

FIRST REGULAR SESSION

HOUSE BILL NO. 364

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PROUDIE.

1073H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 374, RSMo, by adding thereto twelve new sections relating to the Missouri premium security plan, with an emergency clause for a certain section.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 374, RSMo, is amended by adding thereto twelve new sections, to be known as sections 374.900, 374.905, 374.910, 374.915, 374.920, 374.925, 374.930, 374.935, 374.940, 374.945, 374.950, and 374.960, to read as follows:

374.900. 1. Sections 374.900 to 374.960 shall be known as the "Missouri Premium Security Plan".

2. For purposes of sections 374.900 to 374.960, the following terms shall mean:

(1) "Attachment point", an amount as provided in subdivision (2) of subsection 2 of section 374.910;

(2) "Benefit year", the calendar year for which an eligible health carrier provides individual health insurance coverage;

(3) "Coinsurance rate", the rate as provided in subdivision (3) of subsection 2 of section 374.910;

(4) "Department", the Missouri department of commerce and insurance;

(5) "Director", the director of the department of commerce and insurance;

(6) "Eligible health carrier", any of the following entities that offer individual health insurance coverage, incur claims costs for individual health insurance coverage, and incur claims costs for an individual enrollee's covered benefits in the applicable benefit year:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

- 16 **(a) An insurance company licensed under section 375.014 to offer, sell, or issue a**
17 **policy of accident and sickness insurance, as defined in section 376.773;**
- 18 **(b) A nonprofit health services corporation operating under section 354.090; or**
19 **(c) A health maintenance organization, as defined in section 354.400;**
- 20 **(7) "Individual health insurance coverage", the same meaning given to the term**
21 **in section 376.450;**
- 22 **(8) "Individual market", the same meaning given to the term in section 376.450;**
23 **(9) "Missouri premium security plan" or "plan", the state-based reinsurance**
24 **program authorized under section 374.910;**
- 25 **(10) "Payment parameters", the attachment point, reinsurance cap, and**
26 **coinsurance rate for the plan;**
- 27 **(11) "Reinsurance cap", the threshold amount as provided in subdivision (4) of**
28 **subsection 2 of section 374.910;**
- 29 **(12) "Reinsurance payments", an amount paid by the department to an eligible**
30 **health carrier under the plan.**

374.905. The director shall require each eligible health carrier to calculate the
2 **premium amount the eligible health carrier would have charged for the benefit year if**
3 **the Missouri premium security plan had not been established. The eligible health**
4 **carrier shall submit this information as part of its rate filing. The director shall**
5 **consider this information as part of the rate review.**

374.910. 1. The department shall be Missouri's reinsurance entity to administer
2 **the state-based reinsurance program referred to as the Missouri premium security plan.**
3 **The department shall:**

- 4 **(1) Have the authority to apply for any available federal funding for the plan.**
5 **The department shall notify the chairs and ranking minority members of the legislative**
6 **committees with jurisdiction over health and senior services and insurance within ten**
7 **days of receiving any federal funds;**
- 8 **(2) Collect or access data from an eligible health carrier that is necessary to**
9 **determine reinsurance payments, according to the date requirements under subdivision**
10 **(4) of subsection 5 of this section;**
- 11 **(3) For each applicable benefit year, notify eligible health carriers of reinsurance**
12 **payments to be made for the applicable benefit year no later than June thirtieth of the**
13 **year following the applicable benefit year;**
- 14 **(4) On a quarterly basis during the applicable benefit year, provide each eligible**
15 **health carrier with the calculation of total reinsurance payment requests; and**
- 16 **(5) By August fifteenth of the year following the applicable benefit year, disburse**
17 **all applicable reinsurance payments to an eligible health carrier.**

18 **2. (1) The department shall design and adjust the payment parameters to ensure**
19 **the payment parameters:**

20 **(a) Will stabilize or reduce premium rates in the individual market;**

21 **(b) Will increase participation in the individual market;**

22 **(c) Will improve access to health care providers and services for those in the**
23 **individual market;**

24 **(d) Mitigate the impact high-risk individuals have on premium rates in the**
25 **individual market;**

26 **(e) Take into account any federal funding available for the plan; and**

27 **(f) Take into account the total amount available to fund the plan.**

28 **(2) The attachment point for the plan is the threshold amount for claims costs**
29 **incurred by an eligible health carrier for an enrolled individual's covered benefits in a**
30 **benefit year, beyond which the claims costs for benefits are eligible for reinsurance**
31 **payments. The attachment point shall be set by the department at a figure between fifty**
32 **thousand dollars and the reinsurance cap.**

33 **(3) The coinsurance rate for the plan is the rate at which the department shall**
34 **reimburse an eligible health carrier for an enrolled individual's covered benefits in a**
35 **benefit year above the attachment point and below the reinsurance cap. The**
36 **coinsurance rate shall be set by the department at a rate between fifty and eighty**
37 **percent.**

38 **(4) The reinsurance cap is the threshold amount for claims costs incurred by an**
39 **eligible health carrier for an enrolled individual's covered benefits, after which the**
40 **claims costs for benefits are no longer eligible for reinsurance payments. The**
41 **reinsurance cap shall be set by the department at less than two hundred fifty thousand**
42 **dollars.**

43 **(5) The department may adjust the payment parameters to the extent necessary**
44 **to secure federal approval of the state innovation waiver request under section 374.925.**

45 **3. (1) The director shall determine the payment parameters for the next benefit**
46 **year by January fifteenth of the year before the applicable benefit year.**

47 **(2) If the amount in the Missouri premium security plan fund established under**
48 **section 374.920 is not anticipated to be adequate to fully fund the approved payment**
49 **parameters as of July first of the year before the applicable benefit year, the director**
50 **shall propose payment parameters within the available appropriations. The director**
51 **shall permit an eligible health carrier to revise an applicable rate filing based on the**
52 **final payment parameters for the next benefit year.**

53 **4. Each reinsurance payment shall be calculated with respect to an eligible**
54 **health carrier's incurred claims costs for an individual enrollee's covered benefits in the**

55 applicable benefit year. If the claims costs do not exceed the attachment point, the
56 reinsurance payment is zero dollars. If the claims costs exceed the attachment point, the
57 reinsurance payment shall be calculated as the product of the coinsurance rate and the
58 lesser of the claims costs minus the attachment point or the reinsurance cap minus the
59 attachment point. The department shall ensure that reinsurance payments made to
60 eligible health carriers do not exceed the total amount paid by the eligible health carrier
61 for an eligible claim.

62 5. (1) An eligible health carrier may request reinsurance payments from the
63 department when the eligible health carrier meets the requirements of this subsection
64 and subsection 4 of this section.

65 (2) An eligible health carrier shall make requests for reinsurance payments in
66 accordance with any requirements established by the department.

67 (3) An eligible health carrier shall provide the department with access to the
68 data within the dedicated data environment established by the eligible health carrier
69 under the federal risk adjustment program under 42 U.S.C. Section 18063. Eligible
70 health carriers shall submit an attestation to the department asserting compliance with
71 the dedicated data environments, data requirements, establishment and usage of
72 masked enrollee identification numbers, and data submission deadlines.

73 (4) An eligible health carrier shall provide the access described in subdivision (3)
74 of this subsection for the applicable benefit year by April thirtieth of each year of the
75 year following the applicable benefit year.

76 (5) An eligible health carrier shall maintain documents and records, whether
77 paper, electronic, or in other media, sufficient to substantiate the requests for
78 reinsurance payments made under this section for a period of at least six years. An
79 eligible health carrier shall also make those documents and records available upon
80 request from the director for the purposes of verification, investigation, audit, or other
81 review of reinsurance payment requests.

82 (6) The department shall have an eligible health carrier audited to assess the
83 health carrier's compliance with the requirements of this section when there is evidence
84 of noncompliance. The eligible health carrier shall ensure that its contractors,
85 subcontractors, or agents cooperate with any audit under this section. If an audit
86 results in a proposed finding of material weakness or significant deficiency with respect
87 to compliance with any requirement of this section, the eligible health carrier may
88 provide a response to the proposed finding within thirty days. Within thirty days of the
89 issuance of a final audit report that includes a finding of material weakness or
90 significant deficiency, the eligible health carrier shall:

91 (a) Provide a written corrective action plan to the department for approval;

92 (b) Implement the approved plan; and

93 (c) Provide the department with written documentation that the eligible health
94 carrier has taken corrective action.

374.915. 1. The department shall keep an accounting for each benefit year that
2 illustrates:

3 (1) Funds appropriated for reinsurance payments and administrative and
4 operational expenses related to the administration of the plan;

5 (2) Requests for reinsurance payments received from eligible health carriers;

6 (3) Reinsurance payments made to eligible health carriers; and

7 (4) Administrative and operational expenses incurred for the plan.

8 2. The director shall make available to the public a report summarizing the plan
9 operations for each benefit year by posting the summary on the department's web page
10 and making the summary otherwise available by November first of the year following
11 the applicable benefit year or sixty calendar days following the final disbursement of
12 reinsurance payments for the applicable benefit year, whichever is later.

13 3. (1) The department shall engage and cooperate with an independent certified
14 public accountant or certified public accounting firm licensed or permitted under
15 chapter 326 to perform an audit for each benefit year of the plan. The audit shall at a
16 minimum:

17 (a) Assess compliance with the requirements of sections 374.905 to 374.920; and

18 (b) Identify any material weaknesses or significant deficiencies and address
19 manners in which to correct any such weaknesses or deficiencies.

20 (2) The department, after receiving the completed audit, shall:

21 (a) Provide the director with the results of the audit;

22 (b) Identify to the director any material weaknesses or significant deficiencies
23 identified in the audit and address, in writing, how the department intends to correct
24 any such weakness or deficiency, in compliance with subsection 4 of this section; and

25 (c) Make public the results of the audit, to the extent that the audit contains
26 government data that is public, including any material weaknesses or significant
27 deficiencies and how the department intends to correct any such weakness or deficiency,
28 by posting the audit results on the department web page and making the audit results
29 otherwise available.

30 4. (1) If an audit results in a finding of material weakness or significant
31 deficiency with respect to compliance by the department with any requirement under
32 sections 374.905 to 374.920, the department shall:

33 (a) Create a written corrective action plan to be approved by the director within
34 sixty days of the completed audit;

35 (b) Implement the corrective action plan; and

36 (c) Record written documentation of the corrective actions taken.

37 (2) By December first of each year, the department shall submit a report to the
38 standing committees of the legislature having jurisdiction over health and senior
39 services and insurance regarding any finding of material weakness or significant
40 deficiency found in an audit.

374.920. 1. There is hereby created in the state treasury the "Missouri Premium
2 Security Plan Fund", which shall consist of moneys collected under sections 374.900 to
3 374.960. The state treasurer shall be custodian of the fund. In accordance with sections
4 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a
5 dedicated fund and, upon appropriation, moneys in the fund shall be used solely for the
6 administration of sections 374.900 to 374.960.

7 2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys
8 remaining in the fund at the end of the biennium shall not revert to the credit of the
9 general revenue fund.

10 3. The state treasurer shall invest moneys in the fund in the same manner as
11 other funds are invested. Any interest and moneys earned on such investments shall be
12 credited to the fund.

374.925. 1. The director shall apply to the Secretary of Health and Human
2 Services under 42 U.S.C. Section 18052 for a state innovation waiver to implement the
3 Missouri premium security plan for benefit years beginning January 1, 2024, and future
4 years, to maximize federal funding for the plan. The waiver application shall clearly
5 state the operation of the Missouri premium security plan is contingent on approval of
6 the waiver request.

7 2. In developing the waiver application, the director shall consult with the
8 director of the department of health and senior services.

9 3. The director shall submit the waiver application to the Secretary of Health
10 and Human Services before June 16, 2023. The director shall make a draft application
11 available for legislative comment, changes, and approval prior to submission. The
12 director shall notify the chairs and ranking minority members of the legislative
13 committees with jurisdiction over health and senior services and insurance of any
14 federal actions regarding the waiver request.

374.930. A state department that incurs administrative costs to implement any
2 provision of sections 374.900 to 374.960 that does not receive an appropriation for
3 administrative costs of sections 374.900 to 374.960 shall implement sections 374.900 to
4 374.960 within the limits of existing appropriations.

374.935. If the state innovation waiver request in section 374.925 is not approved, the department shall not administer the plan nor provide reinsurance payments to the eligible health carriers.

374.940. 1. Notwithstanding section 374.910 and subsection 2 of this section, the plan payment parameters for benefit year 2024 are:

- (1) An attachment point of fifty thousand dollars;
- (2) A coinsurance rate of sixty-five percent; and
- (3) A reinsurance cap of two hundred fifty thousand dollars.

2. The department shall alter the payment parameters to the extent necessary to secure federal approval of the state innovation waiver request in section 374.925.

374.945. Notwithstanding any law to the contrary, the department shall have the authority over the disposition and settlement of the fund created under section 374.920.

374.950. A legislative working group is established consisting of the chairs and ranking minority members of the senate committees with jurisdiction over commerce, health and senior services finance and policy, health services reform and policy and the chairs and ranking minority members of the house of representatives committees with jurisdiction over commerce and regulatory reform, health and senior services finance, and health and senior services reform. The purpose of the working group is to advise the department on the adoption of payment parameters and other elements of a reinsurance plan for benefit year 2025. Technical assistance for the working group shall be provided by one health insurance expert not currently in the industry selected by the majority members of the working group and one health insurance expert not currently in the industry selected by minority members of the working group. The technical assistants shall review and monitor the following to serve as a resource for the working group:

(1) The effectiveness of the reinsurance models adopted in Alaska, Minnesota, and other states in stabilizing the premiums of the individual market and the related costs thereof; and

(2) The effect of federal health reform legislation on the Missouri premium security plan including, but not limited to, funding for the plan.

374.960. The department may promulgate rules for the implementation of sections 374.900 to 374.960. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently

8 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
9 **adopted after August 28, 2023, shall be invalid and void.**

Section B. Because immediate action is necessary to secure federal funding for the
2 Missouri premium security plan, the enactment of section 374.925 of section A of this act is
3 deemed necessary for the immediate preservation of the public health, welfare, peace, and
4 safety, and is hereby declared to be an emergency act within the meaning of the constitution,
5 and the enactment of section 374.925 of section A of this act shall be in full force and effect
6 upon its passage and approval.

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