

FIRST REGULAR SESSION

HOUSE BILL NO. 313

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WALKER.

0867H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 374, RSMo, by adding thereto twelve new sections relating to the Missouri premium security plan, with an emergency clause for a certain section.

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

Section A. Chapter 374, RSMo, is amended by adding thereto twelve new sections, to be known as sections 374.970, 374.975, 374.980, 374.985, 374.990, 374.991, 374.992, 374.993, 374.994, 374.995, 374.996, and 374.997, to read as follows:

374.970. 1. Sections 374.970 to 374.997 shall be known as the "Missouri Premium Security Plan".

2. For the purposes of sections 374.970 to 374.997, the following terms shall mean:

(1) "Affordable Care Act", the federal Patient Protection and Affordable Care Act, as defined in section 376.1186;

(2) "Attachment point", an amount as provided in subdivision (2) of subsection 2 of section 374.980;

(3) "Benefit year", the calendar year for which an eligible health carrier provides coverage through an individual health insurance coverage;

(4) "Coinsurance rate", the rate as provided in subdivision (3) of subsection 2 of section 374.980;

(5) "Department", the Missouri department of insurance, financial institutions and professional registration;

(6) "Director", the director of the department of insurance, financial institutions and professional registration;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (7) "Eligible health carrier", any of the following entities that offer individual
17 health insurance coverage, incur claims costs for individual health insurance coverage, and
18 incur claims costs for an individual enrollee's covered benefits in the applicable benefit
19 year:

20 (a) An insurance company licensed under section 375.014 to offer, sell, or issue a
21 policy of accident and sickness insurance as defined in section 376.773;

22 (b) A nonprofit health services corporation operating under section 354.090; or

23 (c) A health maintenance organization as defined in section 354.400;

24 (8) "Individual health insurance coverage", as defined in section 376.450;

25 (9) "Individual market", as defined in section 376.450;

26 (10) "Missouri premium security plan" or "plan", the state-based reinsurance
27 program authorized under section 374.910;

28 (11) "Payment parameters", the attachment point, reinsurance cap, and
29 coinsurance rate for the plan;

30 (12) "Reinsurance cap", the threshold amount as provided in subdivision (4) of
31 subsection 2 of section 374.980;

32 (13) "Reinsurance payments", an amount paid by the department to an eligible
33 health carrier under the plan.

374.975. The director shall require eligible health carriers to calculate the premium
2 amount the eligible health carrier would have charged for the benefit year if the Missouri
3 premium security plan had not been established. The eligible health carrier shall submit
4 this information as part of its rate filing. The director shall consider this information as
5 part of the rate review.

374.980. 1. The department shall be Missouri's reinsurance entity to administer
2 the state-based reinsurance program referred to as the Missouri premium security plan.
3 The department shall:

4 (1) Have the authority to apply for any available federal funding for the plan. The
5 department shall notify the chairs and ranking minority members of the legislative
6 committees with jurisdiction over health and senior services and insurance within ten days
7 of receiving any federal funds;

8 (2) Collect or access data from an eligible health carrier that is necessary to
9 determine reinsurance payments, according to the date requirements under subdivision
10 (4) of subsection 5 of this section;

11 (3) For each applicable benefit year, notify eligible health carriers of reinsurance
12 payments to be made for the applicable benefit year no later than June thirtieth of the year
13 following the applicable benefit year;

14 (4) On a quarterly basis during the applicable benefit year, provide each eligible
15 health carrier with the calculation of total reinsurance payment requests; and

16 (5) By August fifteenth of the year following the applicable benefit year, disburse
17 all applicable reinsurance payments to an eligible health carrier.

18 2. (1) The department shall design and adjust the payment parameters to ensure
19 the payment parameters:

20 (a) Will stabilize or reduce premium rates in the individual market;

21 (b) Will increase participation in the individual market;

22 (c) Will improve access to health care providers and services for those in the
23 individual market;

24 (d) Mitigate the impact high-risk individuals have on premium rates in the
25 individual market;

26 (e) Take into account any federal funding available for the plan; and

27 (f) Take into account the total amount available to fund the plan.

28 (2) The attachment point for the plan is the threshold amount for claims costs
29 incurred by an eligible health carrier for an enrolled individual's covered benefits in a
30 benefit year, beyond which the claims costs for benefits are eligible for reinsurance
31 payments. The attachment point shall be set by the department at a figure between fifty
32 thousand dollars and the reinsurance cap.

33 (3) The coinsurance rate for the plan is the rate at which the department shall
34 reimburse an eligible health carrier for an enrolled individual's covered benefits in a
35 benefit year above the attachment point and below the reinsurance cap. The coinsurance
36 rate shall be set by the department at a rate between fifty and eighty percent.

37 (4) The reinsurance cap is the threshold amount for claims costs incurred by an
38 eligible health carrier for an enrolled individual's covered benefits, after which the claims
39 costs for benefits are no longer eligible for reinsurance payments. The reinsurance cap
40 shall be set by the department at less than two hundred fifty thousand dollars.

41 (5) The department may adjust the payment parameters to the extent necessary to
42 secure federal approval of the state innovation waiver request under section 374.991.

43 3. (1) The director shall determine the payment parameters for the next benefit
44 year by January fifteenth of the year before the applicable benefit year.

45 (2) If the amount in the premium security plan fund established under section
46 374.990 is not anticipated to be adequate to fully fund the approved payment parameters
47 as of July first of the year before the applicable benefit year, the director shall propose
48 payment parameters within the available appropriations. The director shall permit an

49 eligible health carrier to revise an applicable rate filing based on the final payment
50 parameters for the next benefit year.

51 4. Each reinsurance payment shall be calculated with respect to an eligible health
52 carrier's incurred claims costs for an individual enrollee's covered benefits in the
53 applicable benefit year. If the claims costs do not exceed the attachment point, the
54 reinsurance payment is zero dollars. If the claims costs exceed the attachment point, the
55 reinsurance payment shall be calculated as the product of the coinsurance rate and the
56 lesser of either the claims costs minus the attachment point or the reinsurance cap minus
57 the attachment point. The department shall ensure that reinsurance payments made to
58 eligible health carriers do not exceed the total amount paid by the eligible health carrier
59 for an eligible claim.

60 5. (1) An eligible health carrier may request reinsurance payments from the
61 department when the eligible health carrier meets the requirements of this subsection and
62 subsection 4 of this section.

63 (2) An eligible health carrier shall make requests for reinsurance payments in
64 accordance with any requirements established by the department.

65 (3) An eligible health carrier shall provide the department with access to the data
66 within the dedicated data environment established by the eligible health carrier under the
67 federal risk adjustment program under 42 U.S.C. Section 18063. Eligible health carriers
68 shall submit an attestation to the department asserting compliance with the dedicated data
69 environments, data requirements, establishment and usage of masked enrollee
70 identification numbers, and data submission deadlines.

71 (4) An eligible health carrier shall provide the access described in subdivision (3)
72 of this subsection for the applicable benefit year by April thirtieth of each year of the year
73 following the applicable benefit year.

74 (5) An eligible health carrier shall maintain documents and records, whether paper,
75 electronic, or in other media, sufficient to substantiate the requests for reinsurance
76 payments made under this section for a period of, at least, six years. An eligible health
77 carrier shall also make those documents and records available upon request from the
78 director for the purposes of verification, investigation, audit, or other review of
79 reinsurance payment requests.

80 (6) The department shall have an eligible health carrier audited to assess the health
81 carrier's compliance with the requirements of this section when there is evidence of
82 noncompliance. The eligible health carrier shall ensure that its contractors,
83 subcontractors, and agents cooperate with any audit under this section. If an audit results
84 in a proposed finding of material weakness or significant deficiency with respect to

85 compliance with any requirement of this section, the eligible health carrier may provide
86 a response to the proposed finding within thirty days. Within thirty days of the issuance
87 of a final audit report that includes a finding of material weakness or significant deficiency,
88 the eligible health carrier shall:

- 89 (a) Provide a written corrective action plan to the department for approval;
- 90 (b) Implement the approved plan; and
- 91 (c) Provide the department with written documentation that the eligible health
92 carrier has taken corrective action.

374.985. 1. The department shall keep an accounting for each benefit year that
2 illustrates:

- 3 (1) Funds appropriated for reinsurance payments and administrative and
4 operational expenses related to the administration of the plan;
- 5 (2) Requests for reinsurance payments received from eligible health carriers;
- 6 (3) Reinsurance payments made to eligible health carriers; and
- 7 (4) Administrative and operational expenses incurred for the plan.

8 2. The director shall make available to the public a report summarizing the plan
9 operations for each benefit year by posting the summary on the department's web page
10 and making the summary otherwise available by November first of the year following the
11 applicable benefit year or sixty calendar days following the final disbursement of
12 reinsurance payments for the applicable benefit year, whichever is later.

13 3. (1) The department shall engage and cooperate with an independent certified
14 public accountant or certified public accountant firm licensed or permitted to perform an
15 audit for each benefit year of the plan. The audit shall at a minimum:

- 16 (a) Assess compliance with the requirements of sections 374.975 to 374.990; and
- 17 (b) Identify any material weaknesses or significant deficiencies and address
18 manners in which to correct any such weaknesses or deficiencies.

19 (2) The department, after receiving the completed audit, shall:

- 20 (a) Provide the director with the results of the audit;
- 21 (b) Identify to the director any material weaknesses or significant deficiencies
22 identified in the audit and address, in writing, how the department intends to correct any
23 such weakness or deficiency, in compliance with subsection 4 of this section; and

24 (c) Make public the results of the audit, to the extent that the audit contains
25 government data that is public, including any material weaknesses or significant
26 deficiencies and how the department intends to correct any such weakness or deficiency,
27 by posting the audit results on the department web page and making the audit results
28 otherwise available.

29 **4. (1) If an audit results in a finding of material weakness or significant deficiency**
30 **with respect to compliance by the department with any requirement under sections 374.975**
31 **to 374.990, the department shall:**

32 **(a) Create a written corrective action plan to be approved by the director within**
33 **sixty days of the completed audit;**

34 **(b) Implement the corrective action plan; and**

35 **(c) Record written documentation of the corrective actions taken.**

36 **(2) By December first of each year, the department shall submit a report to the**
37 **standing committees of the legislature having jurisdiction over health and senior services**
38 **and insurance regarding any finding of material weakness or significant deficiency found**
39 **in an audit.**

374.990. 1. There is hereby created in the state treasury the "Missouri Premium
2 **Security Plan Fund", which shall consist of moneys collected under sections 374.970 to**
3 **374.997. The state treasurer shall be custodian of the fund. In accordance with sections**
4 **30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a**
5 **dedicated fund and, upon appropriation, moneys in the fund shall be used solely for the**
6 **administration of sections 374.970 to 374.997.**

7 **2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys**
8 **remaining in the fund at the end of the biennium shall not revert to the credit of the**
9 **general revenue fund.**

10 **3. The state treasurer shall invest moneys in the fund in the same manner as other**
11 **funds are invested. Any interest and moneys earned on such investments shall be credited**
12 **to the fund.**

374.991. 1. The director shall apply to the Secretary of Health and Human Services
2 **under 42 U.S.C. Section 18052 for a state innovation waiver to implement the Missouri**
3 **premium security plan for benefit years beginning January 1, 2020, and future years, to**
4 **maximize federal funding for the plan. The waiver application shall clearly state the**
5 **operation of the Missouri premium security plan is contingent on approval of the waiver**
6 **request.**

7 **2. In developing the waiver application, the director shall consult with the director**
8 **of the department of health and senior services.**

9 **3. The director shall submit the waiver application to the Secretary of Health and**
10 **Human Services on or before June 15, 2019. The director shall make a draft application**
11 **available for legislative comment, changes, and approval prior to submission. The director**
12 **shall notify the chairs and ranking minority members of the legislative committees with**

13 jurisdiction over health and senior services and insurance of any federal actions regarding
14 the waiver request.

374.992. A state department that incurs administrative costs to implement any
2 provision of sections 374.970 to 374.997 that does not receive an appropriation for
3 administrative costs of sections 374.970 to 374.997 shall implement sections 374.970 to
4 374.997 within the limits of existing appropriations.

374.993. If the state innovation waiver request in section 374.991 is not approved,
2 the department shall not administer the plan nor provide reinsurance payments to the
3 eligible health carriers.

374.994. 1. Notwithstanding section 374.980 and subsection 2 of this section, the
2 plan payment parameters for benefit year 2020 are:

- 3 (1) An attachment point of fifty thousand dollars;
- 4 (2) A coinsurance rate of sixty-five percent; and
- 5 (3) A reinsurance cap of two hundred fifty thousand dollars.

6 2. The department shall alter the payment parameters to the extent necessary to
7 secure federal approval of the state innovation waiver request in section 374.991.

374.995. Notwithstanding any law to the contrary, the department shall have
2 authority over the disposition and settlement of the fund created under section 374.990.

374.996. A legislative working group is established consisting of the chairs and
2 ranking minority members of the senate committees with jurisdiction over commerce,
3 health and senior services finance and policy, health services reform and policy, and the
4 chairs and ranking minority members of the house of representatives committees with
5 jurisdiction over commerce and regulatory reform, health and senior services finance, and
6 health and senior services reform. The purpose of the working group is to advise the
7 department on the adoption of payment parameters and other elements of a reinsurance
8 plan for benefit year 2021. Technical assistance for the working group shall be provided
9 by one health insurance expert not currently in the industry selected by the majority
10 members of the working group and one health insurance expert not currently in the
11 industry selected by minority members of the working group. The technical assistants
12 shall review and monitor the following to serve as a resource for the working group:

13 (1) The effectiveness of the reinsurance models adopted in Alaska, Minnesota, and
14 other states in stabilizing the premiums of the individual market and the related costs
15 thereof; and

16 (2) The effect of federal health reform legislation on the Missouri premium security
17 plan including, but not limited to, funding for the plan.

**374.997. The department may promulgate rules for the implementation of sections
2 374.970 to 374.997. Any rule or portion of a rule, as that term is defined in section 536.010,
3 that is created under the authority delegated in this section shall become effective only if
4 it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
5 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers
6 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
7 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
8 grant of rulemaking authority and any rule proposed or adopted after August 28, 2019,
9 shall be invalid and void.**

Section B. Because immediate action is necessary to secure federal funding for the
2 Missouri premium security plan the enactment of section 374.991 of Section A of this act is
3 deemed necessary for the immediate preservation of the public health, welfare, peace, and safety,
4 and is hereby declared to be an emergency act within the meaning of the constitution, and the
5 enactment of section 374.991 of Section A of this act shall be in full force and effect upon its
6 passage and approval.

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