

HOUSE BILL NO. 4732

June 13, 2023, Introduced by Reps. Harris, Brenda Carter, BeGole, Edwards, Scott, Young, McKinney, Neeley, McFall, O'Neal, Tyrone Carter and Farhat and referred to the Committee on Insurance and Financial Services.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 3701 (MCL 500.3701), as amended by 2016 PA 276.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3701. As used in this chapter:
2 (a) "Actuarial certification" means a written statement by a
3 member of the American Academy of Actuaries or another individual
4 acceptable to the director that a small employer carrier is in
5 compliance with section 3705, based on the individual's
6 examination, including a review of the appropriate records and the

1 actuarial assumptions and methods used by the carrier in
2 establishing premiums for applicable health benefit plans.

3 (b) "Affiliation period" means a period of time required by a
4 small employer carrier that must expire before health coverage
5 becomes effective.

6 (c) "Base premium" means the lowest premium charged for a
7 rating period under a rating system by a small employer carrier to
8 small employers for a health benefit plan in a geographic area.

9 (d) "Carrier" means a person that provides health benefits,
10 coverage, or insurance in this state. ~~For the purposes of this~~
11 ~~chapter, carrier~~ **Carrier** includes a health insurance company
12 authorized to do business in this state, a health maintenance
13 organization, a multiple employer welfare arrangement, or any other
14 person providing a plan of health benefits, coverage, or insurance
15 subject to state insurance regulation.

16 (e) "COBRA" means the consolidated omnibus budget
17 reconciliation act of 1985, Public Law 99-272.

18 (f) "Commercial carrier" means a small employer carrier other
19 than a health maintenance organization.

20 (g) "Creditable coverage" means, with respect to an
21 individual, health benefits, coverage, or insurance provided under
22 any of the following:

23 (i) A group health plan.

24 (ii) A health benefit plan.

25 (iii) Part A or part B of subchapter XVIII of the social
26 security act, 42 USC 1395c to 1395w-6.

27 (iv) Subchapter XIX of the social security act, 42 USC 1396 to
28 ~~1396w-5, 1396w-6~~, other than coverage consisting solely of benefits
29 under 42 USC 1396t.

1 (v) Chapter 55 of title 10 of the United States Code, 10 USC
 2 1071 to 1110b. For purposes of coverage under chapter 55 of title
 3 10 of the United States Code, 10 USC 1071 to 1110b, "uniformed
 4 services" means the armed forces and the commissioned corps of the
 5 National Oceanic and Atmospheric Administration and of the Public
 6 Health Service.

7 (vi) A medical care program of the Indian Health Service or of
 8 a tribal organization.

9 (vii) A state health benefits risk pool.

10 (viii) A health plan offered under chapter 89 of title 5 of the
 11 United States Code, 5 USC 8901 to 8914.

12 (ix) A public health plan.

13 (x) A health benefit plan under section 5(e) of title I of the
 14 peace corps act, 22 USC 2504.

15 (h) "Eligible employee" means an employee who works on a full-
 16 time basis with a normal workweek of 30 or more hours. Eligible
 17 employee includes an employee who works on a full-time basis with a
 18 normal workweek of 17.5 to 30 hours, if an employer so chooses and
 19 if this eligibility criterion is applied uniformly among all of the
 20 employer's employees and without regard to health status-related
 21 factors.

22 (i) "Full-time employees" means the term as calculated in 26
 23 USC ~~4980h(e)(4)~~, **4980H(c)(4)**, including application of the special
 24 rules for determining group size as defined in 26 USC ~~4980h(e)(2)~~
 25 **4980H(c)(2)** and the specification that full-time equivalents are
 26 treated as full-time employees for purposes of determining group
 27 size, as described in 26 USC ~~4980h(e)(2)(e)~~. **4980H(c)(2)(e)** .

28 (j) "Geographic area" means an area in this state that
 29 includes not less than 1 entire county, is established by a carrier

1 under section 3705, and is used for adjusting premiums for a health
2 benefit plan subject to this chapter. In addition, if the
3 geographic area includes 1 entire county and additional counties or
4 portions of counties, the counties or portions of counties must be
5 contiguous with at least 1 other county or portion of another
6 county in that geographic area.

7 (k) "Group health plan" means an employee welfare benefit plan
8 as defined in section 3(1) of subtitle A of title I of the employee
9 retirement income security act of 1974, Public Law 93-406, 29 USC
10 1002, to the extent that the plan provides medical care, including
11 items and services paid for as medical care to employees or their
12 dependents as defined under the terms of the plan directly or
13 through insurance, reimbursement, or otherwise. As used in this
14 chapter, all of the following apply to the term group health plan:

15 (i) Any plan, fund, or program that would not be, but for 42
16 USC 300gg-21(d), an employee welfare benefit plan and that is
17 established or maintained by a partnership, to the extent that the
18 plan, fund, or program provides medical care, including items and
19 services paid for as medical care, to present or former partners in
20 the partnership, or to their dependents, as defined under the terms
21 of the plan, fund, or program, directly or through insurance,
22 reimbursement or otherwise, is, subject to subparagraph (ii), an
23 employee welfare benefit plan that is a group health plan.

24 (ii) The term "employer" also includes the partnership in
25 relation to any partner.

26 (iii) The term "participant" also includes an individual who is,
27 or may become, eligible to receive a benefit under the plan, or the
28 individual's beneficiary who is, or may become, eligible to receive
29 a benefit under the plan. For a group health plan maintained by a

1 partnership, the individual is a partner in relation to the
2 partnership and for a group health plan maintained by a self-
3 employed individual, under which 1 or more employees are
4 participants, the individual is the self-employed individual.

5 (l) "Health benefit plan" or "plan" means an expense-incurred
6 hospital, medical, or surgical policy or certificate, or health
7 maintenance organization contract. Health benefit plan does not
8 include ~~accident-only, credit, dental, or disability income~~
9 ~~insurance; long-term care insurance; coverage issued as a~~
10 ~~supplement to liability insurance; coverage only for a specified~~
11 ~~disease or illness; worker's compensation or similar insurance; or~~
12 ~~automobile medical payment insurance.~~ **coverage only for excepted**
13 **benefits as described in 42 USC 300gg-91.**

14 (m) "Index rate" means the arithmetic average during a rating
15 period of the base premium and the highest premium charged per
16 employee for each health benefit plan offered by each small
17 employer carrier to small employers and sole proprietors in a
18 geographic area.

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

23 (o) "Public health plan" means a plan established or
24 maintained by a state, county, or other political subdivision of a
25 state that provides health insurance coverage to individuals
26 enrolled in the plan.

27 (p) "Rating period" means the calendar period for which
28 premiums established by a small employer carrier are assumed to be
29 in effect, as determined by the small employer carrier.

1 (q) "Small employer" means ~~any~~**a** person actively engaged in
2 business that, on at least 50% of its working days during the
3 preceding and current calendar years, employed not fewer than 2 and
4 not more than 50 eligible employees. Beginning January 1, 2018,
5 "small employer" means ~~any~~**a** person engaged in business that,
6 during the preceding calendar year, employed an average of at least
7 1 but not more than 50 full-time employees and ~~who~~**that** employs at
8 least 1 employee on the first day of the plan year. In determining
9 the number of full-time equivalent employees, persons that are
10 affiliated with each other or that are eligible to file a combined
11 tax return for state taxation purposes are considered 1 employer.

12 (r) "Small employer carrier" means a carrier that offers
13 health benefit plans covering the employees of a small employer.

14 (s) "Waiting period" means, with respect to a health benefit
15 plan and an individual who is a potential enrollee in the plan, the
16 period that must pass with respect to the individual before the
17 individual is eligible to be covered for benefits under the terms
18 of the plan. For purposes of calculating periods of creditable
19 coverage under this chapter, a waiting period is not considered as
20 a gap in coverage.

21 Enacting section 1. This amendatory act does not take effect
22 unless Senate Bill No. ____ or House Bill No. 4733(request no.
23 02048'23) of the 102nd Legislature is enacted into law.