

SENATE BILL NO. 27

INTRODUCED BY C. LARSEN

BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS APPLYING TO THE SMALL BUSINESS HEALTH INSURANCE POOL AND TAX CREDIT PROGRAM KNOWN AS "INSURE MONTANA" BY EXPANDING THE DEFINITION OF "ELIGIBLE SMALL EMPLOYER"; AMENDING SECTIONS 33-22-2002, 33-22-2004, AND 33-22-2006, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 33-22-2002, MCA, is amended to read:

"33-22-2002. Small business health insurance pool -- definitions. As used in this part, the following definitions apply:

(1) "Board" means the board of directors of the small business health insurance pool as provided for in 33-22-2003.

(2) "Dependent" has the meaning provided in 33-22-1803.

(3) (a) "Eligible small employer" means an employer who is sponsoring or will sponsor a group health plan and who employed at least ~~two~~ 2 but not more than ~~nine~~ 25 employees during the preceding calendar year and who employs at least ~~two~~ 2 but not more than ~~nine~~ 25 employees on the first day of the plan year.

(b) The term includes small employers who obtain group health plan coverage through a qualified association health plan.

(4) "Employee" means an eligible employee as defined in 33-22-1803.

(5) "Group health plan" means health insurance coverage offered in connection with a group health plan or health insurance coverage offered to an eligible group as described in 33-22-501.

(6) "Premium" means the amount of money that a health insurance issuer charges to provide coverage under a group health plan.

(7) "Premium assistance payment" means a payment provided for in 33-22-2006 on behalf of employees who qualify to be applied on a monthly basis to premiums paid for group health plan coverage through the purchasing pool or through qualified association health plans.

1 (8) "Premium incentive payment" means a payment provided for in 33-22-2007(1)(b) to eligible small
 2 employers who qualify under 33-22-2007 to be applied to premiums paid on a monthly basis for group health plan
 3 coverage obtained through the purchasing pool or through qualified association health plans.

4 (9) "Purchasing pool" means the small business health insurance pool.

5 (10) "Qualified association health plan" means a plan established by an association whose members
 6 consist of employers who sponsor group health plans for their employees and purchase that coverage through
 7 an association that qualifies as a bona fide association, as defined in 33-22-1803, or nonbona fide, as provided
 8 for in administrative rule. A qualified association health plan is subject to applicable employer group health
 9 insurance law and must receive approval from the commissioner to operate as a qualified association health plan
 10 for the purposes of this part.

11 (11) "Related employers" means:

12 (a) affiliates or affiliated entities or persons who directly or indirectly, through one or more intermediaries,
 13 control, are controlled by, or are under common control with a specified entity or person; ~~and~~ or

14 (b) entities or persons that are eligible to file a combined or joint tax return for purposes of state taxation.

15 (12) "Tax credit" means a refundable tax credit as provided for in 33-22-2008.

16 (13) "Tax year" means the taxpayer's tax year for federal income tax purposes."
 17

18 **Section 2.** Section 33-22-2004, MCA, is amended to read:

19 **"33-22-2004. Powers and duties of board.** (1) The board shall:

20 (a) establish an operating plan that includes but is not limited to administrative and accounting
 21 procedures for the operation of the purchasing pool and a schedule for premium incentive and premium
 22 assistance payments and that complies with the powers and duties provided for in this section;

23 (b) require employers and employees to reapply for premium incentive payments or premium assistance
 24 payments on an annual basis;

25 (c) upon timely reapplication, give priority to employers and their employees who are already receiving
 26 the premium incentive payments and premium assistance payments. If the reapplication is more than 30 days
 27 late, the priority will not be given and the employer will be added to the waiting list provided for in 33-22-2008.

28 (d) upon timely reapplication as provided in subsection (1)(c), allow employers to retain eligibility to
 29 receive premium incentive payments and premium assistance payments on behalf of their employees if the
 30 number of their employees goes over the maximum number, not to exceed ~~nine~~ 25 employees, established by

1 the commissioner in administrative rule;

2 (e) renew purchasing pool group health plan coverage for all employer groups, even if the employer
3 group no longer receives or is eligible for a premium incentive or premium assistance payment;

4 (f) adopt a premium incentive payment schedule that is based on a percentage of the employer's share
5 of the premium and apply the schedule uniformly to all registered eligible small employers who join the purchasing
6 pool or obtain qualified association health plan coverage;

7 (g) adopt premium assistance payment amounts that, in combination with the premium incentive
8 payments, are consistent with the amounts provided for in 33-22-2006 and 33-22-2008 or, with the assistance
9 of the department of public health and human services, adopt a premium assistance payment schedule that is
10 equitably proportional to the income or wage level for employees;

11 (h) establish criteria for determining which employees will be eligible for a premium assistance payment
12 and the amount that the employees will receive from among those eligible small employer groups that have
13 registered with the commissioner pursuant to 33-22-2008 and applied for coverage under the purchasing pool
14 group health plan or qualified association health plan. However, to the extent that federal funds are used to make
15 some premium assistance payments, criteria for those payments must be consistent with any waiver
16 requirements determined by the department of public health and human services pursuant to 53-2-216. Eligibility
17 for employees is not limited to the waiver eligibility groups.

18 (i) make appropriate changes to eligibility or other elements in the operating plan as needed to reach
19 the goal of expending 90% of the funding dedicated to premium incentive payments and premium assistance
20 payments during the current biennium;

21 (j) limit the total amount of premium incentive payments and premium assistance payments paid to the
22 amount of available state, federal, and private funding;

23 (k) approve no more than six fully insured group health plans with different benefit levels that will be
24 offered to employers participating in the purchasing pool;

25 (l) prepare appropriate specifications and bid forms and solicit bids from health insurance issuers
26 authorized to do business in this state;

27 (m) contract with no more than three health insurance issuers to underwrite the group health plans that
28 will be offered through the purchasing pool;

29 (n) request that the department of public health and human services seek a federal waiver for medicaid
30 matching funds for premium assistance payments based on the department's analysis, as provided in 53-2-216,

- 1 if it is in the best interests of the purchasing pool;
- 2 (o) comply with the participation requirements provided for in 33-22-1811;
- 3 (p) meet at least four times annually; and
- 4 (q) within 2 years after the purchasing pool is established and considered stable by the board, examine
- 5 the possibility of offering an opportunity for individual sole proprietors without employees to purchase insurance
- 6 from the purchasing pool without premium incentive payments, premium assistance payments, or tax credits.
- 7 (2) The board may:
- 8 (a) borrow money;
- 9 (b) enter into contracts with insurers, administrators, or other persons;
- 10 (c) hire employees to perform the administrative tasks of the purchasing pool;
- 11 (d) assess its members for costs associated with administration of the purchasing pool and request that
- 12 the commissioner transfer funds or request that the department of public health and human services transfer
- 13 funds from the special revenue account, as provided in 53-6-1201, for that purpose;
- 14 (e) set contribution levels for employers;
- 15 (f) at least 30 days before the end of the current fiscal year, request that funds be transferred from the
- 16 funds appropriated for premium incentive payments and premium assistance payments to the department of
- 17 revenue for reimbursement of the general fund to offset tax credits if the number of eligible small employers
- 18 seeking premium incentive payments and employees receiving premium assistance payments is insufficient to
- 19 exhaust at least 90% of the appropriated funds for the premium incentive and assistance payments during a fiscal
- 20 year;
- 21 (g) at least 90 days before the end of the current fiscal year, request that funds be transferred from the
- 22 funds allocated for tax credits to the funds appropriated for premium incentive payments and premium assistance
- 23 payments if the number of eligible small employers seeking tax credits is insufficient to exhaust at least 90% of
- 24 the funds allocated for tax credits during a fiscal year;
- 25 (h) seek other federal, state, and private funding sources;
- 26 (i) accept all small employer groups who apply for coverage under the small business health insurance
- 27 pool group health plan even if they are not eligible for any tax credit or premium incentive payment and have not
- 28 been registered by the commissioner pursuant to 33-22-2008;
- 29 (j) receive from the commissioner's office or the department of public health and human services
- 30 premium incentive payments on behalf of eligible small employers and premium assistance payments on behalf

1 of employees, collect the employer or employee premiums from the employer or employees, and make premium
2 payments to insurers on behalf of the eligible small employers and employees;

3 (k) request the commissioner to direct more than 30% of the available funding for premium incentives
4 and premium assistance payments to qualified association health plan coverage instead of purchasing pool
5 coverage; and

6 (l) pay appropriate commissions to licensed insurance producers who market purchasing pool coverage."
7

8 **Section 3.** Section 33-22-2006, MCA, is amended to read:

9 **"33-22-2006. Premium incentive payments, premium assistance payments, and tax credits for**
10 **small employer health insurance premiums paid -- eligibility for small group coverage -- amounts.** (1) An
11 employer is eligible to apply for premium incentive payments and premium assistance payments or a tax credit
12 under this part if the employer and any related employers:

13 (a) did not have more than the number of employees established for eligibility by the commissioner at
14 the time of registering for premium incentive payments or premium assistance payments or a tax credit under
15 33-22-2008;

16 (b) provide or will provide a group health plan that meets the requirements of creditable coverage for the
17 employer's and any related employer's employees;

18 (c) do not have delinquent state tax liability owing to the department of revenue from previous years;

19 (d) have been registered as eligible small employer participants by the commissioner as provided in
20 33-22-2008; and

21 (e) do not have any employees, not including an owner, partner, or shareholder of the business, who
22 received more than \$75,000 in wages, as defined in 39-71-123, from the small employer or related employer in
23 the prior tax year.

24 (2) An owner, partner, or shareholder of a business who received more than \$75,000 in wages, as
25 defined in 39-71-123, and those individuals' spouses who are employees are not eligible under this chapter for:

26 (a) any premium assistance payment. However, a premium incentive payment may be made for the
27 premium share paid by the business for group health insurance coverage for:

28 (i) the owner, partner, or shareholder;

29 (ii) a spouse of those listed in subsection (2)(a)(i) who is also an employee of the business; or

30 (iii) dependents of those listed in subsection (2)(a)(i).

1 (b) a tax credit for group health insurance premiums paid by the business or the owner, partner, or
2 shareholder for group health insurance coverage for the individual or the individual's dependents.

3 (3) An employee, including an owner, partner, or shareholder or any dependent of an employee, who
4 is also eligible for the children's health insurance program provided for under Title 53, chapter 4, part 10, or
5 medicaid under Title XIX of the Social Security Act may become ineligible to receive a premium assistance
6 payment.

7 (4) The commissioner shall establish, by rule, the maximum number of employees that may be employed
8 to qualify as a small employer under subsection (1). However, the number may not be less than ~~two~~ 2 employees
9 or more than ~~nine~~ 25 employees. The maximum number may be different for employers seeking premium
10 incentive payments and premium assistance payments than for employers seeking a tax credit. The number must
11 be set to maximize the number of employees receiving coverage under this part. The commissioner may not
12 change the maximum employee number more often than every 6 months. If the maximum number of allowable
13 employees is changed, the change does not disqualify registered employers with respect to the tax year for which
14 the employer has registered.

15 (5) Except as provided in subsection (6), an eligible small employer may claim a tax credit in the following
16 amounts:

17 (a) (i) not more than \$100 each month for each employee and \$100 each month for each employee's
18 spouse, if the employer covers the employee's spouse, if the average age of the group is under 45 years of age;
19 or

20 (ii) not more than \$125 each month for each employee and \$100 each month for each employee's
21 spouse, if the employer covers the employee's spouse, if the average age of the group is 45 years of age or older;
22 and

23 (b) not more than \$40 each month for each dependent, other than the employee's spouse, if the
24 employer is paying for coverage for the dependents, not to exceed two dependents of an employee in addition
25 to the employee's spouse.

26 (6) An employer may not claim a tax credit:

27 (a) in excess of 50% of the total premiums paid by the employer for the qualifying small group;

28 (b) for premiums paid from a medical care savings account provided for in Title 15, chapter 61; or

29 (c) for premiums for which a deduction is claimed under 15-30-2131 or 15-31-114.

30 (7) An employer may not claim a premium incentive payment in excess of 50% of the total premiums paid

1 by the employer for the qualifying small group."

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3 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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