

110TH CONGRESS
1ST SESSION

H. R. 2132

To amend the Public Health Service Act to establish a small business health benefits program.

IN THE HOUSE OF REPRESENTATIVES

MAY 3, 2007

Mr. ALLEN (for himself, Mrs. CAPPS, Mr. CARNAHAN, Mr. DOGGETT, Ms. SCHAKOWSKY, Mr. WAXMAN, Ms. BALDWIN, Mr. EMANUEL, Mr. GENE GREEN of Texas, Ms. MCCOLLUM of Minnesota, and Ms. DELAURO) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Public Health Service Act to establish a small business health benefits program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Health
5 Plans Act of 2007”.

1 **SEC. 2. SMALL BUSINESS HEALTH BENEFITS PROGRAM**
2 **(SBHBP).**

3 Title XXVII of the Public Health Service Act is
4 amended—

5 (1) by redesignating part C as part D; and

6 (2) by inserting after part B the following new
7 part:

8 **“PART C—SMALL BUSINESS HEALTH BENEFITS**
9 **PROGRAM (SBHBP)**

10 **“SEC. 2771. SMALL BUSINESS HEALTH BENEFITS PROGRAM.**

11 “(a) ESTABLISHMENT.—The Secretary shall estab-
12 lish a small business health benefits program under which
13 small employers may offer health insurance coverage to
14 employees and their dependents.

15 “(b) PROGRAM ELEMENTS.—Under the SBHBP:

16 “(1) ACCESS TO INSURANCE.—Small employers
17 are provided access, for years beginning on or after
18 January 1, 2007, to qualified health pooling ar-
19 rangements under which their employees may elect
20 self-only or family health insurance coverage under
21 at least 2 health insurance coverage policies, regard-
22 less of whether premium assistance referred to in
23 paragraph (2) is available with respect to such em-
24 ployer.

25 “(2) PREMIUM ASSISTANCE FOR SMALL EM-
26 PLOYERS.—Premium assistance is available under

1 subsection (c) to assist small employers in the pay-
2 ment of premiums for the health insurance coverage
3 provided.

4 “(3) EMPLOYER SHARE OF PREMIUMS.—

5 “(A) IN GENERAL.—Small employers are
6 provided access to health insurance coverage,
7 and may be eligible for premium assistance
8 under subsection (c), only if they pay (before
9 the application of any premium assistance
10 under subsection (c)) at least 50 percent of the
11 premiums for coverage of their employees, but
12 such employers are not required to pay for the
13 portion of the premiums for dependents of em-
14 ployees.

15 “(B) CONSTRUCTION.—Nothing in this
16 section shall be construed as preventing an em-
17 ployee from applying the payment described in
18 subparagraph (A) towards the payment of pre-
19 miums for family health insurance coverage.

20 “(4) HEALTH INSURANCE COVERAGE.—

21 “(A) IN GENERAL.—Health insurance cov-
22 erage offered under SBHBP shall meet the fol-
23 lowing requirements:

24 “(i) The Secretary determines that
25 the coverage is substantially similar to

1 health benefits coverage in any of the four
2 largest health benefit plans (determined by
3 enrollment) offered under chapter 89 of
4 title 5, United States Code.

5 “(ii) The coverage complies with State
6 laws and regulations (including applicable
7 benefit mandates, rating requirements, and
8 other consumer protections) for group
9 health insurance coverage for the State in
10 which the coverage is offered.

11 “(iii) The Secretary determines that
12 the coverage provided to employees is co-
13 ordinated, in accordance with regulations
14 prescribed by the Secretary, with other
15 coverage provided under governmental
16 health benefits programs under which
17 health benefits coverage is available to
18 such employees.

19 “(B) STANDARDS FOR PARTICIPATING
20 HEALTH INSURERS.—In administering the pro-
21 gram, the Secretary may consider the solvency
22 and claims payment history of health insurers
23 and shall promote participation by qualified
24 health insurers that establish—

1 “(i) integration of health information
2 technology tools to promote quality;
3 “(ii) chronic disease management;
4 “(iii) preventive health care services;
5 and
6 “(iv) evidence-based medicine consid-
7 erations of prescription drugs and other
8 treatment that take into account the indi-
9 vidual medical circumstances of individuals
10 enrolled in the program.

11 “(5) ENROLLMENT.—In administering the pro-
12 gram, the Secretary shall provide that employee en-
13 rollment (and changes in enrollment) are limited to
14 an annual open enrollment period, except in the case
15 of change of employment status (including new a
16 new employee) that affects eligibility for coverage
17 and in the case of qualifying events (such as change
18 in family status) specified by the Secretary and con-
19 sistent with section 2701(f).

20 “(c) PREMIUM ASSISTANCE.—Under the SBHBP,
21 the Secretary shall establish a program of premium assist-
22 ance for small employers. Such program shall provide for
23 a sliding scale of assistance to such employers taking into
24 account the following:

25 “(1) The number of employees of the employer.

1 “(2) The average wage level of such employees
2 relative to the average wage level for employees in
3 the same geographic area.

4 “(3) The profit margin of the employer.

5 “(d) REINSURANCE FOR CATASTROPHIC COSTS FOR
6 CERTAIN HEALTH INSURANCE ISSUERS.—

7 “(1) IN GENERAL.—In the case of health insur-
8 ance coverage offered under the SBHBP by a health
9 insurance issuer that participates in a qualified
10 health pooling arrangement, the Secretary shall pro-
11 vide for reinsurance coverage for 75 percent of cov-
12 ered claims that exceed, for an individual for a year,
13 an amount determined by the Secretary for such
14 year which is not less than the minimum amount
15 specified in paragraph (2).

16 “(2) MINIMUM AMOUNT.—The minimum
17 amount specified in this paragraph is—

18 “(A) for the first year in which this section
19 is in effect, \$100,000; or

20 “(B) for a subsequent year is the min-
21 imum amount specified in this paragraph for a
22 previous year, increased by the Secretary’s esti-
23 mate of the average annual percentage increase
24 in health insurance coverage with a median
25 level of premiums for the previous year.

1 Any amount determined under subparagraph (B)
2 which is not a multiple of \$1,000 shall be rounded
3 to the nearest multiple of \$1,000.

4 “(e) QUALIFIED HEALTH POOLING ARRANGE-
5 MENT.—For purposes of this section, the term ‘qualified
6 health pooling arrangement’ means, with respect to em-
7 ployees employed in any State for any year—

8 “(1) except as provided in subparagraph (B),
9 an arrangement established by (and operating under
10 the oversight of) such State for purposes of this sec-
11 tion, in accordance with regulations of the Secretary,
12 which provides for pooling of health insurance cov-
13 erage offered for such year in such State, and

14 “(2) in any case in which there is not in effect
15 for any year an arrangement described in subpara-
16 graph (A) established by such State, the national
17 health pooling arrangement established under sec-
18 tion 3.

19 The Secretary shall determine, within a reasonable time
20 prior to each year, whether there is a qualified health pool-
21 ing arrangement described in paragraph (1) with respect
22 to employees employed in any State.

23 “(f) SMALL EMPLOYER DEFINED.—

24 “(1) IN GENERAL.—For purposes of this part,
25 except as otherwise provided in this subsection, the

1 term ‘small employer’ means an employer with 50 or
2 fewer employees, as determined under regulations
3 promulgated by the Secretary.

4 “(2) CONTINUATION OF PARTICIPATION.—An
5 employer whose employees are provided health insur-
6 ance coverage under the SBHBP while the employer
7 is a small employer as defined in paragraph (1) and
8 who thereafter has more than 50 employees shall
9 continue to be treated as a small employer.

10 “(3) EMPLOYERS NOT IN EXISTENCE IN PRE-
11 CEDING YEAR.—In the case of an employer which
12 was not in existence for the full year prior to the
13 date on which the employer applies to participate in
14 SBHBP, the determination of whether such em-
15 ployer meets the requirements of paragraph (1) shall
16 be based on the average number of employees that
17 it is reasonably expected such employer will employ
18 on business days in the employer’s first full year.

19 “(4) WAIVER.—The Secretary may waive the
20 limitations relating to the size of an employer which
21 may participate under SBHBP on a case by case
22 basis if the Secretary determines that such employer
23 makes a compelling case for such a waiver. In mak-
24 ing determinations under this paragraph, the Sec-
25 retary shall consider the effects of the employment

1 of temporary and seasonal workers and other related
2 factors.

3 “(g) OTHER DEFINITIONS.—For purposes of this
4 part:

5 “(1) The terms ‘employee’ and ‘dependent’ have
6 the meanings given such terms by the Secretary in
7 regulations and shall be based upon the definitions
8 of such terms used for purposes of the Federal em-
9 ployee health benefits program established under
10 chapter 89 of title 5, United States Code. The term
11 ‘employee’ includes, in the case of a partnership or
12 sole proprietorship, a partner in the partnership or
13 the sole proprietor, including an individual employer
14 who has no employees. Such may include, with re-
15 spect to an employer and at the employer’s option,
16 part-time and seasonal employees.

17 “(2) The term ‘SBHBP’ means the small busi-
18 ness health benefits program established under this
19 section.

20 “(h) GRANTS FOR STATE QUALIFIED HEALTH POOL-
21 ING ARRANGEMENTS.—

22 “(1) IN GENERAL.—The Secretary shall provide
23 grants to States for the establishment, initial admin-
24 istration, and operations of qualified health pooling
25 arrangements described in subsection (e)(1).

1 “(2) AUTHORIZATION OF APPROPRIATIONS.—

2 There are authorized to be appropriated such sums

3 as may be necessary to carry out this subsection.

4 **“SEC. 2772. ESTABLISHMENT OF NATIONAL HEALTH POOL-**
5 **ING ARRANGEMENT.**

6 “(a) IN GENERAL.—The Secretary and the Secretary

7 of Labor, acting jointly and in consultation with the Direc-

8 tor of the Office of Personnel Management, shall provide

9 for—

10 “(1) the offering on a timely basis consistent

11 with section 2771 of a national health pooling ar-

12 rangement to eligible small employers; and

13 “(2) appropriate oversight over any such ar-

14 rangement.

15 “(b) SPECIFIC REQUIREMENTS.—In carrying out

16 subsection (a), the Secretary and the Secretary of Labor

17 shall—

18 “(1) model the national health pooling arrange-

19 ment on the Federal employees health benefits pro-

20 gram under chapter 89 of title 5, United States

21 Code, to the extent practicable and consistent with

22 the other requirements of this part;

23 “(2) consistent with paragraph (1), negotiate

24 the most affordable and substantial coverage pos-

25 sible for small employers; and

1 “(3) not offer any health plan under such ar-
2 rangement unless the plan meets the restrictions re-
3 lating to premium rates contained in the most recent
4 ‘Small Employer Health Insurance Availability
5 Model Act’ of the National Association of Insurance
6 Commissioners .

7 “(c) DEFINITIONS.—For purposes of this section—

8 “(1) the term ‘national health pooling arrange-
9 ment’ means an arrangement which provides for
10 pooling of health insurance coverage offered for any
11 year in all States which do not have in effect for
12 such year an arrangement for pooling of health in-
13 surance coverage offered in such States; and

14 “(2) in connection with the national health
15 pooling arrangement offered pursuant to this sec-
16 tion, an individual employer shall be taken into ac-
17 count as an employee under this section.”.

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