

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0221

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB1050** - 1/22/99

Introduced by: The Committee on Commerce at the request of the Department of Commerce
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise the term, creditable coverage, with regard to
2 health insurance policies and to clarify coverage for guarantee issue.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-17-69 be amended to read as follows:

5 58-17-69. For purposes of §§ 58-17-66 to 58-17-87, inclusive, the term, creditable coverage,
6 means benefits or coverage provided under:

7 (1) An employer-based health insurance or health benefit arrangement that provides
8 benefits similar to or exceeding benefits provided under the basic health benefit plan
9 or an employee welfare benefit plan as defined in section 3(1) of the Employee
10 Retirement Income Security Act of 1974 as adopted by the director pursuant to
11 chapter 1-26, to the extent that the plan provides directly or through insurance,
12 reimbursement or otherwise to employees or their dependents medical care for the
13 diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for
14 the purpose of affecting any structure or function of the body and amounts paid for
15 the transportation primarily for and essential to medical care;

16 (2) An individual health benefit plan, including coverage issued by any health maintenance

1 organization or pre-paid hospital or medical services plan that provides benefits
2 similar to or exceeding the benefits provided under the basic health benefit plan as
3 approved pursuant to § 58-18B-32, but excluding limited benefit plans and dread
4 disease plans;

5 (3) Medicare or medicaid;

6 (4) Chapter 55 of Title 10, United States Code;

7 (5) A medical care program of the Indian Health Service or of a tribal organization;

8 (6) A state health benefits risk pool;

9 (7) A health plan offered under Chapter 89 of Title 5, United States Code;

10 (8) A public health plan;

11 (9) A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e));

12 (10) A church plan; ~~or~~

13 (11) A college plan; or

14 (12) A short term or limited duration plan.

15 Section 2. That § 58-17-85 be amended to read as follows:

16 58-17-85. If a person has an aggregate of at least twelve months of creditable coverage, the
17 carrier shall accept such person for coverage under a health benefit plan, which contains benefits
18 which are equal to or exceed the benefits contained in the basic plan that was approved pursuant
19 to § 58-18B-32 and the maximum lifetime maximum benefit of the coverage is not less than one
20 million dollars if the person applies within sixty-three days of the date of losing prior creditable
21 coverage. In addition to the plan which equals or exceeds the basic coverage, the carrier shall
22 also offer to the eligible person, the individual standard plan as approved by the director or a plan
23 with benefits that exceed the standard plan. No carrier is required to issue further individual
24 health benefit coverage under §§ 58-17-68 to 58-17-87, inclusive, if the individual health benefit
25 plans issued to high-risk individuals constitute two percent or more of that carrier's earned

1 premium on an annual basis from individual health benefit plans covered by §§ 58-17-66 to
2 58-17-87, inclusive. Each carrier who meets the two percent earned premium threshold shall
3 report within thirty days to the director in a format prescribed by the director. If the director
4 determines that all carriers in the individual market have met the two percent threshold, the
5 threshold shall, upon order of the director, be expanded an additional two percent. The threshold
6 shall be expanded in additional two percent increments if all carriers in the individual market
7 meet the previous threshold. The director may promulgate rules pursuant to chapter 1-26 to
8 determine which individual policies may be used to determine the two percent threshold, the
9 procedures involved, and the applicable time frames. In making that determination, the director
10 shall develop a method designed to limit the number of high-risk individuals to whom any one
11 carrier may be required to issue coverage. No carrier is required to provide coverage pursuant
12 to this section if:

- 13 (1) The applicant is eligible for continuation of coverage under an employer plan;
- 14 (2) The applicant's creditable coverage is a conversion plan from an employer group plan;
- 15 or
- 16 (3) The person is covered or eligible to be covered under creditable coverage or lost
17 creditable coverage due to nonpayment of premiums; or
- 18 (4) The person loses coverage under a short term or limited duration plan.

19 Any person who has exhausted continuation rights and who is eligible for conversion or other
20 individual or association coverage has the option of obtaining coverage pursuant to this section
21 or the conversion plan or other coverage. A person who is otherwise eligible for the issuance of
22 coverage pursuant to this section may not be required to show proof that coverage was denied
23 by another carrier.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Commerce. H.J. 41

3 1/21/99 Scheduled for Committee hearing on this date.

4 1/21/99 Commerce Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 105

5 1/21/99 Commerce Place on Consent Calendar.