



State of New Jersey
DEPARTMENT OF BANKING AND INSURANCE
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March 22, 2006

The Honorable Frank R. Lautenberg
United States Senate
324 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Robert Menendez
United States Senate
502 Hart Senate Office Building
Washington, D.C. 20510

Re: Health Insurance Marketplace Modernization and Affordability Act of 2005
S. 1955 (Senators Enzi and Nelson)

Dear Senators Lautenberg and Menendez:

I am writing to express my concern about the Enzi-Nelson Small Group Health Plan bill, which was narrowly passed by the Senate Health, Education, Labor and Pension (HELP) Committee on March 16, 2006 along partisan lines. The New Jersey Department of Banking and Insurance (DOBI) has been monitoring the bill. Although some worthwhile amendments were made by the HELP Committee, I am urging you to oppose the bill in its current form.

My primary concern is that the rating mechanism set forth in the bill will devastate New Jersey's small employer group insurance market, established by State statutes enacted about 14 years ago. The rating criteria and methods established by the Enzi-Nelson bill would permit a band of rate differentials of about twelve to one from the highest-rated to lowest-rated groups. New Jersey's present law requires modified community rating that limits differentials to a maximum of two to one. Small New Jersey employers with older or sicker employees would see dramatic rate increases under the federal proposal, effectively driving them from the insured market and leaving these most vulnerable citizens without adequate health coverage.

It should be noted that the threatened rate increases are not purely theoretical. In 2002, New Hampshire moved from a rating system similar to New Jersey's to a system similar to that in the Enzi-Nelson bill. Because of the effects of skyrocketing rates on its market over an ensuing two-year period, New Hampshire repealed the new law and returned to the prior system.

Although coverage remains expensive, New Jersey's small employer health insurance market continues to grow. The number of insured individuals in the small group market in New Jersey grew after the program started from about 694,300 at the end of 1994 to 919,950 at the end of 2005. New Jersey also currently permits purchasing alliances among small employers, and may see some additional growth through these entities. New Jersey's rate of uninsured remains slightly below the national average, in part because of our functioning small group market.

As the DOBI's new Commissioner, one of my top priorities is to increase the accessibility and affordability of health insurance. If enacted in its present form, the Enzi-Nelson bill would significantly diminish the opportunity to craft State-specific solutions for the broader problem.

Finally, insurance, as the financing vehicle for the health care delivery system, is only one aspect of a health care system under great stress. The cost of health care is another large component which is made up of many interrelated parts, none of which are addressed by this legislation. I believe that the Enzi-Nelson bill would result in the unintended, negative consequence of increasing the number of uninsured citizens in New Jersey. It is for this reason that I am urging you to oppose the bill.

Thank you for your consideration.

Very truly yours,

Steven M. Goldman
Commissioner

c: Honorable Jon S. Corzine
Governor

Rating system for Small Business Health Plans (SBHPs) based on the 1993 NAIC Model:

1) Premium rates are subject to the following provisions:

A) The index rate for a rating period for any class of business would not exceed the index rate for any other class of business by more than 20%.

B) Within a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage would not vary from the index rate by more than 25%.

C) The percentage increase in the premium rate charged for a new rating period may not exceed the sum of: the percentage change in the new business premium rate; any adjustment, not to exceed 15%, due to claims experience; and any adjustment due to change in coverage or case characteristics.

D) Any adjustment in premium rates for claim experience, health status, or duration of coverage may not be charged to individual employees or dependents.

E) An insurer may use industry as a case characteristic but the differential between industries may not exceed 15%.

F) An insurer must apply rating factors, including case characteristics, consistently across the class of business.

G) Plans issued or renewed within the same calendar month shall be treated as having the same rating period.

H) A plan that contains a restricted network provision shall be considered similar coverage to a plan that does not contain a similar provision if the restriction results in substantial differences in claim costs.

- I) An insurer may use age, gender, industry, geographic area, family composition, group size, and participation in wellness programs as case characteristics without approval of the Commissioner.
- 2) Separate Classes of Business – An insurer may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative costs related to:
- A) The insurer’s use of more than one type of system for the marketing and sale of plans;
 - B) The insurer’s acquisition of a class of business from other carriers;
 - C) The insurer’s provision of coverage to an association group (not SBHPs).
- 3) An insurer may establish up to 9 separate class of business – SBHPs are not counted in this calculation, but other associations would be counted.

New Jersey’s Rating System for the Small Employer Health Benefits Plan market:

- Carriers may rate a health benefits plan only on the basis of age of the employees, gender of the employees, and geographic location of the business.
- Carriers must limit rates by a 2:1 ratio.
- Carriers must establish four-tier rates based on family size: single, two adults, adult+child(ren), two adults+child(ren).