

**HEALTH PLAN EXEMPTION FROM SELECTED
REQUIREMENTS**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Insurance Code.

Highlighted Provisions:

This bill:

- ▶ exempts a foreign insurer from specified health benefit plan requirements under certain conditions;
 - ▶ amends eligibility requirements for the Utah Comprehensive Health Insurance Pool;
- and
- ▶ requires rulemaking.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2008.

Utah Code Sections Affected:

AMENDS:

31A-29-111, as last amended by Laws of Utah 2007, Chapter 40

ENACTS:

31A-14-301, Utah Code Annotated 1953



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

29 Section 1. Section **31A-14-301** is enacted to read:

30 **Part 3. Exemption for Health Benefit Plans by Foreign Insurers**

31 **31A-14-301. Exemption from certain state requirements.**

32 (1) Notwithstanding any other provision of this title, a health benefit plan that meets
33 the requirements of Subsection (2) is not subject to the following:

34 (a) Section 31A-22-605, which addresses policy and contract standards;

35 (b) Section 31A-22-610.5, which requires coverage of an unmarried dependent child
36 less than 26 years of age;

37 (c) Section 31A-22-611, which requires coverage for an unmarried disabled dependent;

38 (d) Section 31A-22-612, which requires conversion privileges for a former spouse;

39 (e) Section 31A-22-722, which requires mini-COBRA benefits for employer group
40 coverage;

41 (f) Section 31A-22-610.1, which requires an adoption indemnity benefit;

42 (g) Section 31A-22-623, which requires coverage of dietary products for inborn
43 metabolic errors;

44 (h) Section 31A-22-625, which addresses coverage for mental health conditions;

45 (i) Section 31A-22-626, which requires coverage for diabetes;

46 (j) Section 31A-22-628, which requires a standing referral to a specialist in certain
47 circumstances;

48 (k) Section 31A-22-613.5, which requires disclosure of plan terms and specifies the
49 terms of the basic health care plan;

50 (l) Section 31A-30-109, which requires an insurer offering individual coverage to offer
51 a plan at least equal to the basic health care plan;

52 (m) Section 31A-22-617, which addresses preferred provider contract requirements;
53 and

54 (n) Section 31A-8-501, which addresses payments by a health maintenance
55 organization.

56 (2) A health benefit plan is not subject to the sections described in Subsection (1) if:

57 (a) the plan is provided by a foreign insurer;

58 (b) the foreign insurer is an admitted insurer;

59 (c) the plan provides coverage substantially equivalent to a health benefit plan provided
60 by the insurer in another state;

61 (d) (i) each plan enrollee in this state at the time of application:

62 (A) is eligible under Section 31A-29-111 for coverage by the Utah Comprehensive
63 Health Insurance Pool created in Section 31A-29-104; and

64 (B) is classified as uninsurable under Subsections 31A-30-106(1)(i)(ii)(C)(III) and (j);
65 and

66 (ii) for purposes of Subsection (2)(d)(i)(A), an enrollee is eligible under Subsection
67 31A-29-111(1)(b)(viii) for coverage by the Utah Comprehensive Health Insurance Pool even if
68 the plan provides coverage substantially equivalent to a pool policy; and

69 (e) at the time the plan is offered or renewed, the insurer provides to the insured the
70 following written notice in bold face font type no smaller than 12 point:

71 "This policy is issued by [fill in the name of the insurer]. This policy is governed by the
72 laws and regulations of [fill in the name of the insurer's domiciliary state] and is in compliance
73 with the laws and regulations of [fill in the name of the insurer's domiciliary state], as
74 determined by [fill in the name of the insurer's domiciliary state] insurance regulation agency.

75 "This policy may be less expensive than other policies offered in Utah because the
76 policy is exempt from many of the Utah laws that regulate health insurance, including those
77 requiring policies to provide particular benefits.

78 "As with all insurance products, before purchasing this policy, you should carefully
79 review the contract to identify services covered, exclusions, cost sharing requirements, benefit
80 limits, special conditions, and any other terms of the contract."

81 (3) Nothing in this section may be construed to exempt a health benefit plan that meets
82 the conditions of Subsection (2), or the insurer that provides the plan, from:

83 (a) any federal law governing health benefit plans or insurers; or

84 (b) any other provision of this title, including Chapter 14, Foreign Insurers, or other
85 Utah law.

86 (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
87 department shall make rules necessary to implement this section, including rules for
88 determining whether a health benefit plan offered by an insurer in this state is substantially
89 equivalent to a plan provided by the insurer in another state.

90 Section 2. Section 31A-29-111 is amended to read:

91 **31A-29-111. Eligibility -- Limitations.**

92 (1) (a) Except as provided in Subsection (1)(b), an individual who is not HIPAA
93 eligible is eligible for pool coverage if the individual:

94 (i) pays the established premium;

95 (ii) is a resident of this state; and

96 (iii) meets the health underwriting criteria under Subsection (5)(a).

97 (b) Notwithstanding Subsection (1)(a), an individual who is not HIPAA eligible is not
98 eligible for pool coverage if one or more of the following conditions apply:

99 (i) the individual is eligible for health care benefits under Medicaid or Medicare,
100 except as provided in Section 31A-29-112;

101 (ii) the individual has terminated coverage in the pool, unless:

102 (A) 12 months have elapsed since the termination date; or

103 (B) the individual demonstrates that creditable coverage has been involuntarily
104 terminated for any reason other than nonpayment of premium;

105 (iii) the pool has paid the maximum lifetime benefit to or on behalf of the individual;

106 (iv) the individual is an inmate of a public institution;

107 (v) the individual is eligible for a public health plan, as defined in federal regulations
108 adopted pursuant to 42 U.S.C. 300gg;

109 (vi) the individual's health condition does not meet the criteria established under
110 Subsection (5);

111 (vii) the individual is eligible for coverage under an employer group that offers health
112 insurance or a self-insurance arrangement to its eligible employees, dependents, or members as:

113 (A) an eligible employee;

114 (B) a dependent of an eligible employee; or

115 (C) a member;

116 (viii) the individual:

117 (A) has coverage substantially equivalent to a pool policy, as established by the board
118 in administrative rule, either as an insured or a covered dependent; or

119 (B) would be eligible for the substantially equivalent coverage, except coverage under
120 Chapter 14, Part 3, Exemption for Health Benefit Plans by Foreign Insurers, if the individual

121 elected to obtain the coverage;

122 (ix) at the time of application, the individual has not resided in Utah for at least 12
123 consecutive months preceding the date of application; or

124 (x) the individual's employer pays any part of the individual's health insurance
125 premium, either as an insured or a dependent, for pool coverage.

126 (2) (a) Except as provided in Subsection (2)(b), an individual who is HIPAA eligible is
127 eligible for pool coverage if the individual:

128 (i) pays the established premium; and

129 (ii) is a resident of this state.

130 (b) Notwithstanding Subsection (2)(a), a HIPAA eligible individual is not eligible for
131 pool coverage if one or more of the following conditions apply:

132 (i) the individual is eligible for health care benefits under Medicaid or Medicare,
133 except as provided in Section 31A-29-112;

134 (ii) the individual is eligible for a public health plan, as defined in federal regulations
135 adopted pursuant to 42 U.S.C. 300gg;

136 (iii) the individual is covered under any other health insurance;

137 (iv) the individual is eligible for coverage under an employer group that offers health
138 insurance or self-insurance arrangements to its eligible employees, dependents, or members as:

139 (A) an eligible employee;

140 (B) a dependent of an eligible employee; or

141 (C) a member;

142 (v) the pool has paid the maximum lifetime benefit to or on behalf of the individual;

143 (vi) the individual is an inmate of a public institution; or

144 (vii) the individual's employer pays any part of the individual's health insurance
145 premium, either as an insured or a dependent, for pool coverage.

146 (3) (a) Notwithstanding Subsection (1)(b)(ix), if otherwise eligible under Subsection
147 (1)(a), an individual whose health insurance coverage from a state high risk pool with similar
148 coverage is terminated because of nonresidency in another state is eligible for coverage under
149 the pool subject to the conditions of Subsections (1)(b)(i) through (viii).

150 (b) Coverage sought under Subsection (3)(a) shall be applied for within 63 days after
151 the termination date of the previous high risk pool coverage.

152 (c) The effective date of this state's pool coverage shall be the date of termination of
153 the previous high risk pool coverage.

154 (d) The waiting period of an individual with a preexisting condition applying for
155 coverage under this chapter shall be waived:

156 (i) to the extent to which the waiting period was satisfied under a similar plan from
157 another state; and

158 (ii) if the other state's benefit limitation was not reached.

159 (4) (a) If an eligible individual applies for pool coverage within 30 days of being
160 denied coverage by an individual carrier, the effective date for pool coverage shall be no later
161 than the first day of the month following the date of submission of the completed insurance
162 application to the carrier.

163 (b) Notwithstanding Subsection (4)(a), for individuals eligible for coverage under
164 Subsection (3), the effective date shall be the date of termination of the previous high risk pool
165 coverage.

166 (5) (a) The board shall establish and adjust, as necessary, health underwriting criteria
167 based on:

168 (i) health condition; and

169 (ii) expected claims so that the expected claims are anticipated to remain within
170 available funding.

171 (b) The board, with approval of the commissioner, may contract with one or more
172 providers under Title 63, Chapter 56, Utah Procurement Code, to develop underwriting criteria
173 under Subsection (5)(a).

174 (c) If an individual is denied coverage by the pool under the criteria established in
175 Subsection (5)(a), the pool shall issue a certificate of insurability to the individual for coverage
176 under Subsection 31A-30-108(3).

177 **Section 3. Effective date.**

178 This bill takes effect on July 1, 2008.

Legislative Review Note
as of 2-4-08 4:13 PM

Office of Legislative Research and General Counsel

H.B. 491 - Health Plan Exemption from Selected Requirements

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
