



House of Representatives

File No. 439

General Assembly

February Session, 2010 **(Reprint of File No. 6)**

Substitute House Bill No. 5002
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
April 9, 2010

**AN ACT CONCERNING PREMIUM QUOTES AND INFORMATION FOR
SMALL EMPLOYER HEALTH INSURANCE COVERAGE.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subdivisions (3) and (4) of section 38a-564 of the general
2 statutes are repealed and the following is substituted in lieu thereof
3 (*Effective January 1, 2011*):

4 (3) "Eligible employee" means an employee who works [on a full-
5 time basis, with] a normal work week of [thirty] twenty or more hours
6 and includes a sole proprietor, a partner of a partnership or an
7 independent contractor, provided such sole proprietor, partner or
8 contractor is included as an employee under a health care plan of a
9 small employer but does not include an employee who works on a
10 [part-time] seasonal, temporary or substitute basis. "Eligible employee"
11 shall include any employee who is not actively at work but is covered
12 under the small employer's health insurance plan pursuant to (A)
13 workers' compensation, (B) continuation of benefits pursuant to
14 [federal extension requirements established by the Consolidated
15 Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272), as amended,

16 (COBRA)] section 38a-554, or (C) other applicable laws. [Such
17 employees shall not be counted as eligible employees for the purposes
18 of subsection (4) of this section.]

19 (4) (A) "Small employer" means any person, firm, corporation,
20 limited liability company, partnership or association actively engaged
21 in business or self-employed for at least three consecutive months
22 who, on at least fifty per cent of its working days during the preceding
23 twelve months, employed no more than fifty eligible employees, the
24 majority of whom were employed within the state of Connecticut.
25 "Small employer" includes a self-employed individual. [In] For the
26 purposes of determining the number of eligible employees [,
27 companies which] under this subdivision: (i) Companies that are
28 affiliated companies, as defined in section 33-840, or [which] that are
29 eligible to file a combined tax return for purposes of taxation under
30 chapter 208 shall be considered one employer; [Eligible employees
31 shall not include] (ii) employees covered through the employer by
32 health insurance plans or insurance arrangements issued to or in
33 accordance with a trust established pursuant to collective bargaining
34 subject to the federal Labor Management Relations Act shall not be
35 counted; (iii) employees who are not actively at work but are covered
36 under the small employer's health insurance plan pursuant to workers'
37 compensation, continuation of benefits pursuant to section 38a-554 or
38 other applicable laws shall not be counted; and (iv) employees who
39 work a normal work week of less than thirty hours shall not be
40 counted. Except as otherwise specifically provided, provisions of
41 sections 12-201, 12-211, 12-212a, this section and [38a-564] sections 38a-
42 565 to 38a-572, inclusive, that apply to a small employer shall continue
43 to apply until the plan anniversary following the date the employer no
44 longer meets the requirements of this definition.

45 (B) "Small employer" does not include (i) a municipality procuring
46 health insurance pursuant to section 5-259, (ii) a private school in this
47 state procuring health insurance through a health insurance plan or an
48 insurance arrangement sponsored by an association of such private
49 schools, (iii) a nonprofit organization procuring health insurance

50 pursuant to section 5-259, unless the Secretary of the Office of Policy
51 and Management and the State Comptroller make a request in writing
52 to the Insurance Commissioner that such nonprofit organization be
53 deemed a small employer for the purposes of this chapter, (iv) an
54 association for personal care assistants procuring health insurance
55 pursuant to section 5-259, or (v) a community action agency procuring
56 health insurance pursuant to section 5-259.

57 Sec. 2. Subdivision (1) of section 38a-567 of the general statutes is
58 repealed and the following is substituted in lieu thereof (*Effective*
59 *January 1, 2011*):

60 (1) (A) (i) Any such insurer or producer marketing such plans or
61 arrangements shall offer premium quotes to small employers upon
62 request for coverage for employees who work a normal work week of
63 thirty or more hours. Upon request by a small employer, such insurer
64 or producer shall offer premium quotes for coverage for employees
65 that include those who work a normal work week of at least twenty
66 hours.

67 (ii) No small employer that has requested premium quotes for
68 coverage for employees that include those who work a normal work
69 week of less than thirty hours shall be required to accept such quotes
70 or coverage in lieu of premium quotes or coverage for only those
71 employees who work a normal work week of thirty or more hours.

72 (iii) Nothing in this subparagraph shall require a small employer
73 that offers coverage to its employees who work a normal work week of
74 thirty hours or more to offer coverage to its employees who work a
75 normal work week of less than thirty hours.

76 [(1) (A)] (B) Any such plan or arrangement shall be renewable with
77 respect to all eligible employees or dependents at the option of the
78 small employer, policyholder or contractholder, as the case may be,
79 except: (i) For nonpayment of the required premiums by the small
80 employer, policyholder or contractholder; (ii) for fraud or
81 misrepresentation of the small employer, policyholder or

82 contractholder or, with respect to coverage of individual insured, the
83 insureds or their representatives; (iii) for noncompliance with plan or
84 arrangement provisions; (iv) when the number of insureds covered
85 under the plan or arrangement is less than the number of insureds or
86 percentage of insureds required by participation requirements under
87 the plan or arrangement; or (v) when the small employer, policyholder
88 or contractholder is no longer actively engaged in the business in
89 which it was engaged on the effective date of the plan or arrangement.

90 [(B)] (C) Renewability of coverage may be effected by either
91 continuing in effect a plan or arrangement covering a small employer
92 or by substituting upon renewal for the prior plan or arrangement the
93 plan or arrangement then offered by the carrier that most closely
94 corresponds to the prior plan or arrangement and is available to other
95 small employers. Such substitution shall only be made under
96 conditions approved by the commissioner. A carrier may substitute a
97 plan or arrangement as stated above only if the carrier effects the same
98 substitution upon renewal for all small employers previously covered
99 under the particular plan or arrangement, unless otherwise approved
100 by the commissioner. The substitute plan or arrangement shall be
101 subject to the rating restrictions specified in this section on the same
102 basis as if no substitution had occurred, except for an adjustment
103 based on coverage differences.

104 [(C)] (D) Notwithstanding the provisions of this subdivision, any
105 such plan or arrangement, or any coverage provided under such plan
106 or arrangement may be rescinded for fraud, material
107 misrepresentation or concealment by an applicant, employee,
108 dependent or small employer.

109 [(D)] (E) Any individual who was not a late enrollee at the time of
110 his or her enrollment and whose coverage is subsequently rescinded
111 shall be allowed to reenroll as of a current date in such plan or
112 arrangement subject to any preexisting condition or other provisions
113 applicable to new enrollees without previous coverage. On and after
114 the effective date of such individual's reenrollment, the small employer

115 carrier may modify the premium rates charged to the small employer
116 for the balance of the current rating period and for future rating
117 periods, to the level determined by the carrier as applicable under the
118 carrier's established rating practices had full, accurate and timely
119 underwriting information been supplied when such individual
120 initially enrolled in the plan. The increase in premium rates allowed by
121 this provision for the balance of the current rating period shall not
122 exceed twenty-five per cent of the small employer's current premium
123 rates. Any such increase for the balance of said current rating period
124 shall not be subject to the rate limitation specified in subdivision (6) of
125 this section. The rate limitation specified in this section shall otherwise
126 be fully applicable for the current and future rating periods. The
127 modification of premium rates allowed by this subdivision shall cease
128 to be permitted for all plans and arrangements on the first rating
129 period commencing on or after July 1, 1995.

130 Sec. 3. (NEW) (*Effective July 1, 2010*) (a) There is established a
131 program which shall be known as the "Connecticut Clearinghouse", to
132 be administered by the Health Reinsurance Association established in
133 section 38a-556 of the general statutes, through which individuals and
134 small employers may obtain information about available health
135 insurance policies and health care plans.

136 (b) Said association shall, in consultation with the Insurance
137 Commissioner and the Healthcare Advocate, develop, within available
138 appropriations, a web site, telephone number or other method to serve
139 as a clearinghouse for information about individual and small
140 employer health insurance policies and health care plans that are
141 available to consumers in this state, including, but not limited to, the
142 Medicaid program, the HUSKY Plan, state-administered general
143 assistance, the Charter Oak Health Plan set forth in section 17b-311 of
144 the general statutes, the Municipal Employee Health Insurance Plan
145 set forth in subsection (i) of section 5-259 of the general statutes, and
146 any individual or small employer health insurance policies or health
147 care plans an insurer, health care center or other entity chooses to list
148 with the Connecticut Clearinghouse.

149 (c) Such method developed pursuant to subsection (b) of this section
 150 shall use interactive tools or technology to provide a consumer with a
 151 list of health insurance policies or health care plans that, based on the
 152 responses provided by such consumer, may be appropriate for such
 153 consumer's circumstances.

154 (d) The Insurance Commissioner shall establish procedures for the
 155 Health Reinsurance Association to confirm with the Insurance
 156 Department that a policy or plan listed with the Connecticut
 157 Clearinghouse is approved to be sold in this state and that the insurer,
 158 health care center or other entity that offers such policy or plan is
 159 authorized to do business in this state. Such procedures shall include,
 160 but not be limited to, a timetable for such list to be updated on a
 161 regular basis, but not less than every ninety days.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2011</i>	38a-564(3) and (4)
Sec. 2	<i>January 1, 2011</i>	38a-567(1)
Sec. 3	<i>July 1, 2010</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill requires the Health Reinsurance Association (HRA) to establish a Connecticut Clearinghouse through which individuals and small employers may obtain information about health insurance policies and health care plans available in the state. The Department of Insurance (DOI) is required to confirm with HRA, not less than every ninety days, that the policies and plans on the Connecticut Clearinghouse are approved for sale and that the entities offering them are authorized to do business in the state. There is no fiscal impact to DOI to confirm this information with HRA.

House "A" makes changes to provisions of the underlying bill related to the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) and does not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5002 (as amended by House "A")******AN ACT CONCERNING PREMIUM QUOTES AND INFORMATION FOR SMALL EMPLOYER HEALTH INSURANCE COVERAGE.*****SUMMARY:**

This bill establishes the Connecticut Clearinghouse, from which individuals and small employers (i.e., employers with 50 and fewer employees) may obtain information about health insurance policies and health care available in Connecticut. It requires the Health Reinsurance Association to administer the clearinghouse within available appropriations.

The bill also makes changes in the laws related to small employer health insurance plans. It redefines "small employer" and "eligible employee." By doing so, it broadens the scope of certain laws by including part-time employees working at least 20 hours a week and limits the laws by excluding seasonal employees. For the purposes of determining if an employer is a small employer, the bill prohibits the employer from counting a person working fewer than 30 hours a week as an eligible employee.

The bill also requires an insurer or producer marketing small employer group health insurance plans to offer a small employer, upon its request, a premium quote for covering employees working at least 30 hours a week or 20 hours a week.

*House Amendment "A" makes technical corrections.

EFFECTIVE DATE: July 1, 2010 for the Connecticut Clearinghouse and January 1, 2011 for the small employer provisions.

CONNECTICUT CLEARINGHOUSE

The bill establishes the Connecticut Clearinghouse, from which people and small employers may get information about health insurance policies and health care plans available in Connecticut. These include Medicaid, HUSKY, state-administered general assistance (SAGA), Charter Oak, the Municipal Employee Health Insurance Plan (MEHIP), and any individual or small employer health insurance policies or health care plans an insurer, HMO, or other entity chooses to list with the clearinghouse.

It requires the Health Reinsurance Association (HRA) to (1) administer the clearinghouse and (2) in consultation with the insurance commissioner and healthcare advocate and within available appropriations, develop an interactive web site, telephone number, or other method for giving information on available plans that, based on a consumer's responses, may be appropriate for his or her circumstances (see BACKGROUND).

The bill requires the commissioner to establish procedures for HRA to confirm with the Insurance Department that (1) a policy or plan listed with the clearinghouse is approved for sale in Connecticut and (2) the entity offering it is authorized to do business here. The procedures must require updating the list at least every 90 days.

SMALL EMPLOYER HEALTH INSURANCE

Small Employer

The bill changes how an employer counts its employees to determine if it is a small employer for purposes of laws applying to small employer insurance plans. Specifically, it prohibits an employer from counting a person who works fewer than 30 hours a week when determining if it is a small employer.

By law, a "small employer" is any person, firm, corporation, limited liability company, partnership, or association that:

1. is actively engaged in business or self-employed for at least

three consecutive months and

2. on at least 50% of its working days during the preceding 12 months, employed no more than 50 “eligible employees,” the majority of whom were employed within Connecticut (see BACKGROUND).

When counting eligible employees to determine if an employer is a small employer, companies affiliated or eligible to file a combined tax return are considered one employer. And an employer already cannot count an employee:

1. covered through the employer by a health insurance plan issued to, or in accordance with, a trust established under collective bargaining or
2. not actively at work but covered under the employer’s health insurance plan under workers’ compensation, continuation of benefits requirements, or other applicable laws.

Eligible Employee

Certain laws apply to a small employer’s eligible employees. The bill redefines “eligible employee” as an employee working a normal work week of at least 20 hours a week, including a part-time employee, but excluding a seasonal employee. Current law includes only full-time employees working at least 30 hours a week.

By law, and unchanged by the bill, an eligible employee (1) excludes a temporary or substitute employee; (2) includes a sole proprietor, partner, or independent contractor, provided he or she is included as an employee under a small employer’s health care plan; and (3) includes a person not actively at work but covered under the employer’s health insurance plan through workers’ compensation, continuation of benefits requirements, or other applicable law.

The bill, therefore, broadens the scope of certain laws by including part-time employees working at least 20 hours a week and limits the

laws by excluding seasonal employees. Those laws include guaranteed renewability, coverage eligibility requirements, the Connecticut Small Employer Health Reinsurance Pool, and special health care plans (see BACKGROUND).

Premium Quote

The bill requires an insurer or producer marketing small employer group health insurance plans to offer a small employer, upon its request, a premium quote for covering employees working at least 30 hours a week or 20 hours a week.

It specifies that a small employer that requests a premium quote for employees working fewer than 30 hours a week is not required to accept the quote or purchase coverage. It also specifies that a small employer that offers coverage to employees working 30 or more hours a week is not required to offer coverage to those working fewer than 30 hours a week.

BACKGROUND

Health Reinsurance Association

The legislature created HRA to provide comprehensive health insurance to people who cannot obtain insurance from commercial insurers (i.e., to serve as the high risk pool). By law, all Connecticut health insurers and HMOs are (1) HRA members and (2) assessed for its losses. HRA's board of directors is composed of nine individuals selected by the participating member companies.

HRA also serves as the state's acceptable alternative mechanism for complying with the guaranteed issue option in the individual market required under federal law (the Health Insurance Portability and Accountability Act). The law requires HRA to offer special health care plans to low-income individuals and certain small employers.

Small Employer

The law specifies that a "small employer" does not include a:

1. municipality, association of personal care assistants, or community action agency purchasing health insurance through the Municipal Employee Health Insurance Program (MEHIP);
2. nonprofit organization purchasing health insurance through MEHIP, unless the secretary of the Office of Policy and Management and the state comptroller ask the insurance commissioner in writing to deem the organization a small employer for the purposes of the health insurance statutes; or
3. private school in Connecticut obtaining health insurance through a health insurance plan or an insurance arrangement that an association of private schools sponsors.

By law, a health care center (i.e., HMO) may refuse coverage to a small employer if the HMO's provider network is proven, to the insurance commissioner's satisfaction, inadequate to serve the small employer due to the HMO's obligations to existing customers. If an HMO refuses coverage for this reason, the law prohibits the HMO from offering coverage, for 90 days from the refusal, to a new employer group with more than 25 eligible employees (CGS § 38a-568(c)).

Guaranteed Renewable Coverage

By law, a health insurance plan issued to a small employer is "guaranteed renewable" with respect to eligible employees and their dependents. This means that coverage for the eligible employees and their dependents is renewable at the small employer's option, with some exceptions (e.g., not paying premiums, fraud, material misrepresentation, and not meeting the insurer's participation rate required for coverage) (CGS 38a-567(1)).

Coverage Eligibility

Except for a late enrollee who failed to provide evidence of insurability satisfactory to the insurer, a health insurance plan may not exclude an eligible employee or dependent based on an actual or

expected health condition. And it may not exclude an eligible employee or dependent who, on the day before the initial effective date of the plan, was covered under the small employer's previous health insurance plan through workers' compensation, COBRA, or other applicable laws as long as the employee or dependent requests coverage under the new plan on a timely basis (CGS § 38a-567(2)).

Connecticut Small Employer Health Reinsurance Pool

By law, all health insurers must be members of the Connecticut Small Employer Health Reinsurance Pool (CSEHRP). Members may purchase reinsurance coverage for an entire small group or for certain eligible employees or dependents in a group, generally those the insurer believes are high risk (i.e., likely to have high claim costs) (CGS § 38a-569).

Special Health Care Plans for Small Employers

A “special health care plan” is a health insurance plan for previously uninsured small employers. The law requires the CSEHRP board of directors to develop these plans as a lower-cost health insurance coverage option for uninsured small employers and submit them to the insurance commissioner for approval (CGS § 38a-565(a)(1)).

A small employer can purchase a special health care plan if it did not maintain health insurance coverage for its employees at any time during the one-year period before applying for the plan. A small employer cannot purchase a special health care plan for more than three years (CGS § 38a-565(2)).

The law permits HRA to issue special health care plans to small employers with 10 or fewer eligible employees, the majority of whom are low-income eligible employees (CGS § 38a-570).

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 18 Nay 0 (02/11/2010)