LEGISLATIVE GENERAL COUNSEL
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H.B. 491
1st Sub. (Buff)

Representative Eric K. Hutchings proposes the following substitute bill:

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:

▸ allows a foreign or domestic insurer to offer health insurance coverage to uninsurable individuals that is exempt from the following mandates:

- policy and contract standards;
- dependent coverage to age 26;
- dependent coverage for disabled dependents;
- mini-cobra benefits;
- adoption benefits;
- metabolic disorders;
- mental health coverage;
- diabetes coverage;
- referrals to certain specialists;
- the basic benefit package; and
- regulations related to preferred provider plans;

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- 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.

This bill coordinates with H.B. 301, Comprehensive Health Insurance Pool Amendments.

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

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

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

Part 3. Exemption for Health Benefit Plans by Foreign Insurers

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) Section 31A-22-617, which addresses preferred provider contract requirements.

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

(a) (i) the plan is provided by a foreign insurer; or

(ii) the plan is provided by a domestic insurer;

(b) the plan is provided by a foreign insurer:

(i) the foreign insurer is an admitted insurer; and

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

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

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

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

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

(d) if the plan is provided by a foreign insurer, at the time the plan is offered or renewed, the insurer provides to the insured the following written notice in bold face font type no smaller than 12 point:

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

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

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

(e) if the plan is provided by a domestic insurer, at the time the plan is offered or renewed, the insurer provides the following written notice in bold face type no smaller than 12 point:

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

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

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

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

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

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

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

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

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

(i) pays the established premium;

(ii) is a resident of this state; and

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

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

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

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

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

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

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

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

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

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

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

(A) an eligible employee;

(B) a dependent of an eligible employee; or

(C) a member;

(viii) the individual:

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

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

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

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

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

(i) pays the established premium; and

(ii) is a resident of this state.

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

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

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

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

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

(A) an eligible employee;

(B) a dependent of an eligible employee; or

(C) a member;

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

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

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

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

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

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

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

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

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

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

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

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

(i) health condition; and

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

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

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

Section 3. **Effective date.**

This bill takes effect on July 1, 2008.

Section 4. **Coordinating H.B. 491 with H.B. 301 -- Making technical changes.**

If this H.B. 491 and H.B. 301 Comprehensive Health Insurance Pool Amendments both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, merge the amendments so that Subsection 31A-29-111(1)(b)(viii) reads as follows:

"(viii) the individual is covered under any other health benefit plan, except coverage under Chapter 14, Part 3, Exemption for Health Benefit Plans by Foreign Insurers."

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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.

2/20/2008, 2:02:08 PM, Lead Analyst: Schoenfeld, J.D.

Office of the Legislative Fiscal Analyst