

Senator J. Stuart Adams proposes the following substitute bill:

PATIENT ACCESS REFORM

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to access to health insurance in the Insurance Code.

Highlighted Provisions:

This bill:

- ▶ amends the case characteristics that a small employer carrier may use when establishing premium rates for a group;
- ▶ changes the ratio that may be used for the age bands to an overall ratio that may not exceed 6:1;
- ▶ changes the ratio that may be used for family tiers to a ratio that may not exceed 6:1;
- ▶ amends the family tier structure by allowing a carrier, at the carrier's option, to use five tiers rather than four tiers, with the new optional fifth tier separating employee plus one dependent from employee plus more than one dependent; and
- ▶ makes technical amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **31A-30-106.1**, as enacted by Laws of Utah 2010, Chapter 68

29

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

31 Section 1. Section **31A-30-106.1** is amended to read:

32 **31A-30-106.1. Small employer premiums -- Rating restrictions -- Disclosure.**

33 (1) Premium rates for small employer health benefit plans under this chapter are
34 subject to the provisions of this section for a health benefit plan that is issued or renewed, on or
35 after January 1, 2011.

36 (2) (a) The index rate for a rating period for any class of business may not exceed the
37 index rate for any other class of business by more than 20%.

38 (b) For a class of business, the premium rates charged during a rating period to covered
39 insureds with similar case characteristics for the same or similar coverage, or the rates that
40 could be charged to an employer group under the rating system for that class of business, may
41 not vary from the index rate by more than 30% of the index rate, except when catastrophic
42 mental health coverage is selected as provided in Subsection 31A-22-625(2)(d).

43 (3) The percentage increase in the premium rate charged to a covered insured for a new
44 rating period, adjusted pro rata for rating periods less than a year, may not exceed the sum of
45 the following:

46 (a) the percentage change in the new business premium rate measured from the first
47 day of the prior rating period to the first day of the new rating period;

48 (b) any adjustment, not to exceed 15% annually for rating periods of less than one year,
49 due to the claim experience, health status, or duration of coverage of the covered individuals as
50 determined from the small employer carrier's rate manual for the class of business, except when
51 catastrophic mental health coverage is selected as provided in Subsection 31A-22-625(2)(d);
52 and

53 (c) any adjustment due to change in coverage or change in the case characteristics of
54 the covered insured as determined for the class of business from the small employer carrier's
55 rate manual.

56 (4) (a) Adjustments in rates for claims experience, health status, and duration from

57 issue may not be charged to individual employees or dependents.

58 (b) Rating adjustments and factors, including case characteristics, shall be applied
59 uniformly and consistently to the rates charged for all employees and dependents of the small
60 employer.

61 (c) Rating factors shall produce premiums for identical groups that:

62 (i) differ only by the amounts attributable to plan design; and

63 (ii) do not reflect differences due to the nature of the groups assumed to select
64 particular health benefit products.

65 (d) A small employer carrier shall treat all health benefit plans issued or renewed in the
66 same calendar month as having the same rating period.

67 (5) A health benefit plan that uses a restricted network provision may not be considered
68 similar coverage to a health benefit plan that does not use a restricted network provision,
69 provided that use of the restricted network provision results in substantial difference in claims
70 costs.

71 (6) The small employer carrier may [~~not use~~] only use the following case
72 characteristics [~~other than the following~~]:

73 (a) age, in accordance with Subsection (7);

74 (b) geographic area; and

75 (c) family composition in accordance with Subsection (8).

76 [~~(a) age, as~~] (7) Age shall be determined at the beginning of the plan year, limited to:

77 [~~(i)~~] (a) the following age bands:

78 [~~(A)~~] (i) less than 20;

79 [~~(B)~~] (ii) 20-24;

80 [~~(C)~~] (iii) 25-29;

81 [~~(D)~~] (iv) 30-34;

82 [~~(E)~~] (v) 35-39;

83 [~~(F)~~] (vi) 40-44;

84 [~~(G)~~] (vii) 45-49;

85 [~~(H)~~] (viii) 50-54;

86 [~~(I)~~] (ix) 55-59;

87 [~~(J)~~] (x) 60-64; and

88 ~~[(K)]~~ (xi) 65 and above; and
89 ~~[(ii)]~~ (b) (i) a standard slope ratio range for each age band, applied to each family
90 composition tier rating structure under Subsection ~~[(6)(c)]~~ (8):
91 (A) as developed by the department by administrative rule; and
92 (B) not to exceed an overall ratio of ~~[5]~~ 6:1; and
93 ~~[(C)]~~ (ii) the age slope ratios for each age band may not overlap[;].
94 ~~[(b) geographic area; and]~~
95 ~~[(c) family]~~ (8) Family composition[;] is limited to:
96 ~~[(i)]~~ (a) an overall ratio of ~~[5]~~ 6:1 or less; and
97 ~~[(ii)]~~ (b) a ~~[four]~~ tier rating structure that includes:
98 (i) four tiers that include:
99 (A) employee only;
100 (B) employee plus spouse;
101 (C) employee plus a dependent or dependents; and
102 (D) a family, consisting of an employee plus spouse, and a dependent or dependents[;];
103 or
104 (ii) five tiers that include:
105 (A) employee only;
106 (B) employee plus spouse;
107 (C) employee plus a dependent; and
108 (D) employee plus more than one dependent, other than a spouse; and
109 (E) a family, consisting of an employee plus spouse, and a dependent or dependents.
110 ~~[(7)]~~ (9) If a health benefit plan is a health benefit plan into which the small employer
111 carrier is no longer enrolling new covered insureds, the small employer carrier shall use the
112 percentage change in the base premium rate, provided that the change does not exceed, on a
113 percentage basis, the change in the new business premium rate for the most similar health
114 benefit product into which the small employer carrier is actively enrolling new covered
115 insureds.
116 ~~[(8)]~~ (10) (a) A covered carrier may not transfer a covered insured involuntarily into or
117 out of a class of business.
118 (b) A covered carrier may not offer to transfer a covered insured into or out of a class

119 of business unless the offer is made to transfer all covered insureds in the class of business
120 without regard to:

- 121 (i) case characteristics;
- 122 (ii) claim experience;
- 123 (iii) health status; or
- 124 (iv) duration of coverage since issue.

125 [~~9~~] (11) (a) Each small employer carrier shall maintain at the small employer carrier's
126 principal place of business a complete and detailed description of its rating practices and
127 renewal underwriting practices, including information and documentation that demonstrate that
128 the small employer carrier's rating methods and practices are:

- 129 (i) based upon commonly accepted actuarial assumptions; and
- 130 (ii) in accordance with sound actuarial principles.

131 (b) (i) Each small employer carrier shall file with the commissioner on or before April
132 1 of each year, in a form and manner and containing information as prescribed by the
133 commissioner, an actuarial certification certifying that:

- 134 (A) the small employer carrier is in compliance with this chapter; and
- 135 (B) the rating methods of the small employer carrier are actuarially sound.

136 (ii) A copy of the certification required by Subsection [~~9~~] (11)(b)(i) shall be retained
137 by the small employer carrier at the small employer carrier's principal place of business.

138 (c) A small employer carrier shall make the information and documentation described
139 in this Subsection [~~9~~] (11) available to the commissioner upon request.

140 [~~10~~] (12) (a) The commissioner shall, by July 1, 2010, establish rules in accordance
141 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

- 142 (i) implement this chapter; and
- 143 (ii) assure that rating practices used by small employer carriers under this section and
144 carriers for individual plans under Section 31A-30-106, as effective on January 1, 2011, are
145 consistent with the purposes of this chapter.

146 (b) The rules may:

- 147 (i) assure that differences in rates charged for health benefit plans by carriers are
148 reasonable and reflect objective differences in plan design, not including differences due to the
149 nature of the groups or individuals assumed to select particular health benefit plans; and

150 (ii) prescribe the manner in which case characteristics may be used by small employer
151 and individual carriers.

152 [~~(H)~~] (13) Records submitted to the commissioner under this section shall be
153 maintained by the commissioner as protected records under Title 63G, Chapter 2, Government
154 Records Access and Management Act.