

SECOND REGULAR SESSION

SENATE BILL NO. 1043

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHMITT.

Read 1st time March 1, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

5303S.011

AN ACT

To amend chapters 135, 148, and 376, RSMo, by adding thereto nine new sections relating to health insurance.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapters 135, 148, and 376, RSMo, are amended by adding
2 thereto nine new sections, to be known as sections 135.349, 148.372, 376.437,
3 376.439, 376.443, 376.1601, 376.1603, 376.1609, and 376.1618, to read as follows:

**135.349. 1. As used in this section, the following terms shall
2 mean:**

3 (1) "Health savings account" or "account", shall have the same
4 meaning ascribed to it as in 26 U.S.C. Section 223(d), as amended;

5 (2) "High deductible health plan", a health savings account
6 eligible plan that meets the criteria established in 26 U.S.C. Section
7 223(c)(2), as amended, and any regulations promulgated thereunder;

8 (3) "Qualified health insurance expense", the expenditure of
9 funds for health insurance premiums for high deductible health plans
10 that include, at a minimum, catastrophic health care coverage which
11 are established under the applicable provisions of Section 223 of the
12 Internal Revenue Code;

13 (4) "Qualified health insurance", a high deductible health plan
14 that includes, at a minimum, catastrophic health care coverage which
15 is established under the applicable provisions of Section 223 of the
16 Internal Revenue Code;

17 (5) "Taxpayer", any person or entity considered to be an
18 employer for purposes of section 143.191, or any person or entity who
19 pays compensation to individuals which compensation is reported on
20 Form 1099, who directly employs at least two but not more than fifty

21 persons.

22 2. For taxable years commencing on or after January 1, 2010, a
23 taxpayer shall be allowed a tax credit against the tax imposed by
24 chapter 143, exclusive of the provisions relating to the withholding of
25 tax as provided in sections 143.191 to 143.265, for qualified health
26 insurance expenses in an amount of two hundred and fifty dollars for
27 each employee enrolled for twelve consecutive months in a qualified
28 health insurance plan if such qualified health insurance is made
29 available to all of the employees and compensated individuals of the
30 employer pursuant to the applicable provisions of Section 125 of the
31 Internal Revenue Code.

32 3. In no event shall the total amount of the tax credit under this
33 section for a taxable year exceed the taxpayer's income tax
34 liability. The amount of the tax credit claimed shall not exceed the
35 amount of the taxpayer's state tax liability for the taxable year for
36 which the credit is claimed. However, any tax credit that cannot be
37 claimed in the taxable year the contribution was made may be carried
38 over to the next four succeeding taxable years until the full credit has
39 been claimed.

40 4. The director of the department of revenue is authorized to
41 promulgate rules and regulations necessary to implement and
42 administer the provisions of this section. Any rule or portion of a rule,
43 as that term is defined in section 536.010 that is created under the
44 authority delegated in this section shall become effective only if it
45 complies with and is subject to all of the provisions of chapter 536, and,
46 if applicable, section 536.028. This section and chapter 536 are
47 nonseverable and if any of the powers vested with the general assembly
48 pursuant to chapter 536, to review, to delay the effective date, or to
49 disapprove and annul a rule are subsequently held unconstitutional,
50 then the grant of rulemaking authority and any rule proposed or
51 adopted after August 28, 2010, shall be invalid and void.

 148.372. 1. Every insurance company shall be exempt from
2 otherwise applicable premium taxes provided for in section 148.370 on
3 premiums paid by Missouri residents for high deductible health plans
4 sold in Missouri.

5 2. For all taxable years beginning on or after January 1, 2011,
6 insurance companies shall be exempt from otherwise applicable local

7 premium taxes on premiums paid by Missouri residents for high
8 deductible health plans sold in Missouri.

9 3. As used in this section, a "high deductible health plan" shall
10 mean a health savings account eligible plan that meets the criteria
11 established in 26 U.S.C. Section 223(c)(2), as amended, and any
12 regulations promulgated thereunder.

13 4. The director of the department of revenue is authorized to
14 promulgate rules and regulations to implement and administer the
15 provisions of this section. Any rule or portion of a rule, as that term is
16 defined in section 536.010 that is created under the authority delegated
17 in this section shall become effective only if it complies with and is
18 subject to all of the provisions of chapter 536, and, if applicable, section
19 536.028. This section and chapter 536, RSMo, are nonseverable and if
20 any of the powers vested with the general assembly pursuant to chapter
21 536, to review, to delay the effective date, or to disapprove and annul
22 a rule are subsequently held unconstitutional, then the grant of
23 rulemaking authority and any rule proposed or adopted after August
24 28, 2010, shall be invalid and void.

376.437. 1. Any group policy, contract, or health benefit plan
2 which is issued, delivered, issued for delivery, or renewed in this state
3 on or after January 1, 2011, providing coverage for hospital or medical
4 expenses other than for specific diseases or for accidental injuries only,
5 shall contain a provision that a group member or employee whose
6 insurance coverage under the policy or health benefit plan otherwise
7 terminates after the expiration of the period of continuation of
8 coverage for which the individual is eligible under the federal
9 Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), or
10 section 376.428 shall be entitled to continue coverage under that group
11 policy or health benefit plan for himself or herself and his or her
12 eligible dependents if the member or employee was fifty-five years of
13 age or older at the time of the expiration of coverage provided by the
14 federal Consolidated Omnibus Budget Reconciliation Act or section
15 376.428.

16 2. In the event and to the extent that this section is applicable,
17 the election by the group member or employee to obtain continuation
18 of coverage as provided under the federal Consolidated Omnibus
19 Budget Reconciliation Act of 1985 (COBRA) or under the provisions of

20 section 376.428 shall constitute election of continuation of coverage
21 under this section without further action by the group member or
22 employee. The provisions of the federal Consolidated Omnibus Budget
23 Reconciliation Act of 1985 (COBRA) or of section 376.428, whichever is
24 applicable, regarding notice to a group member or an employee of the
25 right to continue coverage shall apply to the continuation of coverage
26 provided under this section.

27 3. If an eligible group member or employee elects continuation
28 of coverage under the provisions of this section, the monthly premium
29 contribution for the continuation coverage shall not be greater than
30 one hundred two percent of the total of the amount that would be
31 charged if the eligible group member or employee were a current group
32 member or employee of the group contract, policy, or health benefit
33 plan plus an amount that the group policyholder would contribute
34 toward the premium if the eligible group member or employee were a
35 current group member or employee.

36 4. The first premium for the continuation of coverage under this
37 section shall be paid by the eligible group member or employee on the
38 first regular due date following the expiration of the eligible person's
39 benefits under the federal Consolidated Omnibus Budget Reconciliation
40 Act of 1985 (COBRA) or under the provisions of section 376.428.

41 5. Failure of the employee or member to exercise the election in
42 accordance with subsection 2 of this section shall terminate the right
43 to continuation of benefits under subsection 1 of this section.

44 6. The right to extended continuation coverage under the
45 provisions of this section shall terminate upon the earliest of any of the
46 following:

47 (1) The failure to pay premiums or required premium
48 contributions, if applicable, when due, including any grace period
49 allowed by the policy;

50 (2) The date that the group policy or plan is terminated as to all
51 group members or employees except that if a different group policy or
52 plan is made available to group members, the eligible group member or
53 employee shall be eligible for continuation of coverage as if the original
54 policy had not been terminated;

55 (3) The date on which the eligible member or employee becomes
56 insured under any other group health policy;

57 (4) The date on which the eligible member or employee becomes
58 eligible for coverage under the federal Medicare Program pursuant to
59 Title XVIII of the federal Social Security Act;

60 (5) The date on which the member or employee attains his or her
61 sixty-fifth birthday.

62 7. As used in this section, the term "policy, contract, or plan"
63 shall mean a group insurance policy or health benefit plan providing
64 group health insurance coverage on an expense incurred basis, or a
65 group service or indemnity contract issued by a health carrier as
66 defined in section 376.1350.

67 8. The director shall promulgate such rules and regulations as
68 may be necessary to implement the provisions of this section. Any rule
69 or portion of a rule, as that term is defined in section 536.010 that is
70 created under the authority delegated in this section shall become
71 effective only if it complies with and is subject to all of the provisions
72 of chapter 536, and, if applicable, section 536.028. This section and
73 chapter 536 are nonseverable and if any of the powers vested with the
74 general assembly pursuant to chapter 536, to review, to delay the
75 effective date, or to disapprove and annul a rule are subsequently held
76 unconstitutional, then the grant of rulemaking authority and any rule
77 proposed or adopted after August 28, 2010, shall be invalid and void.

 376.439. All group policies delivered, issued for delivery, or
2 renewed in this state on or after January 1, 2011, that provide
3 continuation coverage to individuals and their eligible dependents
4 pursuant to section 376.428, shall have their continuation of coverage
5 experience pooled across all fully insured group business in
6 Missouri. The experience of all persons covered by a continuation of
7 coverage provision shall be pooled and spread over all fully insured
8 premiums in Missouri on an equal percentage basis. The health benefit
9 plan under which continuation coverage is provided under section
10 376.428 shall not have the plan's premium directly affected by those
11 within the group plan who are exercising their continuation rights
12 under section 376.428.

 376.443. In addition to the group policy under which an employee
2 or group member may continue coverage under the federal
3 Consolidated Omnibus Budget Reconciliation Act (COBRA) or section
4 376.428, the health carrier shall offer the employee, group member, or

5 any qualifying eligible individual the option of continuation of
6 coverage through a high deductible health plan, or its actuarial
7 equivalent, that is eligible for use with a health savings account under
8 the applicable provisions of Section 223 of the Internal Revenue
9 Code. Such high deductible health plan shall have health insurance
10 premiums that are consistent with the underlying group plan of
11 coverage rated relative to the standard or manual rates for the benefits
12 provided. As used in this section, a "high deductible health plan" shall
13 mean a health savings account eligible plan that meets the criteria
14 established in 26 U.S.C. Section 223(c)(2), as amended, and any
15 regulations promulgated thereunder.

376.1601. 1. The director of the department of insurance,
2 financial institutions and professional registration is authorized to
3 allow employees to use funds from one or more employer health
4 reimbursement arrangement only plans to help pay for coverage in the
5 individual health insurance market. This will encourage employer
6 financial support of health insurance or health-related expenses
7 recognized under the rules of the federal Internal Revenue
8 Service. Health reimbursement arrangement only plans shall not be
9 considered insurance under this chapter.

10 2. As used in this section, the term "health reimbursement
11 arrangement" shall mean an employee benefit plan provided by an
12 employer which:

13 (1) Establishes an account or trust which is funded solely by the
14 employer and not through a salary reduction or otherwise under a
15 cafeteria plan established pursuant to Section 125 of the Internal
16 Revenue Code of 1986;

17 (2) Reimburses the employee for qualified medical care expenses,
18 as defined by 26 U.S.C. Section 213(d), incurred by the employee and
19 the employee's spouse and dependents; and

20 (3) Carries forward any unused portion of the maximum dollar
21 amount at the end of the coverage period to increase the maximum
22 reimbursement amount in subsequent coverage periods.

376.1603. 1. The director shall develop flexible guidelines for
2 coverage and approval of health savings account eligible high
3 deductible health plans which are designed to qualify under federal
4 and state requirements as high deductible health plans for use with

5 health savings accounts which comply with federal requirements under
6 the applicable provisions of the federal Internal Revenue Code.

7 2. The director is authorized to encourage and promote the
8 marketing of health savings account eligible high deductible plans by
9 health carriers in this state; provided, however, that nothing in this
10 section shall be construed to authorize the interstate sale of insurance.

11 3. The director shall conduct a national study of health savings
12 account eligible high deductible health plans available in other states
13 and determine if and how these products serve the uninsured and if
14 they should be made available to Missourians.

15 4. The director shall develop an automatic or fast track approval
16 process for health savings account eligible high deductible plans
17 already approved under the laws and regulations of this state or other
18 states.

19 5. The director is authorized to promulgate such rules and
20 regulations as he or she deems necessary and appropriate for the
21 design, promotion, and regulation of health savings account eligible
22 high deductible plans, including rules and regulations for the expedited
23 review of standardized policies, advertisements and solicitations, and
24 other matters deemed relevant by the director. Any rule or portion of
25 a rule, as that term is defined in section 536.010 that is created under
26 the authority delegated in this section shall become effective only if it
27 complies with and is subject to all of the provisions of chapter 536, and,
28 if applicable, section 536.028. This section and chapter 536 are
29 nonseverable and if any of the powers vested with the general assembly
30 pursuant to chapter 536, to review, to delay the effective date, or to
31 disapprove and annul a rule are subsequently held unconstitutional,
32 then the grant of rulemaking authority and any rule proposed or
33 adopted after August 28, 2010, shall be invalid and void.

376.1609. 1. Notwithstanding any provision of the law to the
2 contrary, health carriers may include wellness and health promotion
3 programs, condition or disease management programs, health risk
4 appraisals programs, and similar provisions in high deductible health
5 plans or policies that comport with federal requirements, provided that
6 such programs are approved by the department of insurance, financial
7 institutions and professional registration.

8 2. Health carriers that include and operate wellness and health

9 promotion programs, disease and condition management programs,
10 health risk appraisal programs, and similar provisions in high
11 deductible health plans or policies that comport with federal
12 requirements shall not be considered to be engaging in unfair trade
13 practices under section 375.936 with respect to references to the
14 practices of illegal inducements, unfair discrimination, and rebating.

15 3. As used in this section, a "high deductible health plan" shall
16 mean a policy or contract of health insurance or health benefit plan, as
17 defined in section 376.1350, that meets the criteria established in 26
18 U.S.C. Section 223(c)(2), as amended, and any regulations promulgated
19 thereunder.

20 376.1618. The director shall study and recommend to the general
21 assembly changes to remove any unnecessary application and
22 marketing barriers that limit the entry of new health insurance
23 products into the Missouri market. The director shall examine state
24 statutory and regulatory requirements along with market conditions
25 which create barriers for the entry of new health insurance products
26 and health insurance companies. The director shall also examine
27 proposals adopted in other states that streamline the regulatory
28 environment to make it easier for health insurance companies to
29 market new and existing products. The director shall submit a report
30 of his or her findings and recommendations to each member of the
31 general assembly no later than January 1, 2011.

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