

2010 -- S 2543

LC00803

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO INSURANCE

Introduced By: Senators Miller, C Levesque, and Perry

Date Introduced: February 11, 2010

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-41-22 of the General Laws in Chapter 27-41 entitled "Health  
2 Maintenance Organizations" is hereby amended to read as follows:

3 ~~27-41-22. Statutory construction and relationship to other laws. [Effective January~~  
4 ~~1, 2008.]~~ **27-41-22. Statutory construction and relationship to other laws.** -- (a) Except as  
5 otherwise provided in this chapter the provisions of chapters 19, 20, 20.1, and 20.2 of this title  
6 shall not be applicable to any health maintenance organization granted a license under this  
7 chapter. This provision shall not apply to an insurer or hospital or medical service corporation  
8 licensed and regulated pursuant to the insurance laws or the hospital or medical service  
9 corporation laws of this state except with respect to its health maintenance organization activities  
10 authorized and regulated pursuant to this chapter.

11 (b) Solicitation of enrollees by a health maintenance organization granted a license, or its  
12 representatives, shall not be construed to violate any provision of law relating to solicitation or  
13 advertising by health professionals.

14 (c) Any health maintenance organization authorized under this chapter shall not be  
15 deemed to be practicing a profession, and may employ, or contract with, any licensed health  
16 professional to deliver professional services.

17 (d) No section of chapter 15 of title 23, the Health Care Certificate of Need Act, shall be  
18 abridged by this chapter.

19 (e) All information relating to a subscriber's health care history, diagnosis, condition,

1 treatment, or evaluation shall be considered confidential health care information and shall not be  
2 released or transferred except under the safeguards established by chapter 37.3 of title 5, the  
3 Confidentiality of Health Care Information Act.

4 (f) The provisions of chapter 19.1 of this title, relating to extended medical benefits, shall  
5 be construed to apply to enrollees of health maintenance organizations.

6 (g) Any health maintenance organization authorized under this chapter shall be deemed  
7 to be an insurer, for the purposes of compliance with chapter 44-17.

8 SECTION 2. Section 36-12-6 of the General Laws in Chapter 36-12 entitled "Insurance  
9 Benefits" is hereby amended to read as follows:

10 **36-12-6. Authority to purchase group life, accidental death, long term health care,**  
11 **and other insurance benefits.** -- (a) The director of administration, or any employee of the  
12 department of administration designated by the director as his or her agent, is hereby authorized,  
13 empowered, and directed to contract with one or more insurance companies duly licensed by this  
14 state for the purchase of one or more contracts providing for group life, accidental death, long  
15 term health care and other insurance benefits in conformity with the provisions of sections 36-12-  
16 6 -- 36-12-14, to purchase contracts of insurance and to administer all provisions of sections 36-  
17 12-6 -- 36-12-14. Before entering into any insurance contract under this chapter, the director shall  
18 invite proposals from such qualified insurers as in his or her opinion would desire to accept any  
19 part of the insurance coverage authorized by sections 36-12-6 -- 36-12-14 including hospital care  
20 and surgical-medical services with the specific condition that the benefits and services provided  
21 by the carrier(s) will be substantially equivalent to those set forth in any collective bargaining  
22 agreements executed between the state of Rhode Island and authorized representatives of the  
23 unions representing state employees or the health care coverage presently being provided.

24 (b) The state will work diligently with leadership of organized labor in order to ensure  
25 competitiveness, cost effective health care services for all employees of the state who may be  
26 eligible for those benefits.

27 (c) Any new plan must accept pre-existing conditions for those individuals who will be  
28 covered by the new policy.

29 (d) The director may arrange with the company or companies from which the policy or  
30 policies of insurance authorized herein are purchased to reinsure portions of any contract or  
31 contracts of insurance with other insurance companies duly licensed in this state which elect to  
32 enter into contracts of reinsurance and are legally competent to do so. The director may annually  
33 redetermine the amount or amounts of coverage to be allocated to reinsuring companies in  
34 advance of any contract year after the first year.

1 (e) The director may designate one or more of those insurance companies as the  
2 administering company or companies.

3 (f) Each employee who is covered under any contract or contracts shall receive a  
4 certificate setting forth the benefits to which the employee and his or her dependents are entitled  
5 thereunder, to whom benefits shall be payable, to whom claims should be submitted, and  
6 summarizing the provisions of the contract principally affecting the employee and his or her  
7 dependents.

8 (g) The director may, on June 30, 1961, or at the end of any fiscal year thereafter,  
9 discontinue any insurance contract or contracts he or she has purchased from any corporation or  
10 corporations and replace it or them with a contract or contracts in any other corporation or  
11 corporations meeting the requirements of sections 36-12-6 – through 36-12-14.

12 (h) The director of administration shall not consider proposals nor purchase insurance  
13 contracts to administer the provisions of section 36-12-6 through 36-12-14 from any carrier, as  
14 defined in section 27-50-3, unless the carrier participates in the Affordable Health Plan  
15 Reinsurance Program, as set forth in section 27-50-17.

16 SECTION 3. Section 42-12.3-10 of the General Laws in Chapter 42-12.3 entitled "Health  
17 Care for Children and Pregnant Women" is hereby amended to read as follows:

18 **42-12.3-10. Administration.** -- The department of human services may cooperate  
19 through interagency cooperative agreements, with the department of health and/or other state  
20 agencies, and any other agreements they deem necessary, to assure that health care services for  
21 eligible pregnant women and children under the age of eighteen (18) are provided in an efficient  
22 and timely basis. The department of human services shall not consider proposals nor purchase  
23 insurance contracts to administer the programs described in sections 42-12.3-3 or 42-12.3-4, from  
24 any carrier, as defined in section 27-50-3, unless the carrier participates in the Affordable Health  
25 Plan Reinsurance Program, as set forth in section 27-50-17. The department of human services  
26 shall monitor and evaluate the medical services and health outcomes of clients served by the RIte  
27 Track and RIte Start programs. The department of human services shall be responsible for  
28 assuring marketing, enrollee relations, quality assurance, provider recruitment, and network  
29 development. The department is hereby authorized to promulgate any and all necessary rules and  
30 regulations to carry out the intent of this chapter.

31 SECTION 4. Section 42-14.5-3 of the General Laws in Chapter 42-14.5 entitled "The  
32 Rhode Island Health Care Reform Act of 2004 - Health Insurance Oversight" is hereby amended  
33 to read as follows:

34 **42-14.5-3. Powers and duties.** [**Contingent effective date; see notes under section 42-**

1 **14.5-1.** -- The health insurance commissioner shall have the following powers and duties:

2 (a) To conduct an annual public meeting or meetings, separate and distinct from rate  
3 hearings pursuant to section 42-62-13, regarding the rates, services and operations of insurers  
4 licensed to provide health insurance in the state the effects of such rates, services and operations  
5 on consumers, medical care providers and patients, and the market environment in which such  
6 insurers operate. Notice of not less than ten (10) days of said hearing(s) shall go to the general  
7 assembly, the governor, the Rhode Island Medical Society, the Hospital Association of Rhode  
8 Island, the director of health, and the attorney general. Public notice shall be posted on the  
9 department's web site and given in the newspaper of general circulation, and to any entity in  
10 writing requesting notice.

11 (b) To make recommendations to the governor and the joint legislative committee on  
12 health care oversight regarding health care insurance and the regulations, rates, services,  
13 administrative expenses, reserve requirements, and operations of insurers providing health  
14 insurance in the state, and to prepare or comment on, upon the request of the co-chairs of the joint  
15 committee on health care oversight or upon the request of the governor, draft legislation to  
16 improve the regulation of health insurance. In making such recommendations, the commissioner  
17 shall recognize that it is the intent of the legislature that the maximum disclosure be provided  
18 regarding the reasonableness of individual administrative expenditures as well as total  
19 administrative costs. The commissioner shall also make recommendations on the levels of  
20 reserves including consideration of: targeted reserve levels; trends in the increase or decrease of  
21 reserve levels; and insurer plans for distributing excess reserves.

22 (c) To establish a consumer/business/labor/medical advisory council to obtain  
23 information and present concerns of consumers, business and medical providers affected by  
24 health insurance decisions. The council shall be involved in the planning and conduct of the  
25 public meeting in accordance with subsection (a) above. The advisory council shall assist in the  
26 design of an insurance complaint process to ensure that small businesses that experience  
27 extraordinary rate increases in a given year could request and receive a formal review by the  
28 department. The advisory council shall assess views of the health provider community relative to  
29 insurance rates of reimbursement, billing and reimbursement procedures, and the insurers' role in  
30 promoting efficient and high quality health care. The advisory council shall issue an annual report  
31 of findings and recommendations to the governor and the joint legislative committee on health  
32 care oversight. The advisory council is to be diverse in interests and shall include representatives  
33 of community consumer organizations; small businesses, other than those involved in the sale of  
34 insurance products; and hospital, medical, and other health provider organizations. Such

1 representatives shall be nominated by their respective organizations. The advisory council shall  
2 be co-chaired by the health insurance commissioner and a community consumer organization or  
3 small business member to be elected by the full advisory council.

4 (d) To establish and provide guidance and assistance to a subcommittee ("The  
5 Professional Provider-Health Plan Work Group") of the advisory council created pursuant to  
6 subsection (c) above, composed of health care providers and Rhode Island licensed health plans.  
7 This subcommittee shall develop a plan to implement the following activities:

8 (i) By January 1, 2006, a method whereby health plans shall disclose to contracted  
9 providers the fee schedules used to provide payment to those providers for services rendered to  
10 covered patients;

11 (ii) By April 1, 2006, a standardized provider application and credentials verification  
12 process, for the purpose of verifying professional qualifications of participating health care  
13 providers;

14 (iii) By September 1, 2006, a uniform health plan claim form to be utilized by  
15 participating providers;

16 (iv) By March 15, 2007, a report to the legislature on proposed methods for health  
17 maintenance organizations as defined by section 27-41-1, and nonprofit hospital or medical  
18 service corporations as defined by chapters 27-19 and 27-20, to make facility-specific data and  
19 other medical service-specific data available in reasonably consistent formats to patients  
20 regarding quality and costs. This information would help consumers make informed choices  
21 regarding the facilities and/or clinicians or physician practices at which to seek care. Among the  
22 items considered would be the unique health services and other public goods provided by  
23 facilities and/or clinicians or physician practices in establishing the most appropriate cost  
24 comparisons.

25 (v) By December 1, 2006, contractual disclosure to participating providers of the  
26 mechanisms for resolving health plan/provider disputes; and

27 (vi) By February 1, 2007, a uniform process for confirming in real time patient insurance  
28 enrollment status, benefits coverage, including co-pays and deductibles.

29 (vii) By December 1, 2007, a report to the legislature on the temporary credentialing of  
30 providers seeking to participate in the plan's network and the impact of said activity on health  
31 plan accreditation;

32 (viii) By February 1, 2008, a report to the legislature on the feasibility of occasional  
33 contract renegotiations between plans and the providers in their networks.

34 (ix) By May 1, 2008, a report to the legislature reviewing impact of silent PPOs on

1 physician practices.

2 A report on the work of the subcommittee shall be submitted by the health insurance  
3 commissioner to the joint legislative committee on health care oversight on March 1, 2006,  
4 March 1, 2007, and March 1, 2008.

5 (e) To enforce the provisions of Title 27 and Title 42 as set forth in section 42-14-5(d).

6 (f) ~~There is hereby established the Rhode Island Affordable Health Plan Reinsurance~~  
7 ~~Fund. The fund shall be used to effectuate the provisions of sections 27-18.5-8 and 27-50-17.~~

8 There is created within the general fund a restricted receipt account to be known as the  
9 Affordable Health Plan Reinsurance Account. All money in the account shall be utilized by the  
10 health insurance commissioner to effectuate the provisions of sections 27-18.5-8, 27-18.5-9 and  
11 27-50-17. The annual taxes collected from health maintenance organizations, as defined in  
12 chapter 27-41, and nonprofit hospital and medical service corporations, as defined in chapter 27-  
13 19 and 27-20, as authorized in section 44-17-1 shall be deposited in the Affordable Health Plan  
14 Reinsurance Account. The general treasurer is authorized and directed to draw his or her orders  
15 on the account upon receipt of properly authenticated vouchers from the health insurance  
16 commissioner. Administrative resources to manage the account will be provided to the office of  
17 the health insurance commissioner from the account, not to exceed two percent (2%) of the total  
18 annual funding in the account.

19 (g) To examine and study the impact of changing the rating guidelines and/or merging  
20 the individual health insurance market as defined in section 27-18.5 and the small employer  
21 health insurance market as defined in chapter 27-50 in accordance with the following:

22 (i) The study shall forecast the likely rate increases required to effect the changes  
23 recommended pursuant to the preceding subsection (g) in the direct pay market and small  
24 employer health insurance market over the next five (5) years, based on the current rating  
25 structure, and current products.

26 (ii) The study shall include examining the impact of merging the individual and small  
27 employer markets on premiums charged to individuals and small employer groups.

28 (iii) The study shall include examining the impact on rates in each of the individual and  
29 small employer health insurance markets and the number of insureds in the context of possible  
30 changes to the rating guidelines used for small employer groups, including: community rating  
31 principles; expanding small employer rate bands beyond the current range; increasing the  
32 employer group size in the small group market; and/or adding rating factors for broker and/or  
33 tobacco use.

34 (iv) The study shall include examining the adequacy of current statutory and regulatory

1 oversight of the rating process and factors employed by the participants in the proposed new  
2 merged market.

3 (v) The study shall include assessment of possible reinsurance mechanisms and/or  
4 federal high-risk pool structures and funding to support the health insurance market in Rhode  
5 Island by reducing the risk of adverse selection and the incremental insurance premiums charged  
6 for this risk, and/or by making health insurance affordable for a selected at-risk population.

7 (vi) The health insurance commissioner shall establish an insurance market merger task  
8 force to assist with the study. The task force shall be chaired by the health insurance  
9 commissioner and shall include, but not be limited to, representatives of the general assembly, the  
10 business community, small employer carriers as defined in section 27-50.3, carriers offering  
11 coverage in the individual market in Rhode Island, health insurance brokers and members of the  
12 general public.

13 (vii) For the purposes of conducting this study, the commissioner may contract with an  
14 outside organization with expertise in fiscal analysis of the private insurance market. In  
15 conducting its study, the organization shall, to the extent possible, obtain and use actual health  
16 plan data. Said data shall be subject to state and federal laws and regulations governing  
17 confidentiality of health care and proprietary information.

18 (viii) The task force shall meet no later than October 1, 2007 and the commissioner shall  
19 file a report with the speaker of the house of representatives and the president of the senate no  
20 later than January 1, 2008.

21 SECTION 5. Sections 44-17-1 and 44-17-2 of the General Laws in Chapter 44-17  
22 entitled "Taxation of Insurance Companies" are hereby amended to read as follows:

23 ~~44-17-1. Companies required to file -- Payment of tax -- Retaliatory rates. [Effective~~  
24 ~~January 1, 2008.] -- 44-17-1. Companies required to file -- Payment of tax -- Retaliatory~~  
25 ~~rates. --~~ (a) Every domestic, foreign, or alien insurance company, mutual association,  
26 organization, or other insurer, including, without limitation, any health maintenance organization,  
27 as defined in section 27-41-1 and any nonprofit hospital or medical service corporation, as  
28 defined in chapters 27-19 and 27-20, except companies mentioned in section 44-17-6, and  
29 organizations defined in section 27-25-1, transacting business in this state, shall, on or before  
30 March 1 in each year, file with the tax administrator, in the form that he or she may prescribe, a  
31 return under oath or affirmation signed by a duly authorized officer or agent of the company,  
32 containing information that may be deemed necessary for the determination of the tax imposed by  
33 this chapter, and shall at the same time pay an annual tax to the tax administrator of two percent  
34 (2%) of the gross premiums on contracts of insurance, except:

1 ~~(1) Entities subject to chapters 27-19 and 27-20, shall pay the following: one and one-~~  
2 ~~tenth percent (1.1%) of the gross premiums on contracts of insurance, excluding any business~~  
3 ~~related to the administration of programs under Title XIX of the Social Security Act, 42 U.S.C.;~~  
4 ~~provided, further, notwithstanding any provision of the law to the contrary, installment payments~~  
5 ~~shall equal at least ninety percent (90%) of estimated liability in the first year; or~~

6 ~~(2) Health maintenance organizations as defined in section 27-41-1, shall pay the~~  
7 ~~following: one and one tenth percent (1.1%) of the gross premiums on contracts of insurance,~~  
8 ~~excluding any business related to the administration of programs under Title XIX of the Social~~  
9 ~~Security Act, 42 U.S.C.; provided, further, notwithstanding any provision of the law to the~~  
10 ~~contrary, installment payments shall equal at least ninety percent (90%) of estimated liability in~~  
11 ~~the first year; or~~

12 (1) Insurers subject to chapters 27-19 and 27-20 shall pay the lesser of the following:

13 (i) One percent (1%) of the gross premiums on contracts of insurance; or

14 (ii) Up to one hundred percent (100%) of the difference between the insurer's reported  
15 medical loss ratio and eighty-eight percent (88%) medical loss ratio, as determined by the health  
16 insurance commissioner. If the reported medical loss ratio of the insurers, subject to the  
17 provisions of chapter 27-19 and 27-20, is greater than or equal to eighty-eight percent (88%) such  
18 insurers tax liability will be zero;

19 (2) Health maintenance organizations, as defined in section 27-41-1, shall pay the lesser  
20 of the following:

21 (i) Two percent (2%) of the gross premiums on contracts of insurance; or

22 (ii) Up to one hundred percent (100%) of the difference between the insurer's reported  
23 medical loss ratio and eighty-eight percent (88%) medical loss ratio, as determined by the health  
24 insurance commissioner. If the reported medical loss ratio of the health maintenance organization  
25 is greater than or equal to eighty-eight percent (88%) the tax liability will be zero.

26 (3) Ocean marine insurance, as referred to in section 44-17-6, covering property and  
27 risks within the state, written during the calendar year ending December 31st next preceding, but  
28 in the case of foreign or alien companies, except as provided in section 27-2-17(d) the tax is not  
29 less in amount than is imposed by the laws of the state or country under which the companies are  
30 organized upon like companies incorporated in this state or upon its agents, if doing business to  
31 the same extent in the state or country.

32 (b) For purposes of this section, "medical loss ratio" shall mean the ratio between the  
33 amount that is spent to pay for medical services covered by the insurer and the amount of revenue  
34 from health insurance premiums taken in by the insurer. Medical loss ratio shall be calculated



1 [based on information reported in accordance with section 27-12-1.](#)

2 ~~44-17-2. Amounts included as gross premiums. [Effective January 1, 2008.]-- 44-17-~~

3 **2. Amounts included as gross premiums.** -- Except where such a charge would be inconsistent  
4 with federal law, gross premiums include all premiums and premium deposits and assessments on  
5 all policies, certificates, and renewals, written during the year, covering property and risks within  
6 the state, policies subsequently cancelled, and reinsurance assumed, whether the premiums and  
7 premium deposits and assessments are in the form of money, notes, credits, or other substitute for  
8 money, after deducting from the gross premiums the amount of return premiums on the contracts  
9 covering property and risks within this state and the amount of premiums for reinsurance  
10 assumed, of the property and risks. Mutual companies and companies which transact business on  
11 the mutual plan are also allowed to deduct from their premiums and premium deposits and  
12 assessments, the so-called dividends or unused or unabsorbed portion of the premiums and  
13 premium deposits and assessments applied in part payment of the premiums and premium  
14 deposits and assessments or returned to policyholders in cash or credited to policy holders during  
15 the year for which the tax is computed. Every domestic company, mutual association,  
16 organization, or other insurer, shall include for taxation in like manner and with like deductions  
17 premiums and premium deposits and assessments written, procured, or received in this state on  
18 business covering property or risks in any other state on which the company has not paid and is  
19 not liable to pay a tax to the other state.

20 [In those cases where the premium tax collected may be based on the reported medical](#)  
21 [loss ratio, such as as described in section 44-17-1, the calculation will be based on two \(2\) years](#)  
22 [prior premiums and medical costs as reported to the health insurance commissioner and the](#)  
23 [health insurance commissioner shall provide the data and perform the calculation in support of](#)  
24 [the department of taxation.](#)

25 SECTION 6. Chapter 44-17 of the General Laws entitled "Taxation of Insurance  
26 Companies" is hereby amended by adding thereto the following section:

27 **44-17-12. Affordable health plan reinsurance account.** -- [The annual taxes collected](#)  
28 [from health maintenance organizations, as defined by chapter 27-41, and nonprofit hospital and](#)  
29 [medical service corporations, as defined by chapter 27-19 and 27-20, as authorized in section 44-](#)  
30 [17-1 shall be deposited in the Affordable Health Plan Reinsurance Account, as described in](#)  
31 [section 42-14.5-3.](#)

32 SECTION 7. This act shall take effect on January 1, 2011.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO INSURANCE

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1           This act would amend various provisions of the general laws in order to provide  
2 affordable health care in Rhode Island. Among other changes this act would limit proposals  
3 government officials may consider to those insurance carriers that participate in the Affordable  
4 Health Plan Reinsurance Program, and it would establish an Affordable Health Plan Reinsurance  
5 Account.

6           This act would take effect on January 1, 2011.

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