

SENATE No. 495

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act establishing a reinsurance program to protect consumers of small group health insurance.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 176J of the general laws, as appearing in the 2006 Official Edition,
2 is hereby amended, by inserting after section 8, the following new section:-

3 Section 8A. Small Group Health Reinsurance Plan

4 There is established a nonprofit entity to be known as the "Massachusetts Small Group
5 Health Reinsurance Plan". All commercial carriers issuing health benefit plans to an eligible
6 small group on or after July first, two thousand and ten shall be members of the reinsurance
7 program. Non-profit hospital and medical service corporations and health maintenance
8 organizations shall not participate in the reinsurance program established by this section.

9 Such plan shall be prepared and administered by a governing committee appointed by the
10 governor for terms of three years, consisting of seven members representing small group health
11 insurers participating in the plan. At least one member of the governing committee shall be a
12 small group domestic health insurer. The governing committee shall be responsible for the
13 hiring of the employees of the plan.

On or before April first two thousand and ten, the governing committee shall submit to the commissioner a plan of operation. The commissioner shall, after notice and hearing, approve or disapprove the plan of operation. Subsequent amendments to such plan shall be deemed approved by the commissioner if not expressly disapproved in writing by the commissioner within thirty days from the date of the filing. The plan shall not reimburse a carrier with respect to the claims of a reinsured employer or dependent in any calendar year until the carrier has paid five thousand dollars in benefits in a calendar year for benefits otherwise covered by the plan. The governing board may increase said dollar amount upon the approval of the commissioner.

Meetings of the governing committee of the plan shall be conducted in accordance with the provisions of section eleven A of chapter thirty A.

Premium rates charged for coverage reinsured by the plan shall be established as follows or as the commissioner may direct, in consultation with the governing committee:

The premium rates charged for purchasers of small group coverage in the small group health insurance risk pool shall not increase above the rates in effect on June 30, 2010 as a direct result of the merger of the non group and small group risk pools authorized by chapter 58 of the acts of 2006.

Any member may reinsure coverage of an eligible small group member or any dependent of such an employee with the reinsurance program, provided:

(1) With respect to a prototype plan, the reinsurance program shall reinsure the premium increase required to maintain the level of coverage provided at the effective rate on June 30, 2010;

(2) With respect to other plans issued to eligible small groups, the reinsurance program shall reinsure the level of coverage provided, up to, but not exceeding, the level of coverage provided in a prototype plan;

(3) With respect to eligible small group health insurance purchasers and their dependents, who are employed by a small business as of the date such employer's coverage by the carrier, or other benefit arrangement commences coverage may be reinsured within sixty days of the commencement of such employer's coverage with the carrier, or other benefit arrangement except in the case of late enrollees;

(4) With respect to eligible employees, and their dependents who are hired subsequent to the commencement of such employer's coverage by a carrier, or other benefit arrangement, coverage may be reinsured within sixty days of the commencement of their coverage under the plan except in the case of late enrollees.

(5) With respect to eligible employees, and their dependents, when a carrier, or other benefit arrangement reinsures the entire employer group, coverage may be reinsured:

(a) Within sixty days of the commencement of the groups coverage under the plan; or

(b) In the case where a new entrant to an employer group is reinsured under the provisions of clause (5), on the first plan anniversary after the new entrant became a member of the employer's plan;

(6) No carrier, or other benefit arrangement, may reinsure through the reinsurance program, the health benefit plan coverage of all of the eligible employees, and their dependents, of any small employer unless:

(a) Such coverage provides at least the benefits contained in the prototype plan, and

(b) Such coverage uses cost containment and managed care techniques as established by the reinsurance program.

(c) Such plan contains a participation requirement at issuance of at least seventy-five percent of eligible employees, for plans with six or more eligible employees, and at renewal, the participation requirements that the carrier, or other benefit arrangement required at issuance;

(7) If an eligible small business group is covered under a plan other than a prototype plan and the carrier chooses to reinsure the group subsequent to the initial coverage period, or if a new individual joins the group and the carrier wants to reinsure that individual, the carrier cannot force the small business to change to a prototype plan. The carrier must allow the small business to maintain the same benefit plan and reinsure only the portion of the plan consistent with a prototype plan.

Following the close of each fiscal year, the governing committee shall determine the premiums charged for reinsurance coverage, the reinsurance plan expenses for administration, and the incurred losses, if any, for the year, taking into account investment income and other appropriate gains and losses. Any net loss for the year shall be recouped by assessment of the members. Said assessments shall be apportioned in proportion to said members' respective shares of the total premiums earned in the commonwealth from health benefit plans covering eligible small businesses. Such assessments shall not exceed five percent of such premiums from such health benefit plans.

If the assessment level is inadequate, the governing committee may adjust reinsurance thresholds, retention levels or consider other forms of reinsurance. The governing committee

78 shall report annually to the commissioner and the joint committee on insurance on its experience,
79 the effect of reinsurance and small group rates on individual ceding and recommendations, if
80 any, on additional funding sources, if needed. If other funding sources are not made available,
81 the committee may enter into negotiations with plan members to resolve any deficit through
82 reductions in future payment levels for reinsurance plans. Any such recommendations shall take
83 into account the findings of an actuarial study to be undertaken within the first three years of the
84 plan's operation to evaluate and measure the relative risks being assumed by differing types of
85 health benefit plan carriers. The study shall be conducted by three actuaries appointed by the
86 commissioner, one of whom shall represent risk assuming carriers, one of whom shall represent
87 reinsuring carriers and one of whom shall represent the commissioner.

88 SECTION 2. This act shall take effect on July 1, 2010.