

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 275

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO INSURANCE; AMENDING SECTION 41-5203, IDAHO CODE, TO REVISE DEF-  
2 INITIONS, TO DEFINE TERMS, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING  
3 SECTION 41-5207, IDAHO CODE, TO PROVIDE FOR ENHANCED SHORT-TERM PLANS  
4 AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 52, TITLE 41, IDAHO  
5 CODE, BY THE ADDITION OF A NEW SECTION 41-5214, IDAHO CODE, TO PROVIDE  
6 FOR ENHANCED SHORT-TERM PLANS; AND DECLARING AN EMERGENCY.  
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 41-5203, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 41-5203. DEFINITIONS. As used in this chapter:

12 (1) "Actuarial certification" means a written statement by a member of  
13 the American academy of actuaries or other individual acceptable to the di-  
14 rector that an individual carrier is in compliance with the provisions of  
15 section 41-5206, Idaho Code, based upon the person's examination and includ-  
16 ing a review of the appropriate records and the actuarial assumptions and  
17 methods used by the individual carrier in establishing premium rates for ap-  
18 plicable health benefit plans.

19 (2) "Affiliate" or "affiliated" means any entity or person who directly  
20 or indirectly through one (1) or more intermediaries, controls or is con-  
21 trolled by, or is under common control with, a specified entity or person.

22 (3) "Agent" means a producer as defined in section 41-1003(8), Idaho  
23 Code.

24 (4) "Base premium rate" means, as to a rating period, the lowest pre-  
25 mium rate charged or that could have been charged under a rating system by  
26 the individual carrier to individuals with similar case characteristics for  
27 health benefit plans with the same or similar coverage.

28 (5) "Carrier" means any entity that provides health insurance in this  
29 state. For purposes of this chapter, carrier includes an insurance company,  
30 a hospital or professional service corporation, a fraternal benefit soci-  
31 ety, a health maintenance organization, any entity providing health insur-  
32 ance coverage or benefits to residents of this state as certificate hold-  
33 ers under a group policy issued or delivered outside of this state, and any  
34 other entity providing a plan of health insurance or health benefits subject  
35 to state insurance regulation.

36 (6) "Case characteristics" means demographic or other objective char-  
37 acteristics of an individual that are considered by the individual carrier  
38 in the determination of premium rates for the individual, provided that  
39 claim experience, health status and duration of coverage shall not be case  
40 characteristics for the purposes of this chapter.

41 (7) "Control" shall be defined in the same manner as in section  
42 41-3802(2), Idaho Code.

1 (8) "Dependent" in any new or renewing plan means a spouse, an unmarried  
 2 child under the age of twenty-five (25) years and who receives more than one-  
 3 half (1/2) of his financial support from the parent, or an unmarried child of  
 4 any age who is medically certified as disabled and dependent upon the parent.

5 (9) "Director" means the director of the department of insurance of the  
 6 state of Idaho.

7 (10) "Eligible individual" means an Idaho resident individual or depen-  
 8 dent of an Idaho resident:

9 (a) Who is under the age of sixty-five (65) years, is not eligible for  
 10 coverage under a group health plan, part A or part B of title XVIII of the  
 11 social security act (medicare), or a state plan under title XIX (medic-  
 12 aid) or any successor program, and who does not have other health insur-  
 13 ance coverage; or

14 (b) Who is a federally eligible individual (one who meets the eligibil-  
 15 ity criteria set forth in the federal health insurance portability and  
 16 accountability act of 1996, Public Law 104-191, Sec. 2741(b) (HIPAA)).

17 An "eligible individual" can be the dependent of an eligible employee, which  
 18 eligible employee is receiving health insurance benefits subject to the reg-  
 19 ulation of title 41, Idaho Code.

20 (11) "Enhanced short-term plan" means an individual health benefit  
 21 plan that:

22 (a) Has an initial period of less than twelve (12) months and is renew-  
 23 able at the option of the individual for up to the number of months es-  
 24 tablished by rules issued pursuant to section 41-5214, Idaho Code; and

25 (b) Otherwise meets the standards established by rules issued pursuant  
 26 to section 41-5214, Idaho Code.

27 (12) "Established geographic service area" means a geographic area, as  
 28 approved by the director and based on the carrier's certificate of authority  
 29 to transact insurance in this state, within which the carrier is authorized  
 30 to provide coverage.

31 (123) "Health benefit plan" means any hospital or medical policy or  
 32 certificate, any subscriber contract provided by a hospital or professional  
 33 service corporation, or health maintenance organization subscriber con-  
 34 tract and includes enhanced short-term plans. Health benefit plan does not  
 35 include policies or certificates of insurance for specific disease, hospi-  
 36 tal confinement indemnity, accident-only, credit, dental, vision, medicare  
 37 supplement, long-term care, or disability income insurance, student health  
 38 benefits only, coverage issued as a supplement to liability insurance,  
 39 worker's compensation or similar insurance, automobile medical payment in-  
 40 surance, or nonrenewable short-term coverage issued for a period of twelve  
 41 (12) months or less.

42 (134) "Index rate" means, as to a rating period for individuals with  
 43 similar case characteristics, the arithmetic average of the applicable base  
 44 premium rate and the corresponding highest premium rate.

45 (145) "Individual basic health benefit plan" means a lower cost health  
 46 benefit plan developed pursuant to chapter 55, title 41, Idaho Code, prior to  
 47 April 1, 2017.

48 (16) "Individual carrier" means a carrier that offers health benefit  
 49 plans covering eligible individuals and their dependents.

1 (157) "Individual catastrophic A health benefit plan" means a higher  
 2 limit health benefit plan developed pursuant to chapter 55, title 41, Idaho  
 3 Code, prior to April 1, 2017.

4 (168) "Individual catastrophic B health benefit plan" means a health  
 5 benefit plan with limits higher than an individual catastrophic A health  
 6 benefit plan developed pursuant to chapter 55, title 41, Idaho Code, prior  
 7 to April 1, 2017.

8 (179) "Individual HSA compatible health benefit plan" means a health  
 9 savings account compatible health benefit plan developed pursuant to chap-  
 10 ter 55, title 41, Idaho Code, prior to April 1, 2017.

11 ~~(1820)~~ "Individual standard health benefit plan" means a health benefit  
 12 plan developed pursuant to chapter 55, title 41, Idaho Code, prior to April  
 13 1, 2017.

14 ~~(1921)~~ "New business premium rate" means, as to a rating period, the  
 15 lowest premium rate charged or offered or which could have been charged or  
 16 offered by the individual carrier to individuals with similar case char-  
 17 acteristics for newly issued health benefit plans with the same or similar  
 18 coverage.

19 (202) "Premium" means all moneys paid by an individual and eligible de-  
 20 pendents as a condition of receiving coverage from a carrier, including any  
 21 fees or other contributions associated with the health benefit plan.

22 (213) "Qualifying previous coverage" and "qualifying existing cover-  
 23 age" mean benefits or coverage provided under:

24 (a) Medicare or medicaid, civilian health and medical program for uni-  
 25 formed services (CHAMPUS), the Indian health service program, a state  
 26 health benefit risk pool, or any other similar publicly sponsored pro-  
 27 gram; or

28 (b) Any group or individual health insurance policy or health benefit  
 29 arrangement whether or not subject to the state insurance laws, in-  
 30 cluding coverage provided by a managed care organization, hospital or  
 31 professional service corporation, or a fraternal benefit society, that  
 32 provides benefits similar to or exceeding benefits provided under the  
 33 basic health benefit plan.

34 (224) "Rating period" means the calendar period for which premium rates  
 35 established by a carrier are assumed to be in effect.

36 (235) "Reinsuring carrier" means a carrier participating in the Idaho  
 37 individual high-risk reinsurance pool established in chapter 55, title 41,  
 38 Idaho Code.

39 (246) "Restricted network provision" means any provision of a health  
 40 benefit plan that conditions the payment of benefits, in whole or in part,  
 41 on the use of health care providers that have entered into a contractual  
 42 arrangement with the carrier to provide health care services to covered in-  
 43 dividuals.

44 (257) "Risk-assuming carrier" means a carrier whose application is ap-  
 45 proved by the director pursuant to section 41-5210, Idaho Code.

46 ~~(26) "Individual carrier" means a carrier that offers health benefit~~  
 47 ~~plans covering eligible individuals and their dependents.~~

48 SECTION 2. That Section 41-5207, Idaho Code, be, and the same is hereby  
 49 amended to read as follows:

1           41-5207. RENEWABILITY OF COVERAGE. (1) A health benefit plan subject  
2 to the provisions of this chapter shall be renewable with respect to the in-  
3 dividual or dependents, at the option of the individual, except in any of the  
4 following cases:

5           (a) Nonpayment of the required premiums;

6           (b) Fraud or intentional misrepresentation of material fact by the in-  
7 dividual insured or his representatives. An individual whose coverage  
8 is terminated for fraud or misrepresentation shall not be deemed to be  
9 an "eligible individual" for a period of twelve (12) months from the ef-  
10 fective date of the termination of the individual's coverage and shall  
11 not be deemed to have "qualifying previous coverage" under chapter 22,  
12 47 or 52, title 41, Idaho Code;

13           (c) The individual ceases to be an eligible individual as defined in  
14 section 41-5203(10), Idaho Code;

15           (d) In the case of health benefit plans that are made available in the  
16 individual market only through one (1) or more associations, as defined  
17 in section 41-2202, Idaho Code, the membership of an individual in the  
18 association, on the basis of which the coverage is provided ceases, but  
19 only if the coverage is terminated under this paragraph uniformly with-  
20 out regard to any health status-related factor relating to any covered  
21 individual;

22           (e) The individual carrier elects, at the time of coverage renewal, to  
23 discontinue offering a particular health benefit plan delivered or is-  
24 sued for delivery to individuals in this state. Unless otherwise au-  
25 thorized in advance by the department of insurance, a carrier may dis-  
26 continue a product only after the product has been in use for at least  
27 thirty-six (36) consecutive months, provided the carrier may not dis-  
28 continue more than fifteen percent (15%) of its total number of individ-  
29 uals and dependents in all lines of business regulated by this chapter  
30 in a twelve (12) month period. The carrier shall:

31           (i) Provide advance written or electronic notice of its decision  
32 under this paragraph to the director;

33           (ii) Provide notice of the discontinuation to all affected indi-  
34 viduals at least ninety (90) calendar days prior to the date the  
35 particular health benefit plan will be discontinued by the car-  
36 rier, provided that notice to the director under the provisions of  
37 this paragraph shall be provided at least fourteen (14) calendar  
38 days prior to the notice to the affected individuals;

39           (iii) Offer to each affected individual, on a guaranteed issue ba-  
40 sis, the option to purchase all other health benefit plans cur-  
41 rently being offered by the carrier to individuals in this state;

42           (iv) Act uniformly without regard to any health status-related  
43 factor of an affected individual or dependent of an affected indi-  
44 vidual who may become eligible for the coverage; and

45           (v) Offer the new products at rates that comply with section  
46 41-5206(1) (b), Idaho Code.

47           (f) The individual carrier elects to nonrenew all of its health benefit  
48 plans delivered or issued for delivery to individuals in this state. In  
49 such a case the carrier shall:

1 (i) Provide advance notice of its decision under this paragraph  
2 to the director; and

3 (ii) Provide notice of the decision not to renew coverage to all  
4 affected individuals and to the director at least one hundred  
5 eighty (180) calendar days prior to the nonrenewal of any health  
6 benefit plans by the carrier. Notice to the director under the  
7 provisions of this paragraph shall be provided at least three (3)  
8 working days prior to the notice to the affected individuals; ~~or~~

9 (g) The director finds that the continuation of the coverage would:

10 (i) Not be in the best interests of the policyholders or certifi-  
11 cate holders; or

12 (ii) Impair the carrier's ability to meet its contractual obliga-  
13 tions.

14 In such instance, the director shall assist affected individuals in  
15 finding replacement coverage; or

16 (h) The plan is an enhanced short-term plan that has reached the limit  
17 of renewability established in rules issued by the director and the in-  
18 dividual carrier offers the individual the opportunity to reapply for  
19 coverage in accordance with the rules issued by the director.

20 (2) An individual carrier that elects not to renew a health benefit plan  
21 under the provisions of subsection (1) (f) of this section shall be prohib-  
22 ited from writing new business in the individual market in this state for a  
23 period of five (5) years from the date of notice to the director.

24 (3) In the case of an individual carrier doing business in one (1) es-  
25 tablished geographic service area of the state, the rules set forth in this  
26 ~~subsection~~ section shall apply only to the carrier's operations in that ser-  
27 vice area.

28 SECTION 3. That Chapter 52, Title 41, Idaho Code, be, and the same is  
29 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
30 ignated as Section 41-5214, Idaho Code, and to read as follows:

31 41-5214. ENHANCED SHORT-TERM PLANS. The director shall adopt reason-  
32 able rules to establish specific standards for enhanced short-term plans.  
33 The standards shall be in addition to and in accordance with applicable laws  
34 of this state, including this chapter. The standards:

35 (1) Shall include requirements for renewability that are consistent  
36 with federal law regarding short-term, limited duration insurance; and

37 (2) May include, but need not be limited to:

38 (a) A scope of covered benefits, which may be as broad as the scope of  
39 covered benefits required to be included in individual health benefit  
40 plans that are not deemed short-term, limited duration insurance under  
41 federal law;

42 (b) Restrictions on premium rate increases when an enhanced short-term  
43 plan ceases to be renewable and the individual policyholder reapplies  
44 for coverage from the same carrier; and

45 (c) Conversion of enhanced short-term plans into fully renewable cov-  
46 erage upon a finding by the director that the conversion complies with  
47 law and is in the best interests of the public.

1           SECTION 4. An emergency existing therefor, which emergency is hereby  
2 declared to exist, this act shall be in full force and effect on and after its  
3 passage and approval.