoption, provided that the child does not experience a~~
27 ~~significant break in coverage, and provided that the child was adopted or placed for adoption~~
28 ~~before attaining eighteen (18) years of age.~~

29 ~~(6) A small employer carrier shall not impose a preexisting condition exclusion in the~~
30 ~~case of a condition for which medical advice, diagnosis, care or treatment was recommended or~~
31 ~~received for the first time while the covered person held creditable coverage, and the medical~~
32 ~~advice, diagnosis, care or treatment was a covered benefit under the plan, provided that the~~
33 ~~creditable coverage was continuous to a date not more than ninety (90) days prior to the~~
34 ~~enrollment date of the new coverage.~~

1 ~~(7)-(i)(c)~~ A small employer carrier shall permit an employee or a dependent of the
2 employee, who is eligible, but not enrolled, to enroll for coverage under the terms of the group
3 health plan of the small employer during a special enrollment period, as defined by federal and
4 state laws and regulations, including, but not limited to, the following situations ~~if~~:

5 ~~(A)(1)~~ The employee or dependent was covered under a group health plan or had
6 coverage under a health benefit plan at the time coverage was previously offered to the employee
7 or dependent;

8 ~~(B)(2)~~ The employee stated in writing at the time coverage was previously offered that
9 coverage under a group health plan or other health benefit plan was the reason for declining
10 enrollment, but only if the plan sponsor or carrier, if applicable, required that statement at the
11 time coverage was previously offered and provided notice to the employee of the requirement and
12 the consequences of the requirement at that time;

13 ~~(C)(3)~~ The employee's or dependent's coverage described under ~~subparagraph (A) of this~~
14 ~~paragraph~~ subsection (c)(2) of this section:

15 ~~(i)~~ Was under a COBRA continuation provision and the coverage under this provision
16 has been exhausted; or

17 ~~(ii)~~ Was not under a COBRA continuation provision and that other coverage has been
18 terminated as a result of loss of eligibility for coverage, including as a result of a legal separation,
19 divorce, death, termination of employment, or reduction in the number of hours of employment or
20 employer contributions towards that other coverage have been terminated; and

21 ~~(D)(4)~~ Under terms of the group health plan, the employee requests enrollment not later
22 than thirty (30) days after the date of exhaustion of coverage described in ~~item (C)(i)~~ subsection
23 (c)(3)(i) of this ~~paragraph~~ section or termination of coverage or employer contribution described
24 in ~~item (C)(ii)~~ subsection (c)(3)(ii) of this ~~paragraph~~ section.

25 ~~(i)(5)~~ If an employee requests enrollment pursuant to ~~subparagraph (i)(D) of this~~
26 ~~subdivision~~ this subsection, the enrollment is effective not later than the first day of the first
27 calendar month beginning after the date the completed request for enrollment is received.

28 ~~(8)-(i)(d)(1)~~ A small employer carrier that makes coverage available under a group health
29 plan with respect to a dependent of an individual shall provide for a dependent special enrollment
30 period described in ~~paragraph (i) of this subdivision~~ section during which the person or, if not
31 enrolled, the individual may be enrolled under the group health plan as a dependent of the
32 individual and, in the case of the birth or adoption of a child, the spouse of the individual may be
33 enrolled as a dependent of the individual if the spouse is eligible for coverage if:

34 ~~(A)(i)~~ The individual is a participant under the health benefit plan or has met any waiting

1 period applicable to becoming a participant under the plan and is eligible to be enrolled under the
2 plan, but for a failure to enroll during a previous enrollment period; and

3 ~~(B)~~(ii) A person becomes a dependent of the individual through marriage, birth, or
4 adoption or placement for adoption.

5 ~~(ii)~~(2) The special enrollment period for individuals that meet the provisions of ~~paragraph~~
6 ~~(i) of this subdivision~~ subsection (d)(1) of this section is a period of not less than thirty (30) days
7 and begins on the later of:

8 ~~(A)~~(i) The date dependent coverage is made available; or

9 ~~(B)~~(ii) The date of the marriage, birth, or adoption or placement for adoption described in
10 ~~subparagraph (i)(B)~~ subsection (d)(1)(ii) of this subdivision section.

11 ~~(iii)~~(3) If an individual seeks to enroll a dependent during the first thirty (30) days of the
12 dependent special enrollment period described under ~~paragraph~~ subsection ~~(ii)~~(d)(2) of this
13 ~~subdivision section~~, the coverage of the dependent is effective:

14 ~~(A)~~(i) In the case of marriage, not later than the first day of the first month beginning
15 after the date the completed request for enrollment is received;

16 ~~(B)~~(ii) In the case of a dependent's birth, as of the date of birth; and

17 ~~(C)~~(iii) In the case of a dependent's adoption or placement for adoption, the date of the
18 adoption or placement for adoption.

19 ~~(9)~~~~(i)~~(e)(1) Except as provided in this subdivision, requirements used by a small
20 employer carrier in determining whether to provide coverage to a small employer, including
21 requirements for minimum participation of eligible employees and minimum employer
22 contributions, shall be applied uniformly among all small employers applying for coverage or
23 receiving coverage from the small employer carrier.

24 ~~(ii)~~(2) For health benefit plans issued or renewed on or after October 1, 2000, a small
25 employer carrier shall not require a minimum participation level greater than seventy-five percent
26 (75%) of eligible employees.

27 ~~(iii)~~(3) In applying minimum participation requirements with respect to a small employer,
28 a small employer carrier shall not consider employees or dependents who have creditable
29 coverage in determining whether the applicable percentage of participation is met.

30 ~~(iv)~~(4) A small employer carrier shall not increase any requirement for minimum
31 employee participation or modify any requirement for minimum employer contribution applicable
32 to a small employer at any time after the small employer has been accepted for coverage.

33 ~~(10)~~~~(i)~~(f)(1) If a small employer carrier offers coverage to a small employer, the small
34 employer carrier shall offer coverage to all of the eligible employees of a small employer and

1 their dependents who apply for enrollment during the period in which the employee first becomes
2 eligible to enroll under the terms of the plan. A small employer carrier shall not offer coverage to
3 only certain individuals or dependents in a small employer group or to only part of the group.

4 ~~(ii)~~(2) A small employer carrier shall not place any restriction in regard to any health
5 status-related factor on an eligible employee or dependent with respect to enrollment or plan
6 participation.

7 ~~(iii)~~(3) Except as permitted ~~under subdivisions (1) and (4) by this section, of this~~
8 ~~subsection,~~ a small employer carrier shall not modify a health benefit plan with respect to a small
9 employer or any eligible employee or dependent, through riders, endorsements, or otherwise, to
10 restrict or exclude coverage or benefits for specific diseases, medical conditions, or services
11 covered by the plan.

12 ~~(e)~~(g) (1) ~~Subject to subdivision (3) of this subsection, a~~ A small employer carrier is not
13 required to offer coverage or accept applications pursuant to subsection ~~(b)~~(a) of this section in
14 the case of the following:

15 (i) To a small employer, where the small employer does not have eligible individuals who
16 live, work, or reside in the established geographic service area for the network plan;

17 (ii) To an employee, when the employee does not live, work, or reside within the carrier's
18 established geographic service area; or

19 (iii) ~~Within~~ With the approval of the commissioner, within an area where the small
20 employer carrier reasonably anticipates, and demonstrates to the satisfaction of the ~~director~~
21 commissioner, that it will not have the capacity within its established geographic service area to
22 deliver services adequately to enrollees of any additional groups because of its obligations to
23 existing group policyholders and enrollees.

24 (2) A small employer carrier that cannot offer coverage pursuant to ~~paragraph (1)(iii) of~~
25 ~~this subsection~~ subsection (g)(1)(iii) of this section may not offer coverage in the applicable area
26 to new cases of employer groups until the later of one hundred and eighty (180) days following
27 each refusal or the date on which the carrier notifies the director that it has regained capacity to
28 deliver services to new employer groups.

29 (3) A small employer carrier shall apply the provisions of this subsection uniformly to all
30 small employers without regard to the claims experience of a small employer and its employees
31 and their dependents or any health status-related factor relating to the employees and their
32 dependents.

33 ~~(f)~~(h)(1) A small employer carrier is not required to provide coverage to small employers
34 pursuant to subsection ~~(b)~~ (a) of this section if:

1 (i) For any period of time the ~~director~~ [commissioner](#) determines the small employer
2 carrier does not have the financial reserves necessary to underwrite additional coverage; and

3 (ii) The small employer carrier is applying this subsection uniformly to all small
4 employers in the small group market in this state consistent with applicable state law and without
5 regard to the claims experience of a small employer and its employees and their dependents or
6 any health status-related factor relating to the employees and their dependents.

7 (2) A small employer carrier that denies coverage in accordance with subdivision (1) of
8 this subsection may not offer coverage in the small group market for the later of:

9 (i) A period of one hundred and eighty (180) days after the date the coverage is denied; or

10 (ii) Until the small employer has demonstrated to the ~~director~~ [commissioner](#) that it has
11 sufficient financial reserves to underwrite additional coverage.

12 ~~(g)(i)~~ (1) A small employer carrier is not required to provide coverage to small employers
13 pursuant to subsection ~~(b)(a)~~ of this section if the small employer carrier, [in accordance with a](#)
14 [plan approved by the commissioner](#), elects not to offer new coverage to small employers in this
15 state.

16 (2) A small employer carrier that elects not to offer new coverage to small employers
17 under this subsection may be allowed, as determined by the ~~director~~ [commissioner](#), to maintain its
18 existing policies in this state.

19 (3) A small employer carrier that elects not to offer new coverage to small employers
20 under ~~subdivision~~ [subsection ~~\(g\)\(i\)\(1\)~~ of this section](#) shall provide at least one hundred and
21 twenty (120) days notice of its election to the ~~director~~ [commissioner](#) and is prohibited from
22 writing new business in the small employer market in this state for a period of five (5) years
23 beginning on the date the carrier ceased offering new coverage in this state.

24 ~~(h)(i) No small group carrier may impose a pre-existing condition exclusion pursuant to~~
25 ~~the provisions of subdivisions 27-50-7(d)(1), 27-50-7(d)(2), 27-50-7(d)(3), 27-50-7(d)(4), 27-50-~~
26 ~~7(d)(5) and 27-50-7(d)(6) with regard to an individual that is less than nineteen (19) years of age.~~
27 ~~With respect to health benefit plans issued on and after January 1, 2014 a small employer carrier~~
28 ~~shall offer and issue coverage to small employers and eligible individuals notwithstanding any~~
29 ~~pre-existing condition of an employee, member, or individual, or their dependents. A small~~
30 ~~employer carrier shall not deny, exclude or limit benefits or coverage with respect to an enrollee~~
31 ~~because of a preexisting condition exclusion.~~

32 **27-50-11. Administrative procedures.**

33 The ~~director~~ [commissioner](#) shall issue regulations in accordance with chapter 35 of ~~this~~
34 title [42](#) for the implementation and administration of the Small Employer Health Insurance

1 Availability Act. If provisions of the federal Patient Protection and Affordable Care Act and
2 implementing regulations, corresponding to the provisions of this chapter, are repealed, then the
3 commissioner may promulgate regulations reflecting relevant federal law and implementing
4 regulations in effect immediately prior to their repeal. In the event of such changes to the law and
5 related regulations, the commissioner, in conjunction with the health benefit exchange or other
6 state department, shall report to the general assembly as soon as possible to describe the impact of
7 the change and to make recommendations regarding consumer protections, consumer choices,
8 and stabilization and affordability of the Rhode Island insurance market.

9 **27-50-12. Standards to assure fair marketing.**

10 (a) ~~Each~~ Unless permitted by the commissioner for a limited period of time, each small
11 employer carrier shall ~~actively market and~~ offer all health benefit plans sold by the carrier to
12 eligible small employers in the state.

13 (b) (1) Except as provided in subdivision (2) of this subsection, no small employer carrier
14 or producer shall, directly or indirectly, engage in the following activities:

15 (i) Encouraging or directing small employers to refrain from filing an application for
16 coverage with the small employer carrier because of any health status-related factor, age, gender,
17 industry, occupation, or geographic location of the small employer; or

18 (ii) Encouraging or directing small employers to seek coverage from another carrier
19 because of any health status-related factor, age, gender, industry, occupation, or geographic
20 location of the small employer.

21 (2) The provisions of subdivision (1) of this subsection do not apply with respect to
22 information provided by a small employer carrier or producer to a small employer regarding the
23 established geographic service area or a restricted network provision of a small employer carrier.

24 (c) (1) Except as provided in subdivision (2) of this subsection, no small employer carrier
25 shall, directly or indirectly, enter into any contract, agreement or arrangement with a producer
26 that provides for or results in the compensation paid to a producer for the sale of a health benefit
27 plan to be varied because of any initial or renewal, industry, occupation, or geographic location of
28 the small employer.

29 (2) Subdivision (1) of this subsection does not apply with respect to a compensation
30 arrangement that provides compensation to a producer on the basis of percentage of premium,
31 provided that the percentage shall not vary because of any health status-related factor, industry,
32 occupation, or geographic area of the small employer.

33 (d) ~~A small employer carrier shall provide reasonable compensation, as provided under~~
34 ~~the plan of operation of the program, to a producer, if any, for the sale of any health benefit plan~~

1 ~~subject to § 27-50-10.~~

2 (e) No small employer carrier may terminate, fail to renew, or limit its contract or
3 agreement of representation with a producer for any reason related to health status-related factor,
4 occupation, or geographic location of the small employers placed by the producer with the small
5 employer carrier.

6 (f) No small employer carrier or producer shall induce or encourage a small employer to
7 separate or exclude an employee or dependent from health coverage or benefits provided in
8 connection with the employee's employment.

9 (g) Denial by a small employer carrier of an application for coverage from a small
10 employer shall be in writing and shall state the reason or reasons for the denial.

11 (h) The ~~director~~ [commissioner](#) may establish regulations setting forth additional standards
12 to provide for the fair marketing and broad availability of health benefit plans to small employers
13 in this state.

14 (i) (1) A violation of this section by a small employer carrier or a producer is an unfair
15 trade practice under chapter 13 of title 6.

16 (2) If a small employer carrier enters into a contract, agreement, or other arrangement
17 with a third-party administrator to provide administrative, marketing, or other services related to
18 the offering of health benefit plans to small employers in this state, the third-party administrator is
19 subject to this section as if it were a small employer carrier.

20 **27-50-15. Restoration of terminated coverage.**

21 The ~~director~~ [commissioner](#) may promulgate regulations to require small employer
22 carriers, as a condition of transacting business with small employers in this state after July 13,
23 2000, to reissue a health benefit plan to any small employer whose health benefit plan has been
24 terminated or not renewed by the carrier on or after July 1, 2000. The ~~director~~ [commissioner](#) may
25 prescribe any terms for the reissue of coverage that the ~~director~~ [commissioner](#) finds are
26 reasonable and necessary to provide continuity of coverage to small employers.

27 SECTION 9. Chapter 27-50 of the General Laws entitled "Small Employer Health
28 Insurance Availability Act" is hereby amended by adding thereto the following section:

29 **27-50-18. Small business health options program (SHOP) innovation waiver.**

30 [\(a\) As small business owners and sole proprietors are the life blood of this state's](#)
31 [economy, a recent change in the federal Affordable Care Act effective on January 1, 2016, has](#)
32 [caused irreparable harm to the economic well-being of a segment of small business owners and](#)
33 [sole proprietors by requiring them to secure health insurance coverage on the individual market as](#)
34 [opposed to securing health insurance coverage on the small group market.](#)

1 (b) In an effort to reduce and/or eliminate the irreparable economic harm, the director
2 of the department of administration, with assistance from the commissioner of health insurance,
3 shall:

4 (1) Consider the potential impact on small businesses that rely upon federal subsidies in
5 the individual market;

6 (2) Consider the potential increase in premiums in both the individual and small group
7 markets overall; and

8 (3) Seek a waiver under Section 1332 of the Patient Protection and Affordable Care Act,
9 Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010,
10 Pub. L. No. 111-152, for the purpose of allowing businesses classified as self-employed and sole
11 proprietors to purchase insurance in the small group market through the Health Source RI for
12 Employers SHOP program and not be forced into the individual market. A waiver application
13 may include the request for federal approval and assistance to employ state-based mechanisms to
14 decrease premium costs, including the use of reinsurance.

15 SECTION 10. Chapter 27-18.6 of the General Laws entitled "Large Group Health
16 Insurance Coverage" is hereby amended by adding thereto the following section:

17 **27-18.6-13. Compliance with federal law.**

18 A carrier shall comply with all federal laws and regulations relating to health insurance
19 coverage in the large group market. In its construction and enforcement of the provisions of this
20 section, and in the interests of promoting uniform national rules for health insurance carriers
21 while protecting the interests of Rhode Island consumers and businesses, the office of the health
22 insurance commissioner shall give due deference to the construction, enforcement policies, and
23 guidance of the federal government with respect to federal laws substantially similar to the
24 provisions of this chapter.

25 SECTION 11. Sections 27-50-9, 27-50-10, 27-50-16 and 27-50-17 of the General Laws
26 in Chapter 27-50 entitled "Small Employer Health Insurance Availability Act" are hereby
27 repealed.

28 **~~27-50-9. Periodic market evaluation.~~**

29 ~~Within three (3) months after March 31, 2002, and every thirty-six (36) months after this,~~
30 ~~the director shall obtain an independent actuarial study and report. The director shall assess a fee~~
31 ~~to the health plans to commission the report. The report shall analyze the effectiveness of the~~
32 ~~chapter in promoting rate stability, product availability, and coverage affordability. The report~~
33 ~~may contain recommendations for actions to improve the overall effectiveness, efficiency, and~~
34 ~~fairness of the small group health insurance marketplace. The report shall address whether~~

1 ~~carriers and producers are fairly actively marketing or issuing health benefit plans to small~~
2 ~~employers in fulfillment of the purposes of the chapter. The report may contain recommendations~~
3 ~~for market conduct or other regulatory standards or action.~~

4 ~~**27-50-10. Wellness health benefit plan.**~~

5 ~~(a) No provision contained in this chapter prohibits the sale of health benefit plans which~~
6 ~~differ from the wellness health benefit plans provided for in this section.~~

7 ~~(b) The wellness health benefit plan shall be determined by regulations promulgated by~~
8 ~~the office of health insurance commissioner (OHIC). The OHIC shall develop the criteria for the~~
9 ~~wellness health benefit plan, including, but not limited to, benefit levels, cost sharing levels,~~
10 ~~exclusions, and limitations, in accordance with the following:~~

11 ~~(1) (i) The OHIC shall form an advisory committee to include representatives of~~
12 ~~employers, health insurance brokers, local chambers of commerce, and consumers who pay~~
13 ~~directly for individual health insurance coverage.~~

14 ~~(ii) The advisory committee shall make recommendations to the OHIC concerning the~~
15 ~~following:~~

16 ~~(A) The wellness health benefit plan requirements document. This document shall be~~
17 ~~disseminated to all Rhode Island small group and individual market health plans for responses,~~
18 ~~and shall include, at a minimum, the benefit limitations and maximum cost sharing levels for the~~
19 ~~wellness health benefit plan. If the wellness health benefit product requirements document is not~~
20 ~~created by November 1, 2006, it will be determined by regulations promulgated by the OHIC.~~

21 ~~(B) The wellness health benefit plan design. The health plans shall bring proposed~~
22 ~~wellness health plan designs to the advisory committee for review on or before January 1, 2007.~~
23 ~~The advisory committee shall review these proposed designs and provide recommendations to the~~
24 ~~health plans and the commissioner regarding the final wellness plan design to be approved by the~~
25 ~~commissioner in accordance with subsection 27-50-5(h)(4), and as specified in regulations~~
26 ~~promulgated by the commissioner on or before March 1, 2007.~~

27 ~~(2) Set a target for the average annualized individual premium rate for the wellness health~~
28 ~~benefit plan to be less than ten percent (10%) of the average annual statewide wage, as reported~~
29 ~~by the Rhode Island department of labor and training, in their report entitled "Quarterly Census of~~
30 ~~Rhode Island Employment and Wages." In the event that this report is no longer available, or the~~
31 ~~OHIC determines that it is no longer appropriate for the determination of maximum annualized~~
32 ~~premium, an alternative method shall be adopted in regulation by the OHIC. The maximum~~
33 ~~annualized individual premium rate shall be determined no later than August 1st of each year, to~~
34 ~~be applied to the subsequent calendar year premium rates.~~

1 ~~(3) Ensure that the wellness health benefit plan creates appropriate incentives for~~
2 ~~employers, providers, health plans and consumers to, among other things:~~

3 ~~(i) Focus on primary care, prevention and wellness;~~

4 ~~(ii) Actively manage the chronically ill population;~~

5 ~~(iii) Use the least cost, most appropriate setting; and~~

6 ~~(iv) Use evidence based, quality care.~~

7 ~~(4) To the extent possible, the health plans may be permitted to utilize existing products~~
8 ~~to meet the objectives of this section.~~

9 ~~(5) The plan shall be made available in accordance with title 27, chapter 50 as required~~
10 ~~by regulation on or before May 1, 2007.~~

11 ~~**27-50-16. Risk adjustment mechanism.**~~

12 ~~The director may establish a payment mechanism to adjust for the amount of risk covered~~
13 ~~by each small employer carrier. The director may appoint an advisory committee composed of~~
14 ~~individuals that have risk adjustment and actuarial expertise to help establish the risk adjusters.~~

15 ~~**27-50-17. Affordable health plan reinsurance program for small businesses.**~~

16 ~~(a) The commissioner shall allocate funds from the affordable health plan reinsurance~~
17 ~~fund for the affordable health reinsurance program.~~

18 ~~(b) The affordable health reinsurance program for small businesses shall only be~~
19 ~~available to low wage firms, as defined in § 27-50-3, who pay a minimum of fifty percent (50%),~~
20 ~~as defined in § 27-50-3, of single coverage premiums for their eligible employees, and who~~
21 ~~purchase the wellness health benefit plan pursuant to § 27-50-10. Eligibility shall be determined~~
22 ~~based on state and federal corporate tax filings. All eligible employees, as defined in § 27-50-3,~~
23 ~~employed by low wage firms as defined in § 27-50-3 (oo) shall be eligible for the reinsurance~~
24 ~~program if at least one low wage eligible employee as defined in regulation is enrolled in the~~
25 ~~employer's wellness health benefit plan.~~

26 ~~(c) The affordable health plan reinsurance shall be in the firms of a carrier cost sharing~~
27 ~~arrangement, which encourages carriers to offer a discounted premium rate to participating~~
28 ~~individuals, and whereby the reinsurance fund subsidizes the carriers' losses within a prescribed~~
29 ~~corridor of risk as determined by regulation.~~

30 ~~(d) The specific structure of the reinsurance arrangement shall be defined by regulations~~
31 ~~promulgated by the commissioner.~~

32 ~~(e) All carriers who participate in the Rhode Island RIte-Care program as defined in § 42-~~
33 ~~12.3-4 and the procurement process for the Rhode Island state employee account, as described in~~
34 ~~chapter 36-12, must participate in the affordable health plan reinsurance program.~~

1 ~~(f) The commissioner shall determine total eligible enrollment under qualifying small~~
2 ~~group health insurance contracts by dividing the funds available for distribution from the~~
3 ~~reinsurance fund by the estimated per member annual cost of claims reimbursement from the~~
4 ~~reinsurance fund.~~

5 ~~(g) The commissioner shall suspend the enrollment of new employers under qualifying~~
6 ~~small group health insurance contracts if the director determines that the total enrollment reported~~
7 ~~under such contracts is projected to exceed the total eligible enrollment, thereby resulting in~~
8 ~~anticipated annual expenditures from the reinsurance fund in excess of ninety five percent (95%)~~
9 ~~of the total funds available for distribution from the fund.~~

10 ~~(h) In the event the available funds in the affordable health reinsurance fund as created in~~
11 ~~§ 42-14.5-3 are insufficient to satisfy all claims submitted to the fund in any calendar year, those~~
12 ~~claims in excess of the available funds shall be due and payable in the succeeding calendar year,~~
13 ~~or when sufficient funds become available whichever shall first occur. Unpaid claims from any~~
14 ~~prior year shall take precedence over new claims submitted in any one year.~~

15 ~~(i) The commissioner shall provide the health maintenance organization, health insurers~~
16 ~~and health plans with notification of any enrollment suspensions as soon as practicable after~~
17 ~~receipt of all enrollment data. However, the suspension of issuance of qualifying small group~~
18 ~~health insurance contracts shall not preclude the addition of new employees of an employer~~
19 ~~already covered under such a contract or new dependents of employees already covered under~~
20 ~~such contracts.~~

21 ~~(j) The premiums of qualifying small group health insurance contracts must be no more~~
22 ~~than ninety percent (90%) of the actuarially determined and commissioner approved premium for~~
23 ~~this health plan without the reinsurance program assistance.~~

24 ~~(k) The commissioner shall prepare periodic public reports in order to facilitate~~
25 ~~evaluation and ensure orderly operation of the funds, including, but not limited to, an annual~~
26 ~~report of the affairs and operations of the fund, containing an accounting of the administrative~~
27 ~~expenses charged to the fund. Such reports shall be delivered to the co chairs of the joint~~
28 ~~legislative committee on health care oversight by March 1st of each year.~~

29 SECTION 12. This act shall take effect upon passage and shall apply to health benefit
30 plans issued or renewed on and after January 1, 2019.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO INSURANCE -- HEALTH INSURANCE COVERAGE -- THE MARKET
STABILITY AND CONSUMER PROTECTION ACT

1 This act would update state law to reflect current insurance standards, practice and
2 regulation to maintain market stability, including using current rating factors, continuing the use
3 of a medical loss ratio standard, and providing coverage for benefits consistent with all applicable
4 federal and state laws and regulations. Consumer protections contained in the act include current
5 requirements to: ban preexisting condition exclusions; limit annual insurance coverage caps; and
6 provide summaries of benefits for consumers.

7 This act would take effect upon passage and would apply to health benefit plans issued or
8 renewed on and after January 1, 2019.

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