

Senator Benjamin M. McAdams proposes the following substitute bill:

INSURANCE AMENDMENTS RELATING TO ABORTION

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl Wimmer

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill amends provisions of the Insurance Code to prohibit a person from offering a health benefit plan in a health insurance exchange that is created, owned, or sponsored by a government entity if the health benefit plan provides coverage for an abortion other than an abortion necessary to protect the life or health of a woman, an abortion of a fetus with a lethal fetal defect, or an abortion where the woman is pregnant as a result of rape or incest.

Highlighted Provisions:

This bill:

▶ prohibits a person from offering a health benefit plan in a health insurance exchange that is created, owned, or sponsored by a government entity, including a health insurance exchange created under Title 63M, Chapter 1, Part 25, Health System Reform Act, or pursuant to the federal Patient Protection and Affordable Care Act, 111 P.L. 148, if the health benefit plan provides coverage for an abortion, unless:

- the abortion is necessary to avert the death of the woman on whom the abortion is performed or a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;
- the abortion is of a fetus with a diagnosable, lethal fetal defect; or



- 26 • the woman obtaining the abortion is pregnant as a result of rape or incest;
- 27 ▶ modifies provisions of Title 31A, Chapter 30, Individual, Small Employer, and
- 28 Group Health Insurance Act to allow for differences in abortion coverage inside and
- 29 outside of the state health insurance exchange; and
- 30 ▶ makes technical changes.

31 **Money Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **31A-30-202.5**, as enacted by Laws of Utah 2010, Chapter 68

38 **31A-30-205**, as last amended by Laws of Utah 2010, Chapters 68, 149 and last
39 amended by Coordination Clause, Laws of Utah 2010, Chapter 149

40 ENACTS:

41 **31A-22-726**, Utah Code Annotated 1953



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

44 Section 1. Section **31A-22-726** is enacted to read:

45 **31A-22-726. Abortion coverage restriction on health insurance exchange.**

46 A person may not offer in a health insurance exchange, including a health insurance
47 exchange created under Title 63M, Chapter 1, Part 25, Health System Reform Act, or pursuant
48 to the federal Patient Protection and Affordable Care Act, 111 P.L. 148, a health benefit plan in
49 this state that provides coverage for an abortion, except for an abortion:

50 (1) where the pregnancy poses a threat to the woman's life or a substantial risk to her
51 health;

52 (2) of a fetus that has a defect that is documented by a physician or physicians to be
53 uniformly diagnosable and uniformly lethal; or

54 (3) where the woman is pregnant as a result of:

55 (a) rape, as described in Section 76-5-402;

56 (b) rape of a child, as described in Section 76-5-402.1; or

57 (c) incest, as described in Subsection 76-5-406(10) or Section 76-7-102.

58 Section 2. Section **31A-30-202.5** is amended to read:

59 **31A-30-202.5. Insurer participation in defined contribution arrangement market.**

60 (1) A small employer carrier who chooses to participate in the defined contribution
61 arrangement market:

62 (a) shall offer the defined contribution arrangement health benefit plans required by
63 Section 31A-30-205;

64 (b) may:

65 (i) offer additional defined contribution arrangement health benefit plans in the Health
66 Insurance Exchange as permitted by Section 31A-30-205;

67 (ii) offer a defined benefit plan in the Health Insurance Exchange if the small employer
68 carrier offers a defined contribution arrangement health benefit plan that is actuarially
69 equivalent to the defined benefit plan that is offered in the Health Insurance Exchange; and

70 (iii) continue to offer defined benefit plans outside of the Health Insurance Exchange
71 and the defined contribution arrangement market, if, except as provided in Subsection (3), the
72 carrier uses the same rating and underwriting practices in both the defined contribution
73 arrangement market in the Health Insurance Exchange and the defined benefit market outside
74 the Health Insurance Exchange.

75 (2) A carrier that does not elect to participate in the defined contribution arrangement
76 market by January 1, 2011, may not participate in the defined contribution arrangement market
77 in the Health Insurance Exchange until January 1, 2013.

78 (3) A small employer described in Subsection (1) may offer a defined benefit plan
79 outside of the Health Insurance Exchange and the defined contribution arrangement market that
80 uses a different rating or underwriting practice than used by the small employer in the Health
81 Insurance Exchange or the defined contribution arrangement market, if the difference is due
82 solely to the fact that the defined benefit plan's abortion-related coverage outside of the Health
83 Insurance Exchange and the defined contribution arrangement market provides more coverage
84 for abortion than is permitted under Section 31A-22-726.

85 Section 3. Section **31A-30-205** is amended to read:

86 **31A-30-205. Health benefit plans offered in the defined contribution market.**

87 (1) An insurer who offers a defined contribution arrangement health benefit plan shall

88 offer the following health benefit plans as defined contribution arrangements:

89 (a) the basic benefit plan;

90 (b) one health benefit plan with an aggregate actuarial value at least 15% greater than
91 the actuarial value of the basic benefit plan;

92 (c) on or before January 1, 2011, one health benefit plan that is a federally qualified
93 high deductible health plan that has an individual deductible of \$2,500 and a deductible of
94 \$5,000 for coverage including two or more individuals, and does not exceed an annual
95 out-of-pocket maximum equal to three times the amount of the annual deductible;

96 (d) on or before January 1, 2011, one health benefit plan that is a federally qualified
97 high deductible health plan that has a deductible that is within \$250 of the highest deductible
98 that qualifies as a federally qualified high deductible health plan as adjusted by federal law, and
99 does not exceed an annual out-of-pocket maximum equal to three times the amount of the
100 annual deductible; and

101 (e) except as provided in Subsection (3), the insurer's five most commonly selected
102 health benefit plans that:

103 (i) include:

104 (A) the provider panel;

105 (B) the deductible;

106 (C) co-payments;

107 (D) co-insurance; and

108 (E) pharmacy benefits; and

109 (ii) are currently being marketed by the carrier to new groups for enrollment.

110 (2) (a) The provisions of Subsection (1) do not limit the number of defined
111 contribution arrangement health benefit plans an insurer may offer in the defined contribution
112 arrangement market.

113 (b) An insurer who offers the health benefit plans required by Subsection (1) may also
114 offer any other health benefit plan as a defined contribution arrangement if:

115 (i) the health benefit plan provides benefits that are of greater actuarial value than the
116 benefits required in the basic benefit plan; or

117 (ii) the health benefit plan provides benefits with an aggregate actuarial value that is no
118 lower than the actuarial value of the plan required in Subsection (1)(c).

119 (3) A health benefit plan that is offered in the defined contribution market may differ
120 from a health benefit plan described in Subsection (1)(e) solely to the extent that the abortion
121 coverage offered in the health benefit plan outside of the defined contribution market provides
122 more coverage for abortion than is permitted under Section 31A-22-726.