

- 28 **49-20-501**, Utah Code Annotated 1953
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- 32 **49-20-505**, Utah Code Annotated 1953
- 33 **49-20-506**, Utah Code Annotated 1953
- 34 **49-20-507**, Utah Code Annotated 1953
- 35 **49-20-508**, Utah Code Annotated 1953
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37 **Uncodified material Affected:**

38 ENACTS UNCODIFIED MATERIAL



40 *Be it enacted by the Legislature of the state of Utah:*

41 Section 1. Section **49-20-201** is amended to read:

42 **49-20-201. Program participation -- Eligibility -- Optional for certain groups.**

43 (1) (a) The state shall participate in the program on behalf of its employees.

44 (b) Other employers, including political subdivisions and educational institutions, are
45 eligible, but are not required, to participate in the program on behalf of their employees.

46 (2) (a) The Department of Health may participate in the program for the purpose of
47 providing health and dental benefits to children enrolled in the Utah Children's Health
48 Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act, if the
49 provisions in Subsection 26-40-110(4) occur.

50 (b) If the Department of Health participates in the program under the provisions of this
51 Subsection (2), all insurance risk associated with the Children's Health Insurance Program shall
52 be the responsibility of the Department of Health and not the program or the office.

53 (3) A covered individual covered under a medical employee benefit plan shall be
54 eligible for coverage after termination of employment under rules adopted by the board.

55 (4) Only the following are eligible for Medicare supplement coverage under this
56 chapter upon becoming eligible for Medicare Part A and Part B coverage:

57 (a) retirees;

58 (b) members;

- 59 (c) participants;
- 60 (d) employees who have medical employee benefit plan coverage at the time of their
- 61 retirement; and

62 (e) current spouses of those who are eligible under Subsections (4)(a) through (d).

63 (5) The program shall offer participation in the program for the purpose of providing
 64 health benefits to small businesses in accordance with Title 49, Chapter 20, Part 5, Utah Small
 65 Business Health Plan Act.

66 Section 2. Section **49-20-202** is amended to read:

67 **49-20-202. Establishment of separate risk pools.**

68 (1) The program shall establish separate risk pools for:

- 69 (a) state employees; [~~and~~]
- 70 (b) the Utah Children's Health Insurance Program[:]; and
- 71 (c) the Utah Small Business Health Plan.

72 (2) The program shall create risk pools for other covered employers separate from
 73 those created in Subsection (1) as determined by the program.

74 Section 3. Section **49-20-501** is enacted to read:

75 **Part 5. Utah Small Business Health Plan**

76 **49-20-501. Title.**

77 This part is known as the "Utah Small Business Health Plan Act."

78 Section 4. Section **49-20-502** is enacted to read:

79 **49-20-502. Definitions.**

80 As used in this part:

- 81 (1) "Plan" means the Utah Small Business Health Plan created in this part.
- 82 (2) (a) "Small business" means an employer that has:
 - 83 (i) between 2 and 50 employees and their immediate families; and
 - 84 (ii) filed at least one business tax return showing normally accepted business activity.
- 85 (b) "Small business" does not include:
 - 86 (i) aggregate employers or majority ownership employers with greater than 50 total
 87 employees; and
 - 88 (ii) a business created for the purpose of obtaining insurance under this part.

89 Section 5. Section **49-20-503** is enacted to read:

90 **49-20-503. Creation and administration of the Utah Small Business Health Plan.**

91 (1) There is created the Utah Small Business Health Plan to be administered by the
92 program in accordance with the provisions of this part.

93 (2) Plan benefits are to be determined by the council created in Section 49-20-504.

94 (3) The program shall make rules for the plan regarding:

95 (a) eligibility requirements;

96 (b) plan benefits;

97 (c) the level of coverage for each plan benefit;

98 (d) cost-sharing requirements for enrollees, including deductibles, copayments, and
99 coinsurance requirements;

100 (e) coordination with private sector partners in accordance with Section 49-20-509; and

101 (f) the administration of the plan.

102 (4) Beginning on July 1, 2007, the program may offer participation in the plan for the
103 purpose of providing health benefits to small businesses.

104 Section 6. Section **49-20-504** is enacted to read:

105 **49-20-504. Utah Small Business Health Plan Advisory Council.**

106 (1) (a) There is created a Utah Small Business Health Plan Council consisting of at
107 least 9 and no more than 11 members.

108 (b) The term of each appointment shall be three years.

109 (c) The appointments shall be staggered at one-year intervals to ensure continuity of
110 the council.

111 (2) The council shall meet as needed to carry out its duties, but at least quarterly.

112 (3) The membership of the council shall include the following membership:

113 (a) the governor shall appoint two cochairs for the council who shall respectively
114 represent:

115 (i) health care; and

116 (ii) economic development;

117 (b) the executive director of the program;

118 (c) the executive director of the program shall appoint members who shall respectively
119 represent:

120 (i) small business owners;

- 121 (ii) small business employees;
122 (iii) health and accident and health insurance providers;
123 (iv) the general public; and
124 (v) up to two additional members to represent the interests described in Subsections
125 (3)(c)(i) through (iv); and
126 (d) the following nonvoting members:
127 (i) one senator, appointed by the president of the Senate; and
128 (ii) one representative, appointed by the speaker of the House of Representatives.
129 (4) The council shall advise the program on:
130 (a) benefits design;
131 (b) eligibility criteria;
132 (c) outreach;
133 (d) evaluation; and
134 (e) special strategies for underserved populations.
135 (5) (a) (i) Council members who are not government employees may not receive
136 compensation or benefits for their services, but may receive per diem and expenses incurred in
137 the performance of the member's official duties at the rates established by the Division of
138 Finance under Sections 63A-3-106 and 63A-3-107.
139 (ii) Council members may decline to receive per diem and expenses for their service.
140 (b) (i) State government officer and employee members who do not receive salary, per
141 diem, or expenses from their agency for their service may receive per diem and expenses
142 incurred in the performance of their official duties from the council at the rates established by
143 the Division of Finance under Sections 63A-3-106 and 63A-3-107.
144 (ii) State government officer and employee members may decline to receive per diem
145 and expenses for their service.
146 (c) A legislator on the council shall receive compensation and expenses as provided by
147 law and legislative rule.
148 (6) (a) A majority of the members of the council constitute a quorum.
149 (b) The action of a majority of a quorum constitutes the action of the council.
150 (c) In case of a tie on a vote of the council, the executive director of the program's vote
151 shall constitute the action of the council.

152 Section 7. Section **49-20-505** is enacted to read:

153 **49-20-505. Eligibility.**

154 (1) (a) To be eligible to enroll in the plan, an employer shall meet the requirements
155 under this part and under rules made in accordance with this part.

156 (b) The rules for plan participation eligibility shall include:

157 (i) an employer shall meet the definition of a small business under Section 49-20-502;

158 (ii) an employer shall have filed at least one business tax return showing normally
159 accepted business activity;

160 (iii) an employer has not had other health insurance coverage for a designated time
161 period that shall not exceed 24 months;

162 (iv) an annual cap of \$75,000 on medical care available to an employee and the
163 employee's immediate family; and

164 (v) other necessary participation and plan design details.

165 (2) An employer may not be determined to be ineligible to enroll in the plan based on a
166 diagnosis or preexisting condition.

167 (3) (a) The program shall determine eligibility and send notification of the decision
168 within 30 days after receiving the application for coverage.

169 (b) If the program cannot reach a decision because the applicant fails to take a required
170 action or there is an administrative or other emergency beyond the program's control, the
171 program shall:

172 (i) document the reason for the delay in the applicant's case record; and

173 (ii) inform the applicant of the status of the application and time frame for completion.

174 Section 8. Section **49-20-506** is enacted to read:

175 **49-20-506. Program benefits.**

176 At a minimum, plan benefits shall include:

177 (1) hospital services;

178 (2) physician services;

179 (3) laboratory services;

180 (4) prescription drugs;

181 (5) routine physical examinations;

182 (6) immunizations; and

183 (7) other plan benefits as determined by the council and under program rules in
184 accordance with Sections 49-20-503 and 49-20-505.

185 Section 9. Section **49-20-507** is enacted to read:

186 **49-20-507. Funding -- Reserves.**

187 (1) The plan shall be self-funded by employer premiums and cost-sharing requirements
188 for enrollees, including deductibles, copayments, and coinsurance requirements.

189 (2) Plan reserves shall be funded from:

190 (a) plan monies;

191 (b) requiring employers to make a deposit equal to a final month of premiums; and

192 (c) appropriations or loans made for this purpose by the Legislature.

193 (3) (a) All insurance risk associated with the Utah Small Business Health Plan shall be
194 the responsibility of the plan and not the program, the office, or any of its other programs or
195 plans.

196 (b) The program shall indemnify the benefit plans or purchase commercial reinsurance
197 as considered appropriate by the program.

198 Section 10. Section **49-20-508** is enacted to read:

199 **49-20-508. Evaluation.**

200 (1) The program shall develop performance measures and annually evaluate the
201 program's performance.

202 (2) The program shall report annually on its evaluation to the Health and Human
203 Services Interim Committee of the Legislature before November 1.

204 Section 11. Section **49-20-509** is enacted to read:

205 **49-20-509. Partner networks.**

206 (1) Services provided to enrollees under the program shall be delivered by the program
207 or by private sector partners that offer identical services.

208 (2) The program may request bids or proposals to establish private sector partners.

209 (3) Procedures similar to those under Title 63, Chapter 56, Utah Procurement Code,
210 shall apply to this section.

211 Section 12. **Council Study -- Recommendations.**

212 (1) The members, including cochairs, of the Utah Small Business Health Plan Council
213 created in Section 49-20-504 shall be appointed no later than 60 days from the effective date of

214 this bill.

215 (2) During 2006, the council shall study and make recommendation concerning the
216 following issues for the Utah Small Business Health Plan:

217 (a) benefits design;

218 (b) eligibility criteria;

219 (c) outreach;

220 (d) evaluation;

221 (e) special strategies for underserved populations;

222 (f) self-funding of the plan by employer premiums and cost-sharing requirements for
223 enrollees, including deductibles, copayments, and coinsurance requirements;

224 (g) the creation of plan reserves;

225 (h) making all insurance risk associated with the Utah Small Business Health Plan the
226 responsibility of the plan and not the program, the office, or any of its other programs or plans;

227 (i) indemnification of the program, including the purchase of commercial reinsurance
228 by the plan;

229 (j) the development of private sector partners to offer identical services; and

230 (k) the development of performance measures and an annual evaluation of the
231 program's performance.

232 (3) The council shall deliver an activity report and preliminary plan proposal to the
233 Public Employees' Benefit and Insurance Program and the Health and Human Services Interim
234 Committee no later than September 1, 2006.

235 (4) The council shall deliver an activity report and final plan proposal to the Public
236 Employees' Benefit and Insurance Program and the Health and Human Services Interim
237 Committee no later than October 1, 2006.

238 Section 13. **Effective date.**

239 (1) If approved by two-thirds of all the members elected to each house, Sections
240 49-20-501, 49-20-502, 49-20-503, 49-20-504 and Uncodified Section 12 of this bill take effect
241 upon approval by the governor, or the day following the constitutional time limit of Utah
242 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
243 the date of veto override.

244 (2) Except as provided in Subsection (1), this bill takes effect on July 1, 2007.

Legislative Review Note

as of 1-17-06 10:49 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

The plan created under this bill will be self-funded by employer premiums and enrollee cost-sharing requirements. However, plan reserves will require an appropriation or loan of state funds when the plan begins in FY 2008. Absent an actuarial study, no reliable estimate of the plan reserves or the portion of state funding required is available.

Determinants of the required reserves include the number of plan enrollees, plan design (based on recommendations of council created in the bill), and demographics of the plan risk pool.

This bill creates the Utah Small Business Health Plan Advisory council. In addition to the partial funding of plan reserves described above, passage of this bill will necessitate an annual General Fund appropriation of at least \$2,280 (for the minimum of quarterly meetings called for in the bill) for compensation and expenses for the two legislators appointed to this council. Other council members may receive per diem and expenses incurred in the performance of their council duties at the rate established by the Division of Finance, currently \$60.

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2007</u>	<u>FY 2008</u>
	<u>Approp.</u>	<u>Approp.</u>	<u>Revenue</u>	<u>Revenue</u>
General Fund	\$2,300	\$2,300	\$0	\$0
TOTAL	\$2,300	\$2,300	\$0	\$0

Individual and Business Impact

Eligible small businesses and their employees may be affected by this bill, the impact will depend on design and cost of the plan offered relative to other available options.
