Adopted by the Industry, Business and Labor Committee

February 12, 1997

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1168

Page 1, line 1, after "26.1-36.4-03.1" insert "and a new section to chapter 26.1-36.4 of the North Dakota Century Code"

Page 1, line 2, after "provisions" insert "and rulemaking authority"

Page 1, line 3, after the fourth comma insert "26.1-36.3-04,"

Page 1, line 4, after the second comma insert "subsection 1 of section 26.1-36.3-11, sections 26.1-36.4-02,"

Page 1, line 23, replace "is currently a resident of North Dakota, and has had" with ":

(1) Is currently a resident of this state;

(2) Has had eighteen months of qualifying previous coverage as defined in section 26.1-36.3-01, the most recent of which is coverage under a group health benefit plan, governmental plan, or church plan, as those terms are defined in section 26.1-36.3-01;

(3) Has applied for coverage under this chapter within sixty-three days of the termination of the qualifying previous coverage;

(4) Is not eligible for coverage under a group health benefit plan as that term is defined in section 26.1-36.3-01, medicare, or medicaid;

(5) Does not have any other health insurance coverage;

(6) Has not had prior coverage terminated for nonpayment of premiums or fraud; and

(7) If offered the option, has elected continuation coverage under the Consolidated Omnibus Budget Reconciliation Act [Pub. L. 99-272; 100 Stat. 82], or under a similar state program, and that coverage was exhausted."

Page 1, remove line 24

Page 2, remove lines 1 through 6

Page 2, line 23, after the second comma insert "health benefit plan as defined in section 26.1-36.3-01,"

Page 3, line 2, remove "as"

Page 3, line 3, replace "complying with" with "implementing only the minimum compliance requirements of"

Page 3, line 14, after "**qualified**" insert "**comprehensive**"

Page 3, line 15, remove "and is"

Page 3, line 16, remove "available to individuals not eligible for medicare"

Page 3, line 20, overstrike "this"

Page 3, line 21, overstrike "subdivision" and insert immediately thereafter "subsection 2"

Page 6, line 1, remove "The"

Page 6, remove line 2

Page 6, overstrike line 3

Page 6, line 4, overstrike "dollars" and insert immediately thereafter "A qualified comprehensive plan also must offer the eligible person the choice of an annual deductible of not less than one thousand dollars per person instead of that provided in subdivision a of subsection 1"

Page 7, line 14, remove "For an "eligible person" under subdivision b of subsection 4 of section"

Page 7, remove lines 15 through 17

Page 7, line 18, remove "e."

Page 8, line 18, after "~~or~~" insert "subdivision a of" and overstrike "2" and insert immediately thereafter "1"

Page 14, line 28, overstrike "ninety" and insert immediately thereafter "sixty-three"

Page 17, after line 25, insert:

"**SECTION 9. AMENDMENT.** Section 26.1-36.3-04 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.3-04. Restrictions relating to premium rates.

1. This section only applies to a health benefit plan offered by a small employer who employed an average of at least two but not more than twenty-five eligible employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year.

2. Premium rates for health benefit plans subject to this ~~chapter~~ section and section 26.1-36-37.2 are subject to the following:

a. The index rate for a rating period for any class of business may not exceed the index rate for any other class of business by more than fifteen percent.

b. For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged to the employers under the rating system for that class of business, may not vary from the index rate by more than twenty percent of the index rate.

c. The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of:

(1) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, provided that the change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers;

(2) Any adjustment due to the claim experience, health status, or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business; however, the adjustment may not exceed fifteen percent annually and must be adjusted pro rata for rating periods of less than one year; and

(3) Any adjustment due to change in coverage or change in the case characteristics of the small employer, as determined from the small employer carrier's rate manual for the class of business.

d. Adjustments in rates for claim experience, health status, and duration of coverage may not be charged to individual employees or dependents. Premium rates charged for a health benefit plan may not vary by a ratio of greater than four to one after January 1, 1997. Any adjustment must be applied uniformly to the rates charged for all employees and dependents of the small employer.

e. Premium rates for health benefit plans must comply with the requirements of this section notwithstanding any assessment paid or payable by a small employer carrier pursuant to section 26.1-36.3-07.

f. A small employer carrier may utilize industry as a case characteristic in establishing premium rates, but the highest rate factor associated with any industry classification may not exceed the lowest rate factor associated with any industry classification by more than fifteen percent.

g. In the case of health benefit plans delivered or issued for delivery before August 1, 1993, a premium rate for a rating period may exceed the ranges set forth in subdivisions a and b ~~of subsection 1~~ for a period of three years following August 1, 1993. Under this subdivision, the percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of:

(1) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, provided that the change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers.

(2) Any adjustment due to change in coverage or change in the case characteristics of the small employer, as determined from the carrier's rate manual for the class of business.

h. (1) Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business. Rating factors must produce premiums for identical groups which differ only by amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans.

(2) A small employer carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

i. For the purposes of this subsection, a health benefit plan that uses a restricted provider network may not be considered similar coverage to a health benefit plan that does not use a restricted provider network, if the use of the restricted provider network results in substantial differences in claims costs.

j. A small employer carrier may not use case characteristics, other than age, gender, industry, geographic area, family composition, and group size, without prior approval of the commissioner. Gender may not be used as a case characteristic after January 1, 1996.

k. The commissioner shall adopt rules to:

(1) Assure that differences in rates charged for health benefit plans by small employer carriers are reasonable and reflect objective differences in plan design, not including differences due to the nature of the groups assumed to select particular health benefit plans;

(2) Prescribe the manner in which case characteristics may be used by small employer carriers; and

(3) Otherwise implement this section.

~~2.~~ 3. A small employer carrier may not transfer a small employer involuntarily into or out of a class of business. A small employer carrier may not offer to transfer a small employer into or out of a class of business unless the offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status, or duration of coverage.

~~3.~~ 4. The commissioner may suspend for a specified period the application of subdivision a of subsection ~~1~~ 2 as to the premium rates applicable to one

or more small employers included within a class of business of a small employer carrier for one or more rating periods upon a filing by the small employer carrier and a finding by the commissioner that the suspension is reasonable in light of the financial condition of the small employer carrier or, with the prior approval of the committee established pursuant to section 26.1-36.3-08, that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

~~4.~~ 5. In connection with the offering for sale of any health benefit plan to a small employer, a small employer carrier shall make a reasonable disclosure, as part of its solicitation and sales materials, of:

a. The extent to which premium rates for a specified small employer are established or adjusted based upon the actual or expected variation in claims costs or actual or expected variation in health status of the employees of the small employer and their dependents;

b. The provisions of the health benefit plan concerning the small employer carrier's right to change premium rates and factors, other than claim experience, that affect changes in premium rates;

c. The provisions relating to renewability of policies and contracts; and

d. The provisions relating to any preexisting condition exclusion.

~~5.~~ 6. a. Each small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

b. Each small employer carrier shall file with the commissioner on or before March fifteenth of each year an actuarial certification certifying that the carrier is in compliance with this chapter and that the rating methods of the small employer carrier are actuarially sound. The certification must be in a form and manner and contain information specified by the commissioner. The small employer carrier shall retain a copy of the certification at the carrier's principal place of business.

c. A small employer carrier shall make the information and documentation described in subdivision a of this subsection available to the commissioner upon request. Except in cases of violations of this chapter and section 26.1-36-37.2, the information is proprietary and trade secret information and is not subject to disclosure by the commissioner to persons outside the department except as agreed to by the small employer carrier or as ordered by a court of competent jurisdiction."

Page 19, line 2, replace "one hundred eighty" with "ninety"

Page 21, line 23, after "markets" insert "to small employers"

Page 21, line 28, overstrike "basic or standard"

Page 21, line 29, overstrike "the health status or claim"

Page 21, line 30, overstrike "experience" and insert immediately thereafter "a health status-related factor"

Page 23, line 17, overstrike "ninety" and insert immediately thereafter "sixty-three"

Page 23, line 18, overstrike "The period of continuous coverage"

Page 23, overstrike line 19

Page 23, line 20, overstrike "applied by the employer or the carrier" and insert immediately thereafter "Any waiting period applicable to an individual for coverage under a group health benefit plan may not be taken into account in determining the period of continuous coverage"

Page 23, line 25, replace "must be consistent with" with "may not provide for coverage greater than the minimum requirements of"

Page 26, line 13, overstrike "requiring the acceptance of small employers in accordance with"

Page 26, overstrike line 14

Page 26, line 15, overstrike "financially impaired condition" and insert immediately thereafter "the carrier does not have the financial reserves to underwrite additional coverage and is applying this section uniformly without regard to the claims experience of small employers or any health status-related factor relating to employees and their dependents. A small employer carrier denying coverage in accordance with this section may not offer coverage in connection with a group health benefit plan in the small group market for a period of one hundred eighty days after the health coverage is denied or until the carrier has demonstrated to the commissioner sufficient financial reserves to underwrite financial coverage, whichever is later"

Page 26, line 18, remove "as defined in subsection 3 of section"

Page 26, line 19, remove "26.1-36.3-01"

Page 26, after line 19, insert:

"**SECTION 12. AMENDMENT.** Subsection 1 of section 26.1-36.3-11 of the North Dakota Century Code is amended and reenacted as follows:

1. Each small employer carrier shall actively market health benefit plan coverage, including the basic and standard health benefit plans, to eligible small employers in the state. ~~If a small employer carrier denies coverage to a small employer on the basis of the health status or claims experience of the small employer or its employees or dependents, the small employer carrier shall offer the small employer the opportunity to purchase a basic health benefit plan and a standard health benefit plan.~~

SECTION 13. AMENDMENT. Section 26.1-36.4-02 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.4-02. Definitions. As used in this chapter, the definitions in section 26.1-36.3-01 apply, unless the context otherwise requires. In addition:

1. "Insurer" means any insurance company, nonprofit health service organization, fraternal benefit society, or health maintenance organization that provides a plan of health insurance or health benefits subject to state insurance regulation.

2. "Policy" means any ~~hospital or medical or major medical policy, certificate, or subscriber contract issued on a group or individual basis by an insurer. The term does not include accident only, credit, dental, vision, medicare supplement, long-term care, or disability income insurance, coverage issued as a supplement to liability insurance, or automobile medical payment insurance, or a policy or certificate of specified disease, hospital confinement indemnity, limited benefit health insurance, or short-term major medical policies with policy terms no longer than twelve months~~ health benefit plan as defined in section 26.1-36.3-01."

Page 27, after line 2, insert:

"**SECTION 15.** A new section to chapter 26.1-36.4 of the North Dakota Century Code is created and enacted as follows:

Rulemaking. The commissioner may adopt rules to ensure the requirements of this chapter meet the minimum compliance requirements of the Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191; 110 Stat. 1936; 29 U.S.C. 1181 et seq.]."

Page 27, line 17, overstrike "ninety" and insert immediately thereafter "sixty-three" and overstrike "The period"

Page 27, overstrike line 18

Page 27, line 19, overstrike "coverage applied by the insurer." and insert immediately thereafter "Any waiting period applicable to an individual for coverage under a health benefit plan may not be taken into account in determining the period of continuous coverage."

Page 28, line 20, replace "health carrier" with "insurer"

Page 28, line 25, replace "carrier's" with "insurer's"

Page 28, line 26, replace "carrier's" with "insurer's"

Page 28, line 27, replace "carrier" with "insurer"

Page 28, line 29, replace "carrier" with "insurer"

Page 28, line 30, replace "carrier" with "insurer"

Page 29, line 6, replace "one hundred eighty" with "ninety"

Page 29, line 7, replace "carrier" with "insurer"

Page 29, line 13, replace "carrier" with "insurer"

Page 29, line 16, replace "carrier" with "insurer"

Page 29, line 21, replace "carrier" with "insurer"

Page 29, line 23, replace "carrier" with "insurer"

Page 29, line 30, replace "carrier" with "insurer"

Page 30, line 14, replace "carrier's" with "insurer's"

Page 30, line 16, replace "A carrier" with "An insurer"

Page 30, line 19, replace "a carrier" with "an insurer"

Page 30, line 20, replace "carrier's" with "insurer's"

Page 30, line 21, replace "A carrier" with "An insurer"

Page 30, line 24, replace "carrier" with "insurer"

Page 30, line 27, replace "a carrier" with "an insurer"

Page 30, line 28, replace "carrier" with "insurer"

Page 30, line 29, replace "carrier" with "insurer"

Page 30, line 30, replace "a health insurance carrier" with "an insurer"

Page 31, line 1, remove "among group health"

Page 31, line 2, remove "plans with that product"

Renumber accordingly