LEGISLATURE OF THE STATE OF IDAHO

Sixty-third Legislature First Regular Session - 2015

IN THE SENATE

SENATE BILL NO. 1081

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO SELF-FUNDED HEALTH CARE PLANS; AMENDING SECTION 41-4002, IDAHO CODE, TO DEFINE A TERM AND TO REVISE DEFINITIONS; AMENDING SECTION 41-4010, IDAHO CODE, TO PROVIDE RESERVES AND SURPLUS REQUIREMENTS OF PUBLIC POSTSECONDARY EDUCATIONAL INSTITUTIONS WITH A PUBLIC POSTSECONDARY EDUCATIONAL INSTITUTION PLAN.

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

SECTION 1. That Section 41-4002, Idaho Code, be, and the same is hereby amended to read as follows:

41-4002. DEFINITIONS. For the purposes of this chapter unless context otherwise requires:

(1) "Administrator" is a person, if other than the trustee, employed or contracted by the trustee to provide administrative services to a self-funded plan.

(2) "Beneficiary" is any individual entitled, under the self-funded plan, to payment by the trust fund of any part or all of the cost of any health care service rendered to such beneficiary.

(3) "Claims liability" is the total of all incurred and unpaid claims, including incurred but not reported claims, for allowable benefits under a self-funded plan that are not reimbursed or reimbursable by stop-loss insurance provided by a carrier authorized to transact insurance in this state.

(4) "Contribution" is the amount paid or payable by the employer or employee, or a postsecondary educational institution or student, into the trust fund.

(5) "Department" is the Idaho department of insurance.

(6) "Director" is the director of the department of insurance.

(7) "Irrevocable trust agreement" is a trust agreement whereby under the terms thereof the plan sponsor cannot retain the power to alter, amend, revoke or terminate the transfer of funds or property held in trust.

(8) "Multiple employer welfare arrangement" or "multiple employer welfare plan" shall have the same meaning as that given to the term "multiple employer welfare arrangement" by the employee retirement income security act of 1974, as amended.

(9) "Person" is any individual, corporation, limited liability company, partnership, association, firm, syndicate, organization, educational institution or any other public or private entity organized or recognized under the laws of the state of Idaho.

(10) "Plan sponsor" is any person who creates a self-funded health benefit plan for the benefit of any employer and employee or employees, or a postsecondary educational institution and student or students.

(11) "Postsecondary educational institution" is a person whose primary purpose is to provide a postsecondary education that offers or awards edu-

cational degrees and that provides courses or programs that lead to an educational degree, that is legally authorized and maintains a presence in the state of Idaho, and that has an average annualized enrollment of eight hundred (800) or more full-time students located in Idaho.

(12) "Public postsecondary educational institution" means Boise State University, Idaho State University, Lewis-Clark State College and the University of Idaho, along with the board of regents and board of trustees thereof.

(13) "Qualified actuary" is an actuary having experience in establishing rates for a self-funded plan and the health services being provided, and who is also a fellow of the society of actuaries, a member of the American academy of actuaries or an enrolled actuary under the employee retirement income security act of 1974, as amended.

(1~~3~~4) "Self-funded plan" or "plan" is any single employer plan, public postsecondary educational institution plan, or multiple employer welfare plan, or any other single or multiple employer plan, or any postsecondary educational institution student health benefit plan, other than a plan providing only benefits under title 72, Idaho Code, under which payment for medical, surgical, hospital, and other services for prevention, diagnosis, or treatment of any disease, injury, or bodily condition of an employee is, or is to be, regularly provided for or promised from funds created or maintained in whole or in part by contributions or payments thereto by the employer or employers, or by the employer or employers and the employees, or by a postsecondary educational institution and students at said institution, or students of a postsecondary educational institution, who are not otherwise covered by insurance or contract with a health care service corporation or managed care organization authorized to transact business in this state.

(1~~4~~5) "Single employer" is any individual, sole proprietorship, business, partnership, corporation, limited liability company, firm or any other form of legally recognized entity or a group of two (2) or more employers under "common control" as defined in section 3(40)(B)(iii) of the employee retirement income security act of 1974, as amended.

(1~~5~~6) "Student" is an individual enrolled in a postsecondary educational institution.

(1~~6~~7) "Surplus" is the excess of the assets of a self-funded plan minus the liabilities of the plan, provided the liabilities of a self-funded plan shall include the claims liability of the plan.

(1~~7~~8) "Trust fund" is a trust fund established in conjunction with a self-funded plan for receipt of contributions of employer and employees, postsecondary educational institution and students, and payment of or with respect to health care service costs of beneficiaries.

(1~~8~~9) "Trustee" is the trustee, whether a single or multiple trustee, of the trust fund.

SECTION 2. That Section 41-4010, Idaho Code, be, and the same is hereby amended to read as follows:

41-4010. RESERVES AND SURPLUS. (1) The trustee of a self-funded plan shall establish and maintain in the trust fund the following reserves:

(a) A reserve in an amount as certified by a qualified actuary as being necessary for payment of claims liability. The reserve shall be reasonably adjusted on a quarterly basis in an amount as determined by a qualified actuary or other qualified person if authorized by the director.

(b) If, under the plan, periodic contributions to the trust fund have been paid in advance or are payable less frequently than monthly, there shall be a reserve for unearned contributions as computed pro rata on the basis of the unexpired portion of the period for which the contribution has been paid.

(c) If future claims payments plus future costs of operation are greater than future contributions plus current reserves, there shall be a reserve in an amount equal to future claims payments plus future costs of operation, less future contributions, less current reserves.

(2) In any determination of the financial condition of the trust fund, the claims reserve, reserve for unearned contributions and contribution deficiency reserve shall constitute liabilities.

(3) In addition to reserves required by this section, a self-funded plan shall establish and maintain in its trust fund surplus equal to at least:

(a) The equivalence of three (3) months of contributions for the current plan year; or

(b) One hundred ten percent (110%) of the difference between the total dollar aggregate stop-loss attachment point plus costs of operation and the total dollar expected contributions for the current plan year.

(c) Paragraphs (a) and (b) of this subsection notwithstanding, a public postsecondary educational institution shall instead be required to establish and maintain in its trust fund surplus an amount equal to at least thirty percent (30%) of the unpaid claims liability of the plan.

(4) A surplus note that has been approved by the director in a form and as defined in section 41-2841, Idaho Code, may be used to fund surplus and shall not be accounted as a liability.

(5) Up to one-third (1/3) of the surplus required by this section may be funded by a clean, irrevocable letter of credit, in a form acceptable to the director, issued in favor of the trust fund by a federally or state chartered bank having a branch office in Idaho. Such irrevocable letter of credit cannot be guaranteed by pledge of any of the plan assets. The funding cannot be in the form of prepaid contributions or other loan or associated with an offsetting liability.

(6) A newly formed plan with no prior operating history shall meet the minimum surplus requirements no later than twelve (12) months after the date of initial operation. For plans registered with the department and in existence on the effective date of this law, such plans shall have twenty-four (24) months from the effective date of this law in which to increase their surplus level to comply with the requirements of subsection (3) of this section.

(7) The trust fund shall maintain the minimum surplus requirements at all times throughout the year.