

HOUSE BILL NO. 307

INTRODUCED BY B. THOMAS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT MODIFYING THE DEFINITION OF "BONA FIDE ASSOCIATION"
5 AS USED IN THE SMALL EMPLOYER HEALTH INSURANCE AVAILABILITY ACT TO ELIMINATE THE
6 REQUIREMENT THAT IN ORDER TO QUALIFY AS A BONA FIDE ASSOCIATION THE ASSOCIATION BE
7 IN EXISTENCE FOR AT LEAST 5 YEARS AND ELIMINATING THE REQUIREMENT THAT THE
8 ASSOCIATION BE FORMED FOR PURPOSES OTHER THAN OBTAINING INSURANCE; AND AMENDING
9 SECTION 33-22-1803, MCA."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 **Section 1.** Section 33-22-1803, MCA, is amended to read:
14 **"33-22-1803. Definitions.** As used in this part, the following definitions apply:
15 (1) "Actuarial certification" means a written statement by a member of the American academy of
16 actuaries or other individual acceptable to the commissioner that a small employer carrier is in compliance with
17 the provisions of 33-22-1809, based upon the person's examination, including a review of the appropriate
18 records and of the actuarial assumptions and methods used by the small employer carrier in establishing
19 premium rates for applicable health benefit plans.
20 (2) "Affiliate" or "affiliated" means any entity or person who directly or indirectly, through one or more
21 intermediaries, controls, is controlled by, or is under common control with a specified entity or person.
22 (3) "Assessable carrier" means all carriers of disability insurance, including excess of loss and stop loss
23 disability insurance.
24 (4) "Base premium rate" means, for each class of business as to a rating period, the lowest premium
25 rate charged or that could have been charged under the rating system for that class of business by the small
26 employer carrier to small employers with similar case characteristics for health benefit plans with the same or
27 similar coverage.
28 (5) "Basic health benefit plan" means a health benefit plan, except a uniform health benefit plan,
29 developed by a small employer carrier, that has a lower benefit value than the small employer carrier's standard
30 benefit plan and that provides the benefits required by 33-22-1827.

1 (6) "Benefit value" means a numerical value based on the expected dollar value of benefits payable to
 2 an insured under a health benefit plan. The benefit value must be calculated by the small employer carrier using
 3 an actuarially based method and must take into account all health care expenses covered by the health benefit
 4 plan and all cost-sharing features of the health benefit plan, including deductibles, coinsurance, copayments,
 5 and the insured individual's maximum out-of-pocket expenses. The benefit value must apply equally to
 6 indemnity-type health benefit plans and to managed care health benefit plans, including health maintenance
 7 organization-type plans.

8 (7) "Bona fide association" means an association that:

9 ~~(a) has been actively in existence for at least 5 years;~~

10 ~~—— (b) was formed and has been maintained in good faith for purposes other than obtaining insurance;~~

11 ~~(c)(a)~~ does not condition membership in the association on a health status-related factor relating to an
 12 individual, including an employee of an employer or a dependent of an employee;

13 ~~(d)(b)~~ makes health insurance coverage offered through the association available to a member
 14 regardless of a health status-related factor relating to the member or an individual eligible for coverage through
 15 a member; and

16 ~~(e)(c)~~ does not make health insurance coverage offered through the association available other than
 17 in connection with a member of the association.

18 (8) "Carrier" means any person who provides a health benefit plan in this state subject to state
 19 insurance regulation. The term includes but is not limited to an insurance company, a fraternal benefit society,
 20 a health service corporation, and a health maintenance organization. For purposes of this part, companies that
 21 are affiliated companies or that are eligible to file a consolidated tax return must be treated as one carrier, except
 22 that the following may be considered as separate carriers:

23 (a) an insurance company or health service corporation that is an affiliate of a health maintenance
 24 organization located in this state;

25 (b) a health maintenance organization located in this state that is an affiliate of an insurance company
 26 or health service corporation; or

27 (c) a health maintenance organization that operates only one health maintenance organization in an
 28 established geographic service area of this state.

29 (9) "Case characteristics" means demographic or other objective characteristics of a small employer
 30 that are considered by the small employer carrier in the determination of premium rates for the small employer,

1 provided that gender, claims experience, health status, and duration of coverage are not case characteristics
2 for purposes of this part.

3 (10) "Class of business" means all or a separate grouping of small employers established pursuant to
4 33-22-1808.

5 (11) "Dependent" means:

6 (a) a spouse or an unmarried child under 19 years of age;

7 (b) an unmarried child, under 23 years of age, who is a full-time student and who is financially
8 dependent on the insured;

9 (c) a child of any age who is disabled and dependent upon the parent as provided in 33-22-506 and
10 33-30-1003; or

11 (d) any other individual defined as a dependent in the health benefit plan covering the employee.

12 (12) (a) "Eligible employee" means an employee who works on a full-time basis with a normal workweek
13 of 30 hours or more, except that at the sole discretion of the employer, the term may include an employee who
14 works on a full-time basis with a normal workweek of between 20 and 40 hours as long as this eligibility criteria
15 is applied uniformly among all of the employer's employees. The term includes a sole proprietor, a partner of
16 a partnership, and an independent contractor if the sole proprietor, partner, or independent contractor is included
17 as an employee under a health benefit plan of a small employer. The term also includes those persons eligible
18 for coverage under 2-18-704.

19 (b) The term does not include an employee who works on a part-time, temporary, or substitute basis.

20 (13) "Established geographic service area" means a geographic area, as approved by the commissioner
21 and based on the carrier's certificate of authority to transact insurance in this state, within which the carrier is
22 authorized to provide coverage.

23 (14) (a) "Health benefit plan" means any hospital or medical policy or certificate providing for physical
24 and mental health care issued by an insurance company, a fraternal benefit society, or a health service
25 corporation or issued under a health maintenance organization subscriber contract.

26 (b) Health benefit plan does not include coverage of excepted benefits if coverage is provided under
27 a separate policy, certificate, or contract of insurance.

28 (15) "Index rate" means, for each class of business for a rating period for small employers with similar
29 case characteristics, the average of the applicable base premium rate and the corresponding highest premium
30 rate.

1 (16) "New business premium rate" means, for each class of business for a rating period, the lowest
2 premium rate charged or offered or that could have been charged or offered by the small employer carrier to
3 small employers with similar case characteristics for newly issued health benefit plans with the same or similar
4 coverage.

5 (17) "Premium" means all money paid by a small employer and eligible employees as a condition of
6 receiving coverage from a small employer carrier, including any fees or other contributions associated with the
7 health benefit plan.

8 (18) "Rating period" means the calendar period for which premium rates established by a small employer
9 carrier are assumed to be in effect.

10 (19) "Restricted network provision" means a provision of a health benefit plan that conditions the
11 payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual
12 arrangement with the carrier pursuant to Title 33, chapter 22, part 17, or Title 33, chapter 31, to provide health
13 care services to covered individuals.

14 (20) "Small employer" means a person, firm, corporation, partnership, or bona fide association that is
15 actively engaged in business and that, with respect to a calendar year and a plan year, employed at least 2 but
16 not more than 50 eligible employees during the preceding calendar year and employed at least two employees
17 on the first day of the plan year. In the case of an employer that was not in existence throughout the preceding
18 calendar year, the determination of whether the employer is a small or large employer must be based on the
19 average number of employees reasonably expected to be employed by the employer in the current calendar
20 year. In determining the number of eligible employees, companies are considered one employer if they:

21 (a) are affiliated companies;

22 (b) are eligible to file a combined tax return for purposes of state taxation; or

23 (c) are members of a bona fide association.

24 (21) "Small employer carrier" means a carrier that offers health benefit plans that cover eligible
25 employees of one or more small employers in this state.

26 (22) "Standard health benefit plan" means a health benefit plan that is developed by a small employer
27 carrier and that contains the provisions required pursuant to 33-22-1828."

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