

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 602\*  
Insurance Committee Substitute Adopted 5/10/93  
House Committee Substitute Favorable 7/13/93

Short Title: Small Employer Health Insurance.

(Public)

Sponsors:

Referred to:

March 29, 1993

A BILL TO BE ENTITLED

AN ACT TO PROVIDE GROUP HEALTH INSURANCE TO BUSINESSES  
COMPRISING MORE THAN TWENTY-FIVE EMPLOYEES AND TO MAKE  
IMPROVEMENTS IN THE NORTH CAROLINA SMALL EMPLOYER GROUP  
HEALTH COVERAGE REFORM ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-50-110(14) reads as rewritten:

"(14) 'Late enrollee' means an eligible employee or  
dependent who requests enrollment in a health benefit plan of  
a small employer ~~following~~ after the end of the initial  
enrollment period provided under the terms of the health  
benefit ~~plan;~~ plan in effect at the time the employee first  
became eligible; provided that the initial enrollment period  
shall be a period of at least 30 days. However, an eligible  
employee or dependent shall not be considered a late enrollee  
if:

a. The individual:

1. Was covered under another employer health benefit plan  
at the time the individual was eligible to enroll;

- 1                   2.     Stated, at the time of the initial enrollment, that coverage  
2                   under another employer health benefit plan was the  
3                   reason for declining enrollment;  
4                   3.     Has lost coverage under another employer health benefit  
5                   plan as a result of termination of employment, the  
6                   termination of the other plan's coverage, death of a  
7                   spouse, or divorce; and  
8                   4.     Requests enrollment within 30 days after termination of  
9                   coverage provided under another employer health benefit  
10                  plan;  
11                  b.     The individual is employed by an employer that offers multiple  
12                  health benefit plans and the individual elects a different plan  
13                  during an open enrollment period; or  
14                  c.     A court has ordered coverage be provided for a spouse or minor  
15                  child under a covered employee's health benefit plan and  
16                  request for enrollment is made within 30 days after issuance of  
17                  the court order."

18                  Sec. 2. G.S. 58-50-110(22) reads as rewritten:

19                  "(22) 'Small employer' means any person actively engaged in business  
20                  that, on at least fifty percent (50%) of its working days during the  
21                  preceding year, employed no more than ~~25~~49 eligible employees  
22                  and not less than ~~three~~two eligible employees, the majority of  
23                  whom are employed within this State. Small employer includes  
24                  companies that are affiliated companies, as defined in G.S. 58-19-  
25                  5(1) or that are eligible to file a combined tax return under Chapter  
26                  105 of the General Statutes or under the Internal Revenue Code.  
27                  Except as otherwise provided, the provisions of this Act that apply  
28                  to a small employer shall continue to apply until the plan  
29                  anniversary following the date the employer no longer meets the  
30                  requirements of this section."

31                  Sec. 3. G.S. 58-51-80(b) reads as rewritten:

32                  "(b) No policy or contract of group accident, group health or group accident and  
33                  health insurance shall be delivered or issued for delivery in this State unless the group  
34                  of persons thereby insured conforms to the requirements of the following subdivisions:

- 35                  (1) Under a policy issued to an employer, principal, or to the trustee of  
36                  a fund established by an employer or two or more employers in the  
37                  same industry or kind of business, or by a principal or two or more  
38                  principals in the same industry or kind of business, which  
39                  employer, principal, or trustee shall be deemed the policyholder,  
40                  covering, except as hereinafter provided, only employees, or  
41                  agents, of any class or classes thereof determined by conditions  
42                  pertaining to employment, or agency, for amounts of insurance  
43                  based upon some plan which will preclude individual selection.  
44                  The premium may be paid by the employer, by the employer and

1 the employees jointly, or by the employee; and where the  
2 relationship of principal and agent exists, the premium may be paid  
3 by the principal, by the principal and agents, jointly, or by the  
4 agents. If the premium is paid by the employer and the employees  
5 jointly, or by the principal and agents jointly, or by the employees,  
6 or by the agents, the group shall be structured on an actuarially  
7 sound basis.

8 (2) For employer groups of 50 or more persons no evidence of  
9 individual insurability may be required at the time the person first  
10 becomes eligible for insurance or within 31 days thereafter except  
11 for any insurance supplemental to the basic coverage for which  
12 evidence of individual insurability may be required. With respect  
13 to trustee groups the phrase 'groups of 50' must be applied on a  
14 participating unit basis for the purpose of requiring individual  
15 evidence of insurability.

16 (3) Policies may contain a provision limiting coverage for preexisting  
17 conditions. Preexisting conditions must be covered no later than 12  
18 months after the effective date of coverage. Preexisting conditions  
19 are defined as 'those conditions for which medical advice or  
20 treatment was received or recommended or which could be  
21 medically documented within the 12-month period immediately  
22 preceding the effective date of the person's coverage.' Preexisting  
23 conditions exclusions may not be implemented by any successor  
24 plan as to any covered persons who have already met all or part of  
25 the waiting period requirements under any prior group plan. Credit  
26 must be given for that portion of the waiting period which was met  
27 under the prior plan. For employer groups of 50 or more persons:  
28 In determining whether a preexisting condition provision applies to  
29 an eligible employee or to a dependent, all health benefit plans  
30 shall credit the time the person was covered under a previous group  
31 health benefit plan if the previous coverage was continuous to a  
32 date not more than 60 days before the effective date of the new  
33 coverage, exclusive of any applicable waiting period under the new  
34 coverage."

35 Sec. 4. G.S. 58-65-60(e) reads as rewritten:

36 "(e) A hospital service corporation may issue a master group contract with the  
37 approval of the Commissioner of Insurance provided such contract and the individual  
38 certificates issued to members of the group, shall comply in substance to the other  
39 provisions of this Article and Article 66 of this Chapter. Any such contract may provide  
40 for the adjustment of the rate of the premium or benefits conferred as provided in said  
41 contract, and in accordance with an adjustment schedule filed with and approved by the  
42 Commissioner of Insurance. If such master group contract is issued, altered or  
43 modified, the subscribers' contracts issued in pursuance thereof are altered or modified  
44 accordingly, all laws and clauses in subscribers' contracts to the contrary

1 notwithstanding. Nothing in this Article and Article 66 of this Chapter shall be  
2 construed to prohibit or prevent the same. Forms of such contract shall at all times be  
3 furnished upon request of subscribers thereto.

4 (1) For employer groups of 50 or more persons no evidence of  
5 individual insurability may be required at the time the person first  
6 becomes eligible for coverage or within 31 days thereafter except  
7 for any insurance supplemental to the basic coverage for which  
8 evidence of individual insurability may be required. With respect  
9 to trustee groups the phrase 'groups of 50' must be applied on a  
10 participating unit basis for the purpose of requiring individual  
11 evidence of insurability.

12 (2) Employer master group contracts may contain a provision limiting  
13 coverage for preexisting conditions. Preexisting conditions must  
14 be covered no later than 12 months after the effective date of  
15 coverage. Preexisting conditions are defined as 'those conditions  
16 for which medical advice or treatment was received or  
17 recommended or which could be medically documented within the  
18 12-month period immediately preceding the effective date of the  
19 person's coverage.' Preexisting conditions exclusions may not be  
20 implemented by any successor plan as to any covered persons who  
21 have already met all or part of the waiting period requirements  
22 under any prior group plan. Credit must be given for that portion  
23 of the waiting period which was met under the prior plan. For  
24 employer groups of 50 or more persons: In determining whether a  
25 preexisting condition provision applies to an eligible employee or  
26 to a dependent, all health benefit plans shall credit the time the  
27 person was covered under a previous group health benefit plan if  
28 the previous coverage was continuous to a date not more than 60  
29 days before the effective date of the new coverage, exclusive of  
30 any applicable waiting period under the new coverage.

31 (3) Employees shall be added to the master group coverage no later  
32 than 90 days after their first day of employment. Employment  
33 shall be considered continuous and not be considered broken  
34 except for unexcused absences from work for reasons other than  
35 illness or injury. The term 'employee' is defined as a nonseasonal  
36 person working 30 hours per week, and who is otherwise eligible  
37 for coverage.

38 (4) Whenever an employer master group contract replaces another  
39 group contract, whether this contract was issued by a corporation  
40 under Articles 1 through 67 of this Chapter, the liability of the  
41 succeeding corporation for insuring persons covered under the  
42 previous group contract is (i) each person is eligible for coverage in  
43 accordance with the succeeding corporation's plan of benefits with  
44 respect to classes eligible and activity at work and nonconfinement

1 rules must be covered by the succeeding corporation's plan of  
2 benefits; and (ii) each person not covered under the succeeding  
3 corporation's plan of benefits in accordance with (i) above must  
4 nevertheless be covered by the succeeding corporation if that  
5 person was validly covered, including benefit extension, under the  
6 prior plan on the date of discontinuance and if the person is a  
7 member of the class of persons eligible for coverage under the  
8 succeeding corporation's plan."

9 Sec. 5. G.S. 58-67-85(c) reads as rewritten:

10 "(c) Employer master group contracts may contain a provision limiting coverage  
11 for preexisting conditions. Preexisting conditions must be covered no later than 12  
12 months after the effective date of coverage. Preexisting conditions are defined as "those  
13 conditions for which medical advice or treatment was received or recommended or  
14 which could be medically documented within the 12-month period immediately  
15 preceding the effective date of the person's coverage." Preexisting conditions exclusions  
16 may not be implemented by any successor plan as to any covered persons who have  
17 already met all or part of the waiting period requirements under any prior group plan.  
18 Credit must be given for that portion of the waiting period which was met under the  
19 prior plan. For employer groups of 50 or more persons: In determining whether a  
20 preexisting condition provision applies to an eligible employee or to a dependent, all  
21 health benefit plans shall credit the time the person was covered under a previous group  
22 health benefit plan if the previous coverage was continuous to a date not more than 60  
23 days before the effective date of the new coverage, exclusive of any applicable waiting  
24 period under the new coverage."

25 Sec. 6. G.S. 58-50-130(a) reads as rewritten:

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

28 (1) Except in the case of a late enrollee, any preexisting-conditions  
29 provision may not limit or exclude coverage for a period beyond 12  
30 months following the insured's effective date of coverage and ~~may~~  
31 ~~only relate to conditions manifesting themselves in a manner that would~~  
32 ~~cause an ordinarily prudent person to seek medical advice, diagnosis,~~  
33 ~~care, or treatment; or for which medical advice, diagnosis, care, or~~  
34 ~~treatment was recommended or received during the 12 months~~  
35 ~~immediately before the effective date of coverage or as to a pregnancy~~  
36 ~~existing on the effective date of coverage. must define preexisting~~  
37 conditions as 'those conditions for which medical advice or  
38 treatment was received or recommended or that could be medically  
39 documented within the 12-month period immediately preceding the  
40 effective date of the person's coverage'.

41 (2) In determining whether a preexisting-conditions provision applies  
42 to an eligible employee or to a dependent, all health benefit plans  
43 shall credit the time the person was covered under a previous group  
44 health benefit plan if the previous coverage was continuous to a

1 date not more than 30 days before the effective date of the new  
2 coverage, exclusive of any applicable waiting period under the  
3 plan.

4 (3) The health benefit plan is renewable with respect to all eligible  
5 employees or dependents at the option of the policyholder or  
6 contract holder except:

7 a. For nonpayment of the required premiums by the policyholder  
8 or contract holder;

9 b. For fraud or misrepresentation of the policyholder or contract  
10 holder or, with respect to coverage of individual enrollees, the  
11 enrollees, or their representatives;

12 c. For noncompliance with plan provisions that have been  
13 approved by the Commissioner;

14 d. When the number of enrollees covered under the plan is less  
15 than the number of insureds or percentage of enrollees required  
16 by participation requirements under the plan; or

17 e. When the policyholder or contract holder is no longer actively  
18 engaged in the business in which it was engaged on the  
19 effective date of the plan.

20 f. When the small employer carrier stops writing new business in  
21 the small employer market, if:

22 1. It provides notice to the Department and either to the  
23 policyholder, contract holder, or employer, of its  
24 decision to stop writing new business in the small  
25 employer market; and

26 2. It does not cancel health benefit plans subject to this Act  
27 for 180 days after the date of the notice required under  
28 paragraph 1; and for that business of the carrier that  
29 remains in force, the carrier shall continue to be  
30 governed by this Act with respect to business conducted  
31 under this Act.

32 A small employer carrier that stops writing new business in the small  
33 employer market in this State after January 1, 1992, shall be prohibited  
34 from writing new business in the small employer market in this State  
35 for a period of five years from the date of notice to the Commissioner.  
36 In the case of an HMO doing business in the small employer market in  
37 one service area of this State, the rules set forth in this subdivision  
38 shall apply to the HMO's operations in the service area, unless the  
39 provisions of G.S. 58-50-125(g) apply.

40 (4) Late enrollees may be excluded from coverage for the greater of 18  
41 months or an 18-month preexisting-condition exclusion; however,  
42 if both a period of exclusion from coverage and a preexisting-  
43 condition exclusion are applicable to a late enrollee, the combined  
44 period shall not exceed 18 months. If a period of exclusion from

1 coverage is applied, a late enrollee shall be enrolled at the end of  
2 such period in the health benefit plan currently held by the small  
3 employer.

4 (5) A carrier may continue to enforce reasonable employer  
5 participation and contribution requirements on small employers  
6 applying for coverage; however, participation and contribution  
7 requirements may vary among small employers only by the size of  
8 the small employer ~~group~~-group, and the minimum participation  
9 for a small employer group must be the greater of two or twenty-  
10 five percent (25%) of eligible employees. In applying minimum  
11 participation requirements with respect to a small employer , a  
12 small employer carrier shall not consider employees or dependents  
13 who have qualifying existing coverage in determining whether the  
14 applicable percentage of participation is met. 'Qualifying existing  
15 coverage' means benefits or coverage provided under: (i) Medicare  
16 or Medicaid; or (ii) an employer-based health insurance or health  
17 benefit arrangement that provides benefits similar to or exceeding  
18 benefits provided under the basic health care plan.

19 (6) If a small employer carrier offers coverage to a small employer, the  
20 small employer carrier shall offer coverage to all eligible  
21 employees of a small employer and their dependents. A small  
22 employer carrier shall not offer coverage to only certain individuals  
23 in a small employer group except in the case of late enrollees as  
24 provided in G.S. 58-50-130(a)(4).

25 (7) A small employer carrier shall not modify any health benefit plan  
26 with respect to a small employer, any eligible employee, or  
27 dependent through riders, endorsements, or otherwise, in order to  
28 restrict or exclude coverage for certain diseases or medical  
29 conditions otherwise covered by the health benefit plan.

30 (8) In the case of an eligible employee or dependent of an eligible  
31 employee who was excluded from or denied coverage by a small  
32 employer carrier on or before August 14, 1992, the small employer  
33 carrier shall provide an opportunity for such eligible employee or  
34 dependent to enroll in the health benefit plan currently held by the  
35 small employer not later than the next plan anniversary on or after  
36 August 14, 1992."

37 Sec. 7. G.S. 58-50-150(g) reads as rewritten:

38 "(g) Any member that elects to be a reinsuring carrier may cede, and the Pool  
39 shall reinsure the reinsuring carrier, subject to all of the following:

40 (1) The Pool shall reinsure any basic and standard health care plan  
41 originally issued or delivered for original issue by a reinsuring  
42 carrier on or after January 1, 1992, under the requirements in G.S.  
43 58-50-125(d). With respect to a basic or standard health care plan,  
44 the Pool shall reinsure the level of coverage provided and, with

1 respect to other plans, the Pool shall reinsure the level of coverage  
2 provided in the basic or standard health care plan up to, but not  
3 exceeding, the level of coverage provided under either the basic or  
4 standard health care plans. Small group business of reinsuring  
5 carriers in force before January 1, 1992, may not be ceded to the  
6 Pool until January 1, 1995, and then only if and when the Board  
7 determines that sufficient funding sources are available.

8 (2) The Pool shall reinsure eligible employees or their dependents or  
9 entire small employer groups according to the following:

- 10 a. With respect to eligible employees and their dependents who  
11 either (i) are employed by a small employer as of the date such  
12 employer's coverage by the member begins ~~and who enroll in a~~  
13 ~~manner such that they are not considered to be late enrollees to the~~  
14 ~~plan,~~ or (ii) are hired after the beginning of the employer's  
15 coverage by the ~~member and who are not late enrollees to the plan~~  
16 member. The coverage may be reinsured within 60 days after  
17 the beginning of the eligible employees' or dependents'  
18 coverage under the plan.
- 19 b. With respect to eligible employees and their dependents, when  
20 the entire employer group is eligible for reinsurance: A small  
21 employer carrier may reinsure the entire employer group within  
22 60 days after the beginning of the group's coverage under the  
23 plan.
- 24 c. With respect to any person reinsured, no reinsurance may be  
25 provided for a reinsured employee or dependent until five  
26 thousand dollars (\$5,000) in benefit payments have been made  
27 for services provided during a calendar year for that reinsured  
28 employee or dependent, which payments would have been  
29 reimbursed through the reinsurance in the absence of the five  
30 thousand dollar (\$5,000) deductible. The Boards shall review  
31 periodically the amount of the deductible and adjust it for  
32 inflation. In addition, the member shall retain ten percent  
33 (10%) of the next fifty thousand dollars (\$50,000) of benefit  
34 payments during a calendar year and the Pool shall reinsure the  
35 remainder; provided that the members' liability under this  
36 section shall not exceed ten thousand dollars (\$10,000) in any  
37 one calendar year with respect to any one person reinsured.  
38 The amount of the member's maximum liability shall be  
39 periodically reviewed by the Board and adjusted for inflation,  
40 as determined by the Board.
- 41 d. Reinsurance may be terminated for each reinsured employee or  
42 dependent on any plan anniversary.
- 43 e. Premium rates charged for reinsurance by the program to an  
44 HMO that is approved by the Secretary of Health and Human



1 Services as a federally qualified health maintenance  
2 organization under 42 U.S.C. § 300 **et seq.**, shall be reduced to  
3 reflect the restrictions and requirements of 42 U.S.C. § 300 **et**  
4 **seq.**

5 f. Every carrier subject to G.S. 58-50-130 shall apply its case  
6 management and claims handling techniques, including but not  
7 limited to utilization review, individual case management,  
8 preferred provider provisions, other managed care provisions or  
9 methods of operation, consistently with both reinsured and  
10 nonreinsured business.

11 g. Except as otherwise provided in this section, premium rates  
12 charged by the Pool for coverage reinsured by the Pool for that  
13 classification or group with similar case characteristics and  
14 coverage shall be established as follows:

15 1. One and one-half times the rate established by the Pool  
16 with respect to the eligible employees and their  
17 dependents of a small employer, all of whose coverage is  
18 reinsured with the Pool and who are reinsured in  
19 accordance with this section.

20 2. Five times the rate established by the Pool with respect  
21 to an eligible employee or dependent who is reinsured in  
22 accordance with this section.

23 (3) The Pool shall reinsure no more than the level of benefits provided  
24 in either the basic or standard health care plan established in  
25 accordance with G.S. 58-50-125.

26 (4) The Pool may issue different types and levels of reinsurance  
27 coverage, including stop-loss coverage; and the reinsurance  
28 premium shall be adjusted to reflect the type and level of  
29 reinsurance coverage issued.

30 (5) The reinsurance premium shall also be adjusted to reflect cost  
31 containment features of the plan of operation that have proven to be  
32 effective including, but not limited to: preferred provider  
33 provisions, utilization review of medical necessity of hospital and  
34 physician services, case management benefit alternatives, and other  
35 managed care provisions or methods of operation."

36 Sec. 8. Sections 2 through 5 of this act apply to all health benefit plans that  
37 are delivered, issued for delivery, or on the next anniversary date of a policy or contract  
38 that is renewed or continued in this State or covering persons residing in this State on  
39 and after January 1, 1994. The remainder of this act becomes effective October 1, 1993.