

(Without Reference to File)

CONCURRENCE IN SENATE AMENDMENTS

AB 1083 (Monning)

As Amended August 24, 2012

Majority vote

ASSEMBLY: 50-27 (May 27, 2011)

SENATE: 22-13 (August 29, 2012)

COMMITTEE VOTE: 10-5 (August 30, 2012)
(HEALTH)

RECOMMENDATION: concur

Original Committee Reference: HEALTH

SUMMARY: Reforms California's small group health insurance laws to enact the federal Patient Protection and Affordable Care Act (ACA). Eliminates preexisting condition requirements and establishes premium rating factors based only on age, family size, and geographic regions, except for grandfathered plans. New guaranteed issue provisions and the rating provisions are tied to those provisions in the ACA. Should guaranteed issue and rating factors be repealed in the ACA, California's existing guaranteed issue and rating law pre-ACA would become operative.

The Senate amendments:

- 1) Require that **if the ACA** provisions on guaranteed issue and rating factors are **repealed** the related provisions in this bill **would also be repealed**, and provisions of law in effect prior to the ACA would become operative.
- 2) **Sunset existing law affecting small employer plans** on January 1, 2014, and establish a new law that applies to nongrandfathered small employer health benefit plans with respect to plan years beginning on or after January 1, 2014.
- 3) Require health plans and health insurers, commencing March 1, 2013, and at least annually thereafter, to provide to their regulators, the number of enrollees by product type as of December 31 of the prior year that receive coverage or insurance as individuals, small groups, large groups, or administrative services only business lines. Require the information to be reported publicly by each health plan and insurer on the Web site of the regulators. Require the Department of Health Care Services (DMHC) and the California Department of Insurance (CDI) to consult to ensure the data are comparable and do not duplicate existing reporting requirements, and utilize existing reporting formats.
- 4) **Permit a waiting period of no longer than 60 days**, as specified.
- 5) **Delete provisions allowing a self-employed individual to choose to enroll as an individual rather than a small employer in the California Health Benefit Exchange (Exchange).**
- 6) Make the definition of employer, for purposes of determining whether an employer with one employee includes sole proprietors, certain owners of S corporations, or other individuals

consistent with ACA and any federal rules, regulations or guidance consistent with that law.

- 7) Require an affiliation period under a health plan contract to run concurrently with any waiting period under that contract, not to exceed 60 days.
- 8) Allow a waiting period for plan years on or after January 1, 2014 to be applied as a condition of employment if applied equally to all full-time employees, consistent with ACA and any rules, regulations, or guidance issued consistent with that law.
- 9) Maintain existing law for small group grandfathered health plans and health insurers.
- 10) State that nothing in certain provisions should be construed as prohibiting health plans and health insurers from restricting enrollment of late enrollees to open enrollment periods as authorized in ACA, and any rules, regulations, or guidance issued consistent with that law.
- 11) Require premium rates for contracts offered or delivered by plans on or after January 1, 2014, to be subject to the following requirements:
 - a) The following geographic rating regions:
 - i) Region 1 shall consist of the counties of Alpine, Del Norte, Siskiyou, Modoc, Lassen, Shasta, Trinity, Humboldt, Tehama, Plumas, Nevada, Sierra, Mendocino, Lake, Butte, Glenn, Sutter, Yuba, Colusa, Amador, Calaveras, and Tuolumne.
 - ii) Region 2 shall consist of the counties of Napa, Sonoma, Solano, and Marin.
 - iii) Region 3 shall consist of the counties of Sacramento, Placer, El Dorado, and Yolo.
 - iv) Region 4 shall consist of the county of San Francisco.
 - v) Region 5 shall consist of the county of Contra Costa.
 - vi) Region 6 shall consist of the county of Alameda.
 - vii) Region 7 shall consist of the county of Santa Clara.
 - viii) Region 8 shall consist of the county of San Mateo.
 - ix) Region 9 shall consist of the counties of Santa Cruz, Monterey, and San Benito.
 - x) Region 10 shall consist of the counties of San Joaquin, Stanislaus, Merced, Mariposa, and Tulare.
 - xi) Region 11 shall consist of the counties of Madera, Fresno, and Kings.
 - xii) Region 12 shall consist of the counties of San Luis Obispo, Santa Barbara, and Ventura.
 - xiii) Region 13 shall consist of the counties of Mono, Inyo, and Imperial.

- xiv) Region 14 shall consist of the county of Kern.
- xv) Region 15 shall consist of the ZIP Codes in Los Angeles County starting with 906 to 912, inclusive, 915, 917, 918, and 935.
- xvi) Region 16 shall consist of the ZIP Codes in Los Angeles County other than those identified in subparagraph (xv).
- xvii) Region 17 shall consist of the counties of San Bernardino and Riverside.
- xviii) Region 18 shall consist of the county of Orange.
- xix) Region 19 shall consist of the county of San Diego.

b) Age bands and family categories pursuant to the ACA.

- 12) Authorize the DMHC, in consultation with the CDI and the Exchange, to review the geographic rating regions and submit a report to the Legislature.
- 13) Require all nongrandfathered policies of small employer health insurance that are offered, sold, renewed, or delivered on or after January 1, 2014, to provide coverage for essential health benefits, as described in ACA.
- 14) Prohibit a health care service plan or insurance carrier from requiring an eligible employee or dependent to fill out a health assessment or medical questionnaire prior to enrollment under a small employer health care service plan contract. Prohibit a health care service plan or insurer from acquiring or requesting information that relates to a health status factor from the applicant or his or her dependent or any other source prior to enrollment of the individual.
- 15) Revise a health status-related factor in which plans and insurers may not establish rules for eligibility and recognizes any other health status-related factor as determined by any federal regulations, rules, or guidance issued pursuant to federal law.
- 16) Revise the definition of child, as specified.
- 17) Require on or after October 1, 2013, and annually thereafter, a health care service plan and insurance carrier to issue a notice to all subscribers enrolled in a grandfathered small employer plan contract informing subscribers about new health care options available on and after January 1, 2014, as specified.

AS PASSED BY THE ASSEMBLY, this bill, effective January 1, 2014, revised state law to implement provisions in the federal ACA. Required solicitors to notify the small employer of the availability of coverage through the Exchange, made premium rates established by health plans and insurers in effect for 12 months, prohibited solicitors and health insurance agents from entering into arrangements with carriers for varied compensation based on health status, claims experience, industry, occupation, or geographic location.

FISCAL EFFECT: As amended, this bill has not been analyzed by a fiscal committee.

COMMENTS: Approximately 3.4 million Californians enjoy the protections brought about by California's landmark small employer group health insurance rating and underwriting rules which have applied to employer groups with two to 50 workers since 1993. These rules require carriers to offer health plan contracts and insurance policies (health insurance) to small employer purchasers on a guaranteed issue (accept a group applying for coverage regardless of the health status or claims experience of group members). They also require carriers to offer renewal contracts, limit the rating factors carriers can employ in pricing small group products, require carriers to guarantee issue all small employer products to all small group purchasers, and limit the ways in which carriers can exclude coverage for existing health care conditions. The ACA includes several significant reforms to the health insurance market, including numerous provisions that interact with California's small group laws. According to the author, implementation of ACA small group reforms in California has the potential to bring millions of people into the small group market. This bill is intended to revise California law to conform to the federal law in order to bring more uninsured into coverage.

Analysis Prepared by: Teri Boughton / HEALTH / (916) 319-2097

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