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PROPOSED SENATE COMMITTEE SUBSTITUTE H649-PCS10421-TK-44

Short Title: Small Group Health Ins. Technical Changes.

(Public)

Sponsors:

Referred to:

April 10, 2013

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE TECHNICAL CHANGES TO THE SMALL EMPLOYER GROUP  
3 HEALTH COVERAGE REFORM ACT TO MITIGATE THE EFFECTS OF THE  
4 FEDERAL AFFORDABLE CARE ACT ON NORTH CAROLINA'S SMALL  
5 BUSINESSES AND TO INCREASE STOP LOSS INSURANCE OPTIONS FOR SMALL  
6 EMPLOYERS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Corrections to small group act. – No small employer carrier shall be  
9 required to issue the basic or standard health benefit plan as described in G.S. 58-50-125(a).  
10 Any basic or standard health benefit plans described in G.S. 58-50-125(a) that are not  
11 "grandfathered health plans," as that term is used under Section 1251 of the Affordable Care  
12 Act, P.L. 11-148, as amended, shall be terminated on the next anniversary date on or after  
13 January 1, 2014, and the small employer carrier shall offer the employer replacement coverage  
14 from available small group health benefit plans pursuant to and in accordance with all  
15 applicable State and federal laws and regulations. The termination shall be preceded by a  
16 90-day notice to the Commissioner, the employer policyholder, the participants, and the  
17 beneficiaries. If the plan is issued to a self-employed individual, as defined in  
18 G.S. 58-50-110(21a), then the small employer carrier shall offer (i) replacement coverage from  
19 available individual health benefit plans or (ii) if the small employer carrier does not offer  
20 individual health benefit plans in this State, then individual conversion coverage pursuant to  
21 G.S. 58-53-45.

22 **SECTION 2.(a)** The following are repealed: G.S. 58-50-126, 58-50-127,  
23 58-50-135, 58-50-155, and 58-50-156.

24 **SECTION 2.(b)** G.S. 58-50-110 reads as rewritten:

25 **"§ 58-50-110. Definitions.**

26 As used in this Act:

27 ...

28 (10a) "Grandfathered health plan" means a health benefit plan providing coverage  
29 considered grandfathered health coverage described in 45 C.F.R.  
30 §147.140(a).

31 ...

32 (22) "Small employer" means any individual actively engaged in business that, on  
33 at least fifty percent (50%) of its working days during the preceding calendar



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1 quarter, employed no more than 50 eligible employees, the majority of  
 2 whom are employed within this State, and is not formed primarily for  
 3 purposes of buying health insurance and in which a bona fide  
 4 employer-employee relationship exists. In determining the number of  
 5 eligible employees, companies that are affiliated companies, or that are  
 6 eligible to file a combined tax return for purposes of taxation by this State,  
 7 shall be considered one employer. Subsequent to the issuance of a health  
 8 benefit plan to a small employer and for the purpose of determining  
 9 eligibility, the size of a small employer shall be determined annually. Except  
 10 as otherwise specifically provided, the provisions of this Act that apply to a  
 11 small employer shall continue to apply until the plan anniversary following  
 12 the date the small employer no longer meets the requirements of this  
 13 definition. For purposes of this ~~Act, subdivision,~~ the term small employer  
 14 includes self-employed individuals. Effective January 1, 2014, this definition  
 15 shall apply only to grandfathered group health plans subject to this Act.

16 (22a) "Small employer" means, in connection with a nongrandfathered group  
 17 health plan with respect to a calendar year and a plan year, an employer that  
 18 employed an average of at least one but not more than 50 employees on  
 19 business days during the preceding calendar year and that employs at least  
 20 one employee on the first day of the plan year. The number of employees  
 21 shall be determined using the method set forth in section 4980H(c)(2) of the  
 22 Internal Revenue Code.

23 ...."

24 **SECTION 2.(c)** G.S. 58-50-115 reads as rewritten:

25 **"§ 58-50-115. Health benefit plans subject to Act.**

26 (a) A health benefit plan is subject to this Act if it provides health benefits for small  
 27 employers ~~or self-employed individuals~~ and if any of the following conditions are met:

- 28 (1) Any part of the premiums or benefits is paid by a small employer or any  
 29 covered individual is reimbursed, whether through wage or adjustments or  
 30 otherwise, by a small employer for any portion of the premium;
- 31 (2) The health benefit plan is treated by the employer ~~or any of the covered~~  
 32 ~~self-employed individuals~~ as part of a plan or program for the purpose of  
 33 sections 106, 125, or 162 of the United States Internal Revenue Code; or
- 34 (3) The small employer ~~or self-employed individuals~~ have has permitted payroll  
 35 deductions for the eligible enrollees for the health benefit plans.

36 (b) Repealed by Session Laws 1993, c. 529, s. 3.5."

37 **SECTION 2.(d)** G.S. 58-50-125(d) reads as rewritten:

38 "(d) ~~As a condition of transacting business as a small employer carrier in this State, the~~  
 39 ~~carrier shall either offer small employers at least one basic and one standard health care plan or~~  
 40 ~~the alternative coverages provided in G.S. 58-50-126. Every small employer that elects to be~~  
 41 ~~covered under such a plan and agrees to make the required premium payments and to satisfy~~  
 42 ~~the other provisions of the plan shall be issued such a plan by the small employer carrier. The~~  
 43 ~~premium payment requirements used in connection with basic and standard health care plans~~  
 44 ~~may address the potential credit risk of small employers that elect coverage in accordance with~~  
 45 ~~this subsection by means of payment security provisions that are reasonably related to the risk~~  
 46 ~~and are uniformly applied.~~

47 If a small employer carrier offers coverage to a small employer, the small employer carrier  
 48 shall offer coverage to all eligible employees of a small employer and their dependents. A small  
 49 employer carrier shall not offer coverage to only certain individuals in a small employer group  
 50 except in the case of late enrollees as provided in G.S. 58-50-130(a)(4b). A small employer  
 51 carrier shall not modify any health benefit plan with respect to a small employer, any eligible

1 employee, or dependent through riders, endorsements, or otherwise, in order to restrict or  
2 exclude coverage for certain diseases or medical conditions otherwise covered by the health  
3 benefit plan. In the case of an eligible employee or dependent of an eligible employee who,  
4 before the effective date of the plan, was excluded from coverage or denied coverage by a small  
5 employer carrier in the process of providing a health benefit plan to an eligible small employer,  
6 the small employer carrier shall provide an opportunity for the eligible employee or dependent  
7 of an eligible employee to enroll in the health benefit plan currently held by the small  
8 employer."

9 **SECTION 2.(e)** Effective January 1, 2015, subsections (a) and (a1) of  
10 G.S. 58-50-125 are repealed.

11 **SECTION 2.(f)** G.S. 58-50-130 reads as rewritten:

12 "**§ 58-50-130. Required health care plan provisions.**

13 ...

14 (b) For all small employer health benefit plans that are grandfathered health benefit  
15 plans and that are subject to this section, the premium rates are subject to all of the following  
16 provisions:

17 ...."

18 **SECTION 2.(g)** G.S. 58-50-130 is amended by adding the following new  
19 subsections to read:

20 "(b1) For all small employer health benefit plans that are not grandfathered health benefit  
21 plans and that are subject to this section, the premium rates are subject to all of the following  
22 provisions:

23 (1) A small employer carrier shall use a method to develop premiums for small  
24 employer group health benefit plans that are not grandfathered health plans  
25 which spreads financial risk across a large population and allows  
26 adjustments for only the following factors:

27 a. Age, except that the rate shall not vary by more than three to one for  
28 adults.

29 b. Whether the plan or coverage covers individual or family.

30 c. Geographic rating areas.

31 d. Tobacco use, except that the rate shall not vary by more than one and  
32 one-half to one due to tobacco use.

33 With respect to family coverage under a health benefit plan, the rating  
34 variations for age and tobacco use shall be applied based on the portion of  
35 premium that is attributable to each family member covered under the plan.

36 (2) A small employer carrier shall consider the claims experience of all  
37 enrollees in all small employer group health benefit plans that are not  
38 grandfathered health plans offered by the insurer in the small employer  
39 group market in this State to be members of a single risk pool. No small  
40 employer carrier shall consider claims experience of grandfathered health  
41 plans in developing the single risk pool.

42 ...

43 (i) A small employer carrier shall not modify the premium rate charged to a small  
44 group nongrandfathered health benefit plan or a small employer group member, including  
45 changes in rates related to the increasing age of a group member, for 12 months from the initial  
46 issue date or renewal date."

47 **SECTION 3.** G.S. 58-50-130(a) reads as rewritten:

48 "(a) Health benefit plans covering small employers are subject to the following  
49 provisions:

50 ...

(5) ~~Notwithstanding any other provision of this Chapter, no small employer carrier, insurer, subsidiary of an insurer, or controlled individual of an insurance holding company shall act as an administrator or claims paying agent, as opposed to an insurer, on behalf of small groups which, if they purchased insurance, would be subject to this section. No small employer carrier, insurer, subsidiary of an insurer, or controlled individual of an insurance holding company shall provide stop loss, catastrophic, or reinsurance coverage to small employers that does not comply with the underwriting, rating, and other applicable standards in this Act. An insurer shall not issue a stop loss health insurance policy to any person, firm, corporation, partnership, or association defined as a small employer that does any of the following:~~

- ~~a. Provides direct coverage of health expenses payable to an individual.~~
- ~~b. Has an annual attachment point for claims incurred per individual that is lower than twenty thousand dollars (\$20,000).~~
- ~~c. Has an annual aggregate attachment point lower than the greater of one of the following:~~
  - ~~1. One hundred twenty percent (120%) of expected claims.~~
  - ~~2. Twenty thousand dollars (\$20,000).~~

~~Nothing in this subsection prohibits an insurer from providing additional incentives to small employers with benefits promoting a medical home or benefits that provide health care screenings, are focused on outcomes and key performance indicators, or are reimbursed on an outcomes basis rather than a fee-for-service basis.~~

...."

**SECTION 4.(a)** G.S. 58-50-110(22a) is repealed.

**SECTION 4.(b)** G.S. 58-50-110 reads as rewritten:

**"§ 58-50-110. Definitions.**

As used in this Act:

...

(22b) "Small employer" means, in connection with a nongrandfathered group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least one but not more than 100 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year. The number of employees shall be determined using the method set forth in section 4980H(c)(2) of the Internal Revenue Code.

...."

**SECTION 5.** The Department of Insurance shall adopt rules to implement this act. The Department of Insurance shall adopt rules providing for the oversight, monitoring of, and reporting by insurers and third-party administrators who administer health benefit plans with stop loss coverage pursuant to this act.

**SECTION 6.** Section 1 of this act is effective when it becomes law. Except as otherwise provided in that section, Section 2 of this Act becomes effective January 1, 2014, and applies to all insurance contracts and policies issued, renewed, or amended on or after that date. Section 3 of this act becomes effective October 1, 2013, and applies to all stop loss insurance contracts and policies issued, renewed, or amended on or after that date. Section 4 of this act becomes effective January 1, 2016. The remainder of this act is effective when it becomes law.