



State of Tennessee
PUBLIC CHAPTER NO. 344

SENATE BILL NO. 1539

By Norris, Johnson

Substituted for: House Bill No. 2005

By Elam, McCormick

AN ACT to amend Tennessee Code Annotated, Title 56, relative to the state's process for review of health insurance rate increases.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, § 56-7-2203 (3), (8), (17), (21), (22) and (25), are amended by deleting the subdivisions in their entirety and redesignating existing subdivisions accordingly.

SECTION 2. Tennessee Code Annotated, Section 56-7-2207, is amended by deleting the section in its entirety.

SECTION 3. Tennessee Code Annotated, Section 56-7-2208, is amended by deleting the section in its entirety.

SECTION 4. Tennessee Code Annotated, Section 56-7-2209(a)(6), is amended by deleting the subdivision in its entirety.

SECTION 5. Tennessee Code Annotated, Section 56-7-2209(b)(4), is amended by deleting the subdivision in its entirety.

SECTION 6. Tennessee Code Annotated, Section 56-7-2209, is amended by adding the following as a new subsection (c) and redesignating the remaining sections accordingly:

(c) All premium rates for a small employer carrier shall be subject to the review and approval or disapproval of the commissioner as provided for in § 56-26-102 and any regulations promulgated under the authority of that section. Section 56-26-102 and regulations shall apply to all plans subject to this section in the same manner as to accident and sickness policies subject to § 56-26-102.

SECTION 7. Tennessee Code Annotated, Section 56-7-2210, is amended by deleting the section in its entirety.

SECTION 8. Tennessee Code Annotated, Section 56-7-2211, is amended by deleting the section in its entirety.

SECTION 9. Tennessee Code Annotated, Section 56-7-2212, is amended by deleting the section in its entirety.

SECTION 10. Tennessee Code Annotated, Section 56-7-2221, is amended by deleting the section in its entirety.

SECTION 11. Tennessee Code Annotated, Section 56-26-101, is amended by adding the following as new, appropriately designated subdivisions:

() "Commissioner" means the Commissioner of the Department of Commerce and Insurance;

() "Individual market" has the same meaning given in Section 2791(e)(1)(A) of the Public Health Service Act, compiled in 42 U.S.C. § 300gg-91;

() "Small employer" has the same meaning given in Title 56, Chapter 7, Section 2203;

() "Written approval" includes an electronic approval;

SECTION 12. Tennessee Code Annotated, Section 56-26-102, is amended by deleting the section in its entirety and by substituting instead the following:

(a)(1) No policy of accident and sickness insurance for individual or small employer coverage shall be delivered or issued for delivery in this state, nor shall any endorsement, rider, certificate or application nor any initial or new premium rates on any previously approved policy, endorsement, rider, certificate or application that becomes a part of any such policy be used in connection with the policy until a copy of the form, of the premium rates, and of the classifications of risk pertaining to the policy has been filed with and approved by the commissioner. Approval of such forms, rates, and classifications may be granted in whole or in part at the discretion of the commissioner.

(2) No approval shall be issued by the commissioner pursuant to this section unless the commissioner determines that the benefits provided in the policy are reasonable in relation to the premium charged based upon reasonable rules promulgated by the commissioner.

(3) Within thirty (30) days of receiving an insurer's filing, if the commissioner has not previously issued notice of either approval or disapproval related to the insurer's filing, either the commissioner or the insurer may initiate an informal conference between the parties to seek additional information or responsive material from the other in order to resolve any outstanding matters related to the filing. In no event shall such period of conference extend beyond sixty (60) days of the commissioner's receipt of the insurer's original filing. At a date no later than sixty (60) days from the receipt of the insurer's original filing the commissioner shall issue either a notice of approval or disapproval regarding the insurer's filing unless the insurer and the commissioner mutually agree in writing to an extension not to exceed one hundred twenty (120) days from the receipt of the insurer's original filing.

(4) No policy, endorsement, rider, certificate or application shall be issued until the filing has been approved by the commissioner as provided in this section. The commissioner shall notify, in writing, the filer if the form or rates do not comply with this chapter and are therefore disapproved, specifying the reasons for the commissioner's determination. After such notice, it is unlawful for the filer to issue the form or rates in this state.

(5) In a notice issued under subdivision (a)(4), the commissioner shall state that a hearing shall be granted upon written request by the insurer. The insurer has thirty (30) days to submit a written request for a hearing. If a hearing is requested, then such hearing shall be held within thirty (30) days of receipt by the commissioner of the written request. Any hearing conducted shall be conducted in accordance with the Tennessee Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(b) In accordance with regulations issued by the commissioner, medical loss ratio information shall be provided for each medical loss ratio reporting year by all accident and sickness insurers. If, pursuant to federal or state law, the accident and sickness insurer is required to provide a rebate based upon medical loss ratio requirements, the insurer shall notify the commissioner within ten (10) days of becoming aware of such rebate. The commissioner at that time shall evaluate the solvency and financial impact of such rebate. The commissioner retains the right to intervene with the Secretary of the U.S. Department of Health and Human Services on behalf of an insurer deemed to be financially unsound to request that the Secretary of the U.S. Department of Health and Human Services defer all or a portion of the rebate payments owed by the insurer.

(c) Subsequent to January 1, 2012, all filings submitted pursuant to this section shall be filed electronically; provided, however, that the commissioner may in certain circumstances, in his or her own discretion, waive the electronic filing requirement. The commissioner may designate an entity to receive the electronic filings submitted pursuant to this section.

(d) The requirements of this section shall supersede and replace all other requirements related to the filing, approval and disapproval of major medical health insurance premium rates. As used in this section, "major medical health insurance premium rates" shall include any individual or small employer coverage as offered by an issuer of accident and sickness insurance, a nonprofit hospital and medical service corporation, medical service corporation, a hospital service corporation, and a health maintenance

organization. As used in this section, "major medical health insurance" shall not include any policy as described by Section 2791(c) of the Public Health Service Act, compiled in 42 U.S.C. § 300gg-91(c). In the event that conflicts exist between this section and another provision in Title 56, this section shall govern.

(e) The provisions of this chapter are severable. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application.

SECTION 13. Tennessee Code Annotated, Section 56-27-112(4), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(4) The rates charged are fair, reasonable, adequate and not unfairly discriminatory, and the benefits to be provided are fair, reasonable and not unfairly discriminatory. The rates may differ between subscribers in recognized groups and subscribers not in groups, all subject to the review and approval or disapproval of the commissioner as provided in § 56-26-102 and § 56-26-202 and any rules promulgated under that section. Section 56-26-102 and § 56-26-202 and related rules shall apply to all medical service plans in the same manner as to accident and sickness policies subject to § 56-26-102 and § 56-26-202;

SECTION 14. Tennessee Code Annotated, Section 56-26-202, is amended by deleting subsection (a) in its entirety and substituting instead the following:

(a) Except as otherwise required by § 56-26-102, no policy of group accident and sickness insurance shall be delivered or issued for delivery in this state, unless the policy form and rates have been filed with and approved by the commissioner; provided, that in the case of experience-rated group insurance, premium rates and classifications of risk need not be filed, but shall be maintained by the insurance company and made available for review by the commissioner upon the commissioner's request; nor shall any such policy, endorsement, rider or application be issued until the earlier of the expiration of thirty (30) days after the form or rates have been filed or the commissioner giving his or her written approval. The commissioner is authorized to promulgate rules necessary to implement the standards set out in this subsection (a).

SECTION 15. Tennessee Code Annotated, Section 56-28-106(4), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(4) The rates charged and benefits to be provided are to be fair, reasonable and not unfairly discriminatory. Rates may differ between subscribers in recognized groups and subscribers not in groups, all subject as above to the review and approval or disapproval of the commissioner as provided in § 56-26-102 and § 56-26-202 and any rules promulgated under that section. Section 56-26-102 and § 56-26-202 and related rules shall apply to all hospital service plans in the same manner as to accident and sickness policies subject to § 56-26-102 and § 56-26-202.

SECTION 16. Tennessee Code Annotated, Section 56-29-116, is amended by deleting the section in its entirety.

SECTION 17. Tennessee Code Annotated, Section 56-29-117, is amended by deleting the section in its entirety and substituting instead the following:

The corporation shall submit to the commissioner specimen copies of each different type of subscriber's contract and a schedule of rates applicable to the subscriber's contract that it proposes to issue in this state. The commissioner shall approve or disapprove a contract as provided for in § 56-26-102 and § 56-26-202 and any regulations promulgated under the authority of that section. Section 56-26-102 and § 56-26-202 and related regulations shall apply to all hospital and medical service plans in the same manner as to the accident and sickness policies subject to § 56-26-102 and § 56-26-202.

SECTION 18. Tennessee Code Annotated, Section 56-32-107(a)(4), is amended by adding the following language as a new sentence between the first and second sentences in the subdivision:

Specifically, with respect to premiums charged, § 56-26-102 and § 56-26-202 and rules promulgated under that section shall apply.

SECTION 19. Tennessee Code Annotated, Section 56-32-107(c), is amended by deleting the third, fourth and fifth sentences in their entirety.

SECTION 20. Tennessee Code Annotated, Section 56-32-107(c), is amended by adding the following language as the last sentence in the section:

The commissioner, if disapproving the filing, shall notify the filer. In the notice of disapproval, the commissioner shall specify the reasons for the disapproval. The commissioner's approval or disapproval of a filing shall otherwise occur in accordance with the standards established by § 56-26-102 and § 56-26-202 and the related rules.

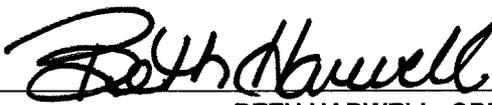
SECTION 21. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2011, the public welfare requiring it.

SENATE BILL NO. 1539

PASSED: May 19, 2011

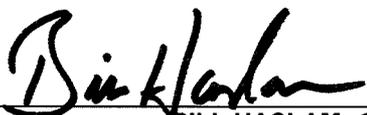


RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 30th day of May 2011



BILL HASLAM, GOVERNOR