

SENATE BILL No. 620

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-8-10-2.1.

Synopsis: Indiana comprehensive health insurance association. Limits the total value of loss assessments to Indiana comprehensive health insurance association members to \$21,000,000. Requires that an assessment beyond that amount be submitted by the association to the budget agency.

Effective: July 1, 1999.

Johnson, Kenley, Simpson, Mills

January 21, 1999, read first time and referred to Committee on Health and Provider Services.

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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL



A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-8-10-2.1 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2.1. (a) There is
 3 established a nonprofit legal entity to be referred to as the Indiana
 4 comprehensive health insurance association, which must assure that
 5 health insurance is made available throughout the year to each eligible
 6 Indiana resident applying to the association for coverage. All carriers,
 7 health maintenance organizations, limited service health maintenance
 8 organizations, and self-insurers providing health insurance or health
 9 care services in Indiana must be members of the association. The
 10 association shall operate under a plan of operation established and
 11 approved under subsection (c) and shall exercise its powers through a
 12 board of directors established under this section.

13 (b) The board of directors of the association consists of seven (7)
 14 members whose principal residence is in Indiana selected as follows:

15 (1) Three (3) members to be appointed by the commissioner from
 16 the members of the association, one (1) of which must be a
 17 representative of a health maintenance organization.



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1 (2) Two (2) members to be appointed by the commissioner shall
2 be consumers representing policyholders.

3 (3) Two (2) members shall be the state budget director or
4 designee and the commissioner of the department of insurance or
5 designee.

6 The commissioner shall appoint the chairman of the board, and the
7 board shall elect a secretary from its membership. The term of office
8 of each appointed member is three (3) years, subject to eligibility for
9 reappointment. Members of the board who are not state employees may
10 be reimbursed from the association's funds for expenses incurred in
11 attending meetings. The board shall meet at least semiannually, with
12 the first meeting to be held not later than May 15 of each year.

13 (c) The association shall submit to the commissioner a plan of
14 operation for the association and any amendments to the plan necessary
15 or suitable to assure the fair, reasonable, and equitable administration
16 of the association. The plan of operation becomes effective upon
17 approval in writing by the commissioner consistent with the date on
18 which the coverage under this chapter must be made available. The
19 commissioner shall, after notice and hearing, approve the plan of
20 operation if the plan is determined to be suitable to assure the fair,
21 reasonable, and equitable administration of the association and
22 provides for the sharing of association losses on an equitable,
23 proportionate basis among the member carriers, health maintenance
24 organizations, limited service health maintenance organizations, and
25 self-insurers. If the association fails to submit a suitable plan of
26 operation within one hundred eighty (180) days after the appointment
27 of the board of directors, or at any time thereafter the association fails
28 to submit suitable amendments to the plan, the commissioner shall
29 adopt rules under IC 4-22-2 necessary or advisable to implement this
30 section. These rules are effective until modified by the commissioner
31 or superseded by a plan submitted by the association and approved by
32 the commissioner. The plan of operation must:

- 33 (1) establish procedures for the handling and accounting of assets
34 and money of the association;
35 (2) establish the amount and method of reimbursing members of
36 the board;
37 (3) establish regular times and places for meetings of the board of
38 directors;
39 (4) establish procedures for records to be kept of all financial
40 transactions, and for the annual fiscal reporting to the
41 commissioner;
42 (5) establish procedures whereby selections for the board of

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- 1 directors will be made and submitted to the commissioner for
 2 approval;
- 3 (6) contain additional provisions necessary or proper for the
 4 execution of the powers and duties of the association; and
- 5 (7) establish procedures for the periodic advertising of the general
 6 availability of the health insurance coverages from the
 7 association.
- 8 (d) The plan of operation may provide that any of the powers and
 9 duties of the association be delegated to a person who will perform
 10 functions similar to those of this association. A delegation under this
 11 section takes effect only with the approval of both the board of
 12 directors and the commissioner. The commissioner may not approve a
 13 delegation unless the protections afforded to the insured are
 14 substantially equivalent to or greater than those provided under this
 15 chapter.
- 16 (e) The association has the general powers and authority enumerated
 17 by this subsection in accordance with the plan of operation approved
 18 by the commissioner under subsection (c). The association has the
 19 general powers and authority granted under the laws of Indiana to
 20 carriers licensed to transact the kinds of health care services or health
 21 insurance described in section 1 of this chapter and also has the
 22 specific authority to do the following:
- 23 (1) Enter into contracts as are necessary or proper to carry out this
 24 chapter, subject to the approval of the commissioner.
- 25 (2) Sue or be sued, including taking any legal actions necessary
 26 or proper for recovery of any assessments for, on behalf of, or
 27 against participating carriers.
- 28 (3) Take legal action necessary to avoid the payment of improper
 29 claims against the association or the coverage provided by or
 30 through the association.
- 31 (4) Establish a medical review committee to determine the
 32 reasonably appropriate level and extent of health care services in
 33 each instance.
- 34 (5) Establish appropriate rates, scales of rates, rate classifications
 35 and rating adjustments, such rates not to be unreasonable in
 36 relation to the coverage provided and the reasonable operational
 37 expenses of the association.
- 38 (6) Pool risks among members.
- 39 (7) Issue policies of insurance on an indemnity or provision of
 40 service basis providing the coverage required by this chapter.
- 41 (8) Administer separate pools, separate accounts, or other plans
 42 or arrangements considered appropriate for separate members or

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- 1 groups of members.
- 2 (9) Operate and administer any combination of plans, pools, or
- 3 other mechanisms considered appropriate to best accomplish the
- 4 fair and equitable operation of the association.
- 5 (10) Appoint from among members appropriate legal, actuarial,
- 6 and other committees as necessary to provide technical assistance
- 7 in the operation of the association, policy and other contract
- 8 design, and any other function within the authority of the
- 9 association.
- 10 (11) Hire an independent consultant.
- 11 (12) Develop a method of advising applicants of the availability
- 12 of other coverages outside the association and may promulgate a
- 13 list of health conditions the existence of which would deem an
- 14 applicant eligible without demonstrating a rejection of coverage
- 15 by one (1) carrier.
- 16 (13) Provide for the use of managed care plans for insureds,
- 17 including the use of:
- 18 (A) health maintenance organizations; and
- 19 (B) preferred provider plans.
- 20 (14) Solicit bids directly from providers for coverage under this
- 21 chapter.
- 22 (f) Rates for coverages issued by the association may not be
- 23 unreasonable in relation to the benefits provided, the risk experience,
- 24 and the reasonable expenses of providing the coverage. Separate scales
- 25 of premium rates based on age apply for individual risks. Premium
- 26 rates must take into consideration the extra morbidity and
- 27 administration expenses, if any, for risks insured in the association. The
- 28 rates for a given classification may not be more than one hundred fifty
- 29 percent (150%) of the average premium rate for that class charged by
- 30 the five (5) carriers with the largest premium volume in the state during
- 31 the preceding calendar year. In determining the average rate of the five
- 32 (5) largest carriers, the rates charged by the carriers shall be actuarially
- 33 adjusted to determine the rate that would have been charged for
- 34 benefits identical to those issued by the association. All rates adopted
- 35 by the association must be submitted to the commissioner for approval.
- 36 (g) Following the close of the association's fiscal year, the
- 37 association shall determine the net premiums, the expenses of
- 38 administration, and the incurred losses for the year. Any net loss shall
- 39 be assessed by the association to all members in proportion to their
- 40 respective shares of total health insurance premiums, excluding
- 41 premiums for Medicaid contracts with the state of Indiana, received in
- 42 Indiana during the calendar year (or with paid losses in the year)

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1 coinciding with or ending during the fiscal year of the association or
 2 any other equitable basis as may be provided in the plan of operation.
 3 For self-insurers, health maintenance organizations, and limited service
 4 health maintenance organizations that are members of the association,
 5 the proportionate share of losses must be determined through the
 6 application of an equitable formula based upon claims paid, excluding
 7 claims for Medicaid contracts with the state of Indiana, or the value of
 8 services provided. In sharing losses, the association may abate or defer
 9 in any part the assessment of a member, if, in the opinion of the board,
 10 payment of the assessment would endanger the ability of the member
 11 to fulfill its contractual obligations. The association may also provide
 12 for interim assessments against members of the association if necessary
 13 to assure the financial capability of the association to meet the incurred
 14 or estimated claims expenses or operating expenses of the association
 15 until the association's next fiscal year is completed. Net gains, if any,
 16 must be held at interest to offset future losses or allocated to reduce
 17 future premiums. Assessments must be determined by the board
 18 members specified in subsection (b)(1), subject to final approval by the
 19 commissioner. **The total value of assessments to members of the**
 20 **association for calendar year 2000 and each following year may not**
 21 **exceed twenty-one million dollars (\$21,000,000). The association**
 22 **shall submit to the budget agency claims for payment from the**
 23 **state general fund for assessments that exceed the limitations**
 24 **contained in this subsection.**

25 (h) The association shall conduct periodic audits to assure the
 26 general accuracy of the financial data submitted to the association, and
 27 the association shall have an annual audit of its operations by an
 28 independent certified public accountant.

29 (i) The association is subject to examination by the department of
 30 insurance under IC 27-1-3.1. The board of directors shall submit, not
 31 later than March 30 of each year, a financial report for the preceding
 32 calendar year in a form approved by the commissioner.

33 (j) All policy forms issued by the association must conform in
 34 substance to prototype forms developed by the association, must in all
 35 other respects conform to the requirements of this chapter, and must be
 36 filed with and approved by the commissioner before their use.

37 (k) The association may not issue an association policy to any
 38 individual who, on the effective date of the coverage applied for, does
 39 not meet the eligibility requirements of section 5.1 of this chapter.

40 (l) The association shall pay an agent's referral fee of twenty-five
 41 dollars (\$25) to each insurance agent who refers an applicant to the
 42 association if that applicant is accepted.



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1 (m) The association and the premium collected by the association
2 shall be exempt from the premium tax, the gross income tax, the
3 adjusted gross income tax, supplemental corporate net income, or any
4 combination of these, or similar taxes upon revenues or income that
5 may be imposed by the state.

6 (n) Members who after July 1, 1983, during any calendar year, have
7 paid one (1) or more assessments levied under this chapter may either:

8 (1) take a credit against premium taxes, gross income taxes,
9 adjusted gross income taxes, supplemental corporate net income
10 taxes, or any combination of these, or similar taxes upon revenues
11 or income of member insurers that may be imposed by the state,
12 up to the amount of the taxes due for each calendar year in which
13 the assessments were paid and for succeeding years until the
14 aggregate of those assessments have been offset by either credits
15 against those taxes or refunds from the association; or

16 (2) any member insurer may include in the rates for premiums
17 charged for insurance policies to which this chapter applies
18 amounts sufficient to recoup a sum equal to the amounts paid to
19 the association by the member less any amounts returned to the
20 member insurer by the association, and the rates shall not be
21 deemed excessive by virtue of including an amount reasonably
22 calculated to recoup assessments paid by the member.

23 (o) The association shall provide for the option of monthly
24 collection of premiums.

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