

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2465
103RD GENERAL ASSEMBLY

4405H.02C

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 379.930, RSMo, and to enact in lieu thereof one new section relating to the small employer health insurance availability act.

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

Section A. Section 379.930, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 379.930, to read as follows:

379.930. 1. Sections 379.930 to 379.952 shall be known and may be cited as the "Small Employer Health Insurance Availability Act".

2. For the purposes of sections 379.930 to 379.952, the following terms shall mean:

(1) "Actuarial certification", a written statement by a member of the American Academy of Actuaries or other individual acceptable to the director that a small employer carrier is in compliance with the provisions of section 379.936, based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods used by the small employer carrier in establishing premium rates for applicable health benefit plans;

(2) "Affiliate" or "affiliated", any entity or person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person;

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

(4) "Board" means the board of directors of the program established pursuant to sections 379.942 and 379.943;

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.

- 19 (5) "Bona fide association", an association which:
20 (a) Has been actively in existence for at least five years;
21 (b) Has been formed and maintained in good faith for purposes other than obtaining
22 insurance;
23 (c) Does not condition membership in the association on any health status-related
24 factor relating to an individual (including an employee of an employer or a dependent of an
25 employee);
26 (d) Makes health insurance coverage offered through the association available to all
27 members regardless of any health status-related factor relating to such members (or
28 individuals eligible for coverage through a member);
29 (e) Does not make health insurance coverage offered through the association
30 available other than in connection with a member of the association; and
31 (f) Meets all other requirements for an association set forth in subdivision (5) of
32 subsection 1 of section 376.421 that are not inconsistent with this subdivision;
33 (6) "Carrier" or "health insurance issuer", any entity that provides health insurance or
34 health benefits in this state. For the purposes of sections 379.930 to 379.952, carrier includes
35 an insurance company, health services corporation, fraternal benefit society, health
36 maintenance organization, multiple employer welfare arrangement specifically authorized
37 to operate in the state of Missouri, or any other entity providing a plan of health insurance or
38 health benefits subject to state insurance regulation;
39 (7) "Case characteristics", demographic or other objective characteristics of a small
40 employer that are considered by the small employer carrier in the determination of premium
41 rates for the small employer, provided that claim experience, health status and duration of
42 coverage since issue shall not be case characteristics for the purposes of sections 379.930 to
43 379.952;
44 (8) "Church plan", the meaning given such term in Section 3(33) of the Employee
45 Retirement Income Security Act of 1974;
46 (9) "Class of business", all or a separate grouping of small employers established
47 pursuant to section 379.934;
48 (10) "Committee", the health benefit plan committee created pursuant to section
49 379.944;
50 (11) "Control" shall be defined in manner consistent with chapter 382;
51 (12) "Creditable coverage", with respect to an individual:
52 (a) Coverage of the individual under any of the following:
53 a. A group health plan;
54 b. Health insurance coverage;
55 c. Part A or Part B of Title XVIII of the Social Security Act;

- 56 d. Title XIX of the Social Security Act, other than coverage consisting solely of
57 benefits under Section 1928 of such act;
- 58 e. Chapter 55 of Title 10, United States Code;
- 59 f. A medical care program of the Indian Health Service or of a tribal organization;
- 60 g. A state health benefits risk pool;
- 61 h. A health plan offered under Chapter 89 of Title 5, United States Code;
- 62 i. A public health plan, as defined in federal regulations authorized by Section 2701
63 (c)(1)(I) of the Public Health Services Act, as amended by Public Law 104-191; and
- 64 j. A health benefit plan under Section 5(e) of the Peace Corps Act (22 U.S.C. 2504
65 (e));
- 66 (b) Creditable coverage shall not include coverage consisting solely of excepted
67 benefits;
- 68 (13) "Dependent", a spouse or an unmarried child under the age of nineteen years; an
69 unmarried child who is a full-time student under the age of twenty-three years and who is
70 financially dependent upon the parent; or an unmarried child of any age who is medically
71 certified as disabled and dependent upon the parent;
- 72 (14) "Director", the director of the department of commerce and insurance of this
73 state;
- 74 (15) "Eligible employee", an employee who works on a full-time basis and has a
75 normal work week of thirty or more hours. The term includes a sole proprietor, a partner of a
76 partnership, and an independent contractor, if the sole proprietor, partner or independent
77 contractor is included as an employee under a health benefit plan of a small employer, but
78 does not include an employee who works on a part-time, temporary or substitute basis~~[-For~~
79 ~~purposes of sections 379.930 to 379.952, a person, his spouse and his minor children shall~~
80 ~~constitute only one eligible employee when they are employed by the same small employer];~~
- 81 (16) "Established geographic service area", a geographical area, as approved by the
82 director and based on the carrier's certificate of authority to transact insurance in this state,
83 within which the carrier is authorized to provide coverage;
- 84 (17) "Excepted benefits":
- 85 (a) Coverage only for accident (including accidental death and dismemberment)
86 insurance;
- 87 (b) Coverage only for disability income insurance;
- 88 (c) Coverage issued as a supplement to liability insurance;
- 89 (d) Liability insurance, including general liability insurance and automobile liability
90 insurance;
- 91 (e) Workers' compensation or similar insurance;
- 92 (f) Automobile medical payment insurance;

- 93 (g) Credit-only insurance;
- 94 (h) Coverage for on-site medical clinics;
- 95 (i) Other similar insurance coverage, as approved by the director, under which
96 benefits for medical care are secondary or incidental to other insurance benefits;
- 97 (j) If provided under a separate policy, certificate or contract of insurance, any of the
98 following:
- 99 a. Limited scope dental or vision benefits;
- 100 b. Benefits for long-term care, nursing home care, home health care, community-
101 based care, or any combination thereof;
- 102 c. Other similar, limited benefits as specified by the director.
- 103 (k) If provided under a separate policy, certificate or contract of insurance, any of the
104 following:
- 105 a. Coverage only for a specified disease or illness;
- 106 b. Hospital indemnity or other fixed indemnity insurance.
- 107 (l) If offered as a separate policy, certificate or contract of insurance, any of the
108 following:
- 109 a. Medicare supplemental coverage (as defined under Section 1882(g)(1) of the
110 Social Security Act);
- 111 b. Coverage supplemental to the coverage provided under Chapter 55 of Title 10,
112 United States Code;
- 113 c. Similar supplemental coverage provided to coverage under a group health plan;
- 114 (18) "Governmental plan", the meaning given such term under Section 3(32) of the
115 Employee Retirement Income Security Act of 1974 or any federal government plan;
- 116 (19) "Group health plan", an employee welfare benefit plan as defined in Section 3(1)
117 of the Employee Retirement Income Security Act of 1974 and Public Law 104-191 to the
118 extent that the plan provides medical care, as defined in this section, and including any item
119 or service paid for as medical care to an employee or the employee's dependent, as defined
120 under the terms of the plan, directly or through insurance, reimbursement or otherwise, but
121 not including excepted benefits;
- 122 (20) "Health benefit plan" or "health insurance coverage", benefits consisting of
123 medical care, including items and services paid for as medical care, that are provided directly,
124 through insurance, reimbursement, or otherwise, under a policy, certificate, membership
125 contract, or health services agreement offered by a health insurance issuer, but not including
126 excepted benefits or a policy that is individually underwritten;
- 127 (21) "Health status-related factor", any of the following:
- 128 (a) Health status;
- 129 (b) Medical condition, including both physical and mental illnesses;

- 130 (c) Claims experience;
- 131 (d) Receipt of health care;
- 132 (e) Medical history;
- 133 (f) Genetic information;
- 134 (g) Evidence of insurability, including a condition arising out of an act of domestic
135 violence;
- 136 (h) Disability;
- 137 (22) "Index rate", for each class of business as to a rating period for small employers
138 with similar case characteristics, the arithmetic mean of the applicable base premium rate and
139 the corresponding highest premium rate;
- 140 (23) "Late enrollee", an eligible employee or dependent who requests enrollment in a
141 health benefit plan of a small employer following the initial enrollment period for which such
142 individual is entitled to enroll under the terms of the health benefit plan, provided that such
143 initial enrollment period is a period of at least thirty days. However, an eligible employee or
144 dependent shall not be considered a late enrollee if:
- 145 (a) The individual meets each of the following:
- 146 a. The individual was covered under creditable coverage at the time of the initial
147 enrollment;
- 148 b. The individual lost coverage under creditable coverage as a result of cessation of
149 employer contribution, termination of employment or eligibility, reduction in the number of
150 hours of employment, the involuntary termination of the creditable coverage, death of a
151 spouse, dissolution or legal separation;
- 152 c. The individual requests enrollment within thirty days after termination of the
153 creditable coverage;
- 154 (b) The individual is employed by an employer that offers multiple health benefit
155 plans and the individual elects a different plan during an open enrollment period; or
- 156 (c) A court has ordered coverage be provided for a spouse or minor or dependent
157 child under a covered employee's health benefit plan and request for enrollment is made
158 within thirty days after issuance of the court order;
- 159 (24) "Medical care", an amount paid for:
- 160 (a) The diagnosis, care, mitigation, treatment or prevention of disease, or for the
161 purpose of affecting any structure or function of the body;
- 162 (b) Transportation primarily for and essential to medical care referred to in paragraph
163 (a) of this subdivision; or
- 164 (c) Insurance covering medical care referred to in paragraphs (a) and (b) of this
165 subdivision;

166 (25) "Network plan", health insurance coverage offered by a health insurance issuer
167 under which the financing and delivery of medical care, including items and services paid for
168 as medical care, are provided, in whole or in part, through a defined set of providers under
169 contract with the issuer;

170 (26) "New business premium rate", for each class of business as to a rating period, the
171 lowest premium rate charged or offered, or which could have been charged or offered, by the
172 small employer carrier to small employers with similar case characteristics for newly issued
173 health benefit plans with the same or similar coverage;

174 (27) "Plan of operation", the plan of operation of the program established pursuant to
175 sections 379.942 and 379.943;

176 (28) "Plan sponsor", the meaning given such term under Section 3(16)(B) of the
177 Employee Retirement Income Security Act of 1974;

178 (29) "Premium", all moneys paid by a small employer and eligible employees as a
179 condition of receiving coverage from a small employer carrier, including any fees or other
180 contributions associated with the health benefit plan;

181 (30) "Producer", the meaning given such term in section 375.012 and includes an
182 insurance agent or broker;

183 (31) "Program", the Missouri small employer health reinsurance program created
184 pursuant to sections 379.942 and 379.943;

185 (32) "Rating period", the calendar period for which premium rates established by a
186 small employer carrier are assumed to be in effect;

187 (33) "Restricted network provision", any provision of a health benefit plan that
188 conditions the payment of benefits, in whole or in part, on the use of health care providers that
189 have entered into a contractual arrangement with the carrier pursuant to section 354.400, et
190 seq. to provide health care services to covered individuals;

191 (34) "Small employer", in connection with a group health plan with respect to a
192 calendar year and a plan year, any person, firm, corporation, partnership, association, or
193 political subdivision that is actively engaged in business that employed ~~[an average of at least~~
194 ~~two]~~ **at least one** but no more than fifty eligible employees on business days during the
195 preceding calendar year and that employs at least ~~[two employees]~~ **one employee** on the first
196 day of the plan year. All persons treated as a single employer under subsection (b), (c), (m) or
197 (o) of Section 414 of the Internal Revenue Code of 1986 shall be treated as one employer.
198 Subsequent to the issuance of a health plan to a small employer and for the purpose of
199 determining continued eligibility, the size of a small employer shall be determined annually.
200 Except as otherwise specifically provided, the provisions of sections 379.930 to 379.952 that
201 apply to a small employer shall continue to apply at least until the plan anniversary following
202 the date the small employer no longer meets the requirements of this definition. In the case of

203 an employer which was not in existence throughout the preceding calendar year, the
204 determination of whether the employer is a small or large employer shall be based on the
205 average number of employees that it is reasonably expected that the employer will employ on
206 business days in the current calendar year. Any reference in sections 379.930 to 379.952 to
207 an employer shall include a reference to any predecessor of such employer;

208 (35) "Small employer carrier", a carrier that offers health benefit plans covering
209 eligible employees of one or more small employers in this state.

210 3. Other terms used in sections 379.930 to 379.952 not set forth in subsection 2 of this
211 section shall have the same meaning as defined in section 376.450.

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