

**HEALTH INSURANCE AND HEALTH CARE****PAYMENT AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Bradley M. Daw**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE****General Description:**

This bill establishes the Individual Health Care Financial Responsibility Act which requires every resident of the state to acquire catastrophic health care coverage if the individual has no other health insurance.

**Highlighted Provisions:**

This bill:

- ▶ creates a high deductible catastrophic plan that complies with the Individual Health Care Responsibility Act within the state's uninsurable high risk pool;
- ▶ establishes the Individual Health Care Responsibility Act;
- ▶ defines terms;
- ▶ beginning January 1, 2009, requires each resident of the state age 18 and over, and the dependents of a resident to have either creditable health care coverage or catastrophic health care coverage;
- ▶ establishes the terms of the required catastrophic health care coverage;
- ▶ requires a resident to verify coverage as part of the resident's income tax return;
- ▶ establishes penalties for not complying with the requirement for catastrophic health care coverage; and
- ▶ requires the State Tax Commission to enforce the provisions of the Individual Health Care Financial Responsibility Act.



**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:****31A-29-114**, as last amended by Chapter 95, Laws of Utah 2006**ENACTS:****59-28-101**, Utah Code Annotated 1953**59-28-102**, Utah Code Annotated 1953**59-28-103**, Utah Code Annotated 1953**59-28-104**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **31A-29-114** is amended to read:**31A-29-114. Deductibles -- Copayments.**

(1) (a) A pool policy shall impose a deductible on a per calendar year basis.

(b) At least ~~[two]~~ three deductible plans shall be offered, one of which shall comply with the provisions of Subsection (6).

(c) The deductible is applied to all of the eligible medical expenses as defined in Section 31A-29-113, incurred by the enrollee until the deductible has been satisfied. There are no benefits payable before the deductible has been satisfied.

(d) The pool may offer separate deductibles for prescription benefits.

(2) (a) A mandatory coinsurance requirement shall be imposed at the rate of at least 20%, except for a qualified high deductible health plan, of eligible medical expenses in excess of the mandatory deductible.

(b) Any coinsurance imposed under this Subsection (2) shall be designated in the pool policy.

(3) The board shall establish maximum aggregate out-of-pocket payments for eligible medical expenses incurred by the enrollee for each of the deductible plans offered under Subsection (1)(b).

(4) (a) When the enrollee has incurred the maximum aggregate out-of-pocket payments under Subsection (3), the board may establish a coinsurance requirement to be imposed on eligible medical expenses in excess of the maximum aggregate out-of-pocket expense.

(b) The circumstances in which the coinsurance authorized by this Subsection (4) may be imposed shall be designated in the pool policy.

(c) The coinsurance authorized by this Subsection (4) may be imposed at a rate not to exceed 5% of eligible medical expenses.

(5) The limits on maximum aggregate out-of-pocket payments for eligible medical expenses incurred by the enrollee under this section may not include out-of-pocket payments for prescription benefits.

(6) (a) Beginning January 1, 2009, one pool policy plan shall be a high deductible catastrophic health care coverage plan with a deductible in an amount designated in Subsection 59-28-102(3) and required by Section 59-28-103.

(b) The plan required by Subsection (6)(a) may impose other cost sharing measures permitted by this section as determined by the board.

Section 2. Section **59-28-101** is enacted to read:

## **CHAPTER 28. INDIVIDUAL HEALTH CARE FINANCIAL RESPONSIBILITY ACT**

### **59-28-101. Title.**

This chapter is known as the "Individual Health Care Financial Responsibility Act."

Section 3. Section **59-28-102** is enacted to read:

### **59-28-102. Definitions.**

For purposes of this chapter:

(1) (a) "Catastrophic health care coverage" means a health benefit plan as defined in Section 31A-1-301 with an annual deductible established in accordance with Subsection (1)(b) combined with a federally qualified health care savings account.

(b) The annual deductible required by Subsection (1)(a):

(i) shall be established by the commission by administrative rules adopted in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act;

(ii) shall initially be set in an amount equal to the average annual wage in the state for the taxable year beginning on or after January 1, 2008; and

(iii) shall be adjusted once every five years thereafter to reflect the then current year's

90 average annual wage in the state.

91 (2) "Creditable coverage" is defined in Section 31A-1-301.

92 (3) "Resident" means a person who has:

93 (a) filed a resident state income tax return under Chapter 10, Individual Income Tax  
94 Act;

95 (b) declared in a home mortgage settlement document that the mortgaged property  
96 located in the state would be occupied as a principal residence;

97 (c) obtained homeowner's liability insurance coverage on property that was declared to  
98 be occupied as a principal residence;

99 (d) filed a certificate of residency or identified the place of residency in the state in  
100 order to comply with a residency prerequisite for employment with a governmental entity;

101 (e) paid on the behalf or on behalf of a child or dependent of whom the person has  
102 custody, resident in-state-tuition rates to attend a state-sponsored college, community college,  
103 or university;

104 (f) applied for and received public assistance from the state for himself or his child or  
105 his dependent of whom he has custody;

106 (g) has a child or dependent, of whom he has custody, who is enrolled in a public  
107 school in the state, unless the cost of the education is paid for by him, the child or by another  
108 educational jurisdiction;

109 (h) is registered to vote in the state;

110 (i) obtained any benefit, exemption, deduction, entitlement, license, permit or privilege  
111 by claiming principal residency in the state; or

112 (j) is a resident under any other written criteria under which the State Tax Commission  
113 may determine residency in the state.

114 Section 4. Section **59-28-103** is enacted to read:

115 **59-28-103. Catastrophic health care coverage mandate.**

116 (1) Beginning January 1, 2009, the following individuals shall obtain and maintain  
117 catastrophic health care coverage:

118 (a) residents age 18 and over;

119 (b) individuals age 18 and over, who become residents, within 63 days, in the  
120 aggregate, of becoming a resident;

121 (c) residents, age 18 and over, who have terminated creditable coverage, within 63 days  
122 of terminating creditable coverage; and

123 (d) a dependant of an individual who is described in Subsections (1)(a) through (c), if  
124 the dependent is present in the state for 90 days or more, however, the individual who is  
125 claiming the dependant on the individual's tax return has the obligation to provide catastrophic  
126 health insurance for the dependent under this Subsection (1).

127 (2) (a) An individual is exempt from the requirement of Subsection (1) if the  
128 individual, or the individual claiming the dependent described in Subsection (1)(d), files a  
129 sworn affidavit with his income tax return stating that:

130 (i) the individual had creditable coverage in force for each of the 12 months of the  
131 taxable year for which the return is filed; or

132 (ii) the individual does not have creditable coverage or catastrophic health care  
133 coverage and the individual has sincerely held religious beliefs that are the basis for the  
134 individual's refusal to obtain and maintain creditable coverage or catastrophic health care  
135 coverage during the 12 months of the taxable year for which the return was filed.

136 (b) Any individual who claimed an exemption under Subsection (2)(a)(ii), but received  
137 medical care during the taxable year for which the return was filed is liable for providing for or  
138 arranging for full payment for the medical health care and is subject to the penalties provided  
139 for in Section 59-28-104.

140 (3) Beginning with the tax return filed for the 2009 taxable year, every person who files  
141 an individual income tax return as a resident, either jointly or with a spouse, shall indicate on  
142 the return, in a manner prescribed by the State Tax Commission by administrative rule,  
143 whether the individual:

144 (a) is exempt from the requirements of Subsection (1), and the basis for that  
145 exemption;

146 (b) is in compliance with the provisions of Subsection (1); or

147 (c) is out of compliance with the provisions of Subsection (1).

148 Section 5. Section **59-28-104** is enacted to read:

149 **59-28-104. Enforcement -- Penalties.**

150 (1) Subject to other provisions of this chapter, the commission shall collect, enforce,  
151 and administer the provisions of this chapter pursuant to:

152 (a) Chapter 1, General Taxation Policies; and

153 (b) Chapter 10, Part 5, Procedure and Administration.

154 (2) A penalty shall be assessed on an individual's income tax return in accordance with  
155 Subsection (3), if an individual:

156 (a) fails to indicate on the individual's tax return whether the individual is in  
157 compliance with Subsection 59-28-103(1); or

158 (b) does not have catastrophic health care coverage as required by Section 59-28-103.

159 (3) (a) If an individual does not indicate on the return that the individual has the  
160 coverage required by Section 59-28-103:

161 (i) the tax for the individual will be calculated on the return without benefit of:

162 (A) the personal exemption as defined and calculated by the Internal Revenue Code for  
163 an individual;

164 (B) if the individual files jointly with a spouse, without benefit of 1/2 of the personal  
165 exemption as defined and calculated by the Internal Revenue Code; or

166 (C) if the individual without coverage required by Section 59-28-103 is a dependant as  
167 described in Subsection 59-28-103(1)(d), the exemption for a dependant as defined and  
168 calculated by the Internal Revenue Code; and

169 (ii) the individual is guilty of a class B misdemeanor, and the fine shall be not less  
170 than:

171 (A) \$400 for a first offense; and

172 (B) \$1,000 for a second and subsequent offenses within three years of a previous  
173 conviction.

174 (b) The penalty imposed by this section shall be assessed if the individual did not meet  
175 the requirements of Section 59-28-103 during any part of the taxable year, provided that any  
176 lapse in coverage of 63 days or less shall not be calculated in the penalty.

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Legislative Review Note  
as of 1-19-07 10:03 AM

Office of Legislative Research and General Counsel

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## H.B. 141 - Health Insurance and Health Care Payment Amendments

### Fiscal Note

2007 General Session

State of Utah

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#### State Impact

Enactment of this bill would require an appropriation of \$131,800 to the Attorney General in FY 2009 in order to implement the enforcement provisions of the bill. The enforcement costs of this bill could be significantly greater in future years. The Tax Commission would require an ongoing appropriation beginning in FY 2010 for increased costs related to the publication of the tax forms and instructions.

	<b><u>FY 2007</u></b> <b><u>Approp.</u></b>	<b><u>FY 2008</u></b> <b><u>Approp.</u></b>	<b><u>FY 2009</u></b> <b><u>Approp.</u></b>	<b><u>FY 2007</u></b> <b><u>Revenue</u></b>	<b><u>FY 2008</u></b> <b><u>Revenue</u></b>	<b><u>FY 2009</u></b> <b><u>Revenue</u></b>
General Fund	\$0	\$131,800	\$131,800	\$0	\$0	\$0
General Fund, One-Time	\$0	(\$131,800)	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$131,800</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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#### Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses or local governments. Individuals will be required to carry catastrophic health insurance. Individuals carrying this insurance through the HIP Utah pool will see greater required deductibles.