

**First Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 07-0814.01 Kristen Forrestal

**HOUSE BILL 07-1355**

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**HOUSE SPONSORSHIP**

**McGihon and Massey,**

**SENATE SPONSORSHIP**

**Hagedorn,**

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**House Committees**

Business Affairs and Labor

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING THE LIMITATION OF SPECIFIC CASE CHARACTERISTICS**  
102             **THAT MAY BE USED BY AN INSURANCE CARRIER TO DETERMINE**  
103             **THE PREMIUM RATE FOR SMALL EMPLOYERS, AND, IN**  
104             **CONNECTION THEREWITH, CHANGING THE REQUIREMENTS FOR**  
105             **REPORTS BY THE INSURANCE COMMISSIONER TO THE GENERAL**  
106             **ASSEMBLY CONCERNING THE EFFECT OF LIMITATIONS ON CASE**  
107             **CHARACTERISTICS IN THE SMALL GROUP MARKET.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

Removes claims experience and health status as case characteristics that may be considered by an insurance carrier in the determination of premium rates for small employers. Updates the insurance commissioner's reporting requirement to the general assembly.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 10-16-102 (10) (b) (IV), (10) (b) (V), (10) (b) (VI),  
3 and (10) (b) (VII), Colorado Revised Statutes, are amended to read:

4 **10-16-102. Definitions.** As used in this article, unless the context  
5 otherwise requires:

6 (10) (b) "Case characteristics" are limited to the following  
7 demographic characteristics:

8 (IV) Smoking status; AND

9 (V) ~~Claims experience;~~

10 (VI) Standard industrial classification. ~~and~~

11 (VII) ~~Health status.~~

12 **SECTION 2.** 10-16-105 (5) (a) and (8) (e), the introductory  
13 portion to 10-16-105 (8.5) (a), and 10-16-105 (8.5) (a) (I) (A), (8.5) (a)  
14 (V), (8.5) (c), (8.7) (a) (I), (8.7) (a) (III), and (8.7) (b), Colorado Revised  
15 Statutes, are amended to read:

16 **10-16-105. Small group sickness and accident insurance -**  
17 **guaranteed issue - mandated provisions for basic health benefit plans**  
18 **- rules - benefit design advisory committee - repeal.** (5) Each small  
19 group sickness and accident insurer or other entity shall make reasonable  
20 disclosure in solicitation and sales materials provided to small employers  
21 the following information in a form and manner prescribed by the  
22 commissioner and upon request of any such small employer shall provide  
23 such information in detail:

1 (a) How premium rates for a specific employer are established or  
2 adjusted; ~~due to the experience or health status of employees or~~  
3 ~~dependents of the small employer;~~

4 (8) (e) The small employer carrier shall not use case  
5 characteristics other than age, geographic area, and family ~~composition~~  
6 SIZE, nor shall it use any other rating factors except as provided in this  
7 subsection (8) and subsections (13) to (15) of this section.

8 (8.5) (a) For small group health benefit plans issued to or renewed  
9 for a small employer on or after ~~September 1, 2003~~ JANUARY 1, 2008:

10 (I) (A) An adjustment in rates for ~~claims experience, health status,~~  
11 ~~and~~ standard industrial classification may be made but shall not be  
12 charged to the individuals under the plan;

13 (V) ~~On and after September 1, 2004,~~ A small employer carrier  
14 may make an upward adjustment to a small business group's renewal  
15 premium, not to exceed fifteen percent annually, due to ~~the claims~~  
16 ~~experience, health status,~~ standard industrial classification or tobacco use  
17 for all individuals under the small employer policy pursuant to  
18 subparagraph (I) of this paragraph (a).

19 (c) The small employer carrier shall not use case characteristics  
20 other than age, geographic area, family ~~composition~~ SIZE, smoking status,  
21 ~~health status,~~ AND standard industrial classification ~~and claims~~  
22 ~~experience, nor shall it use any other rating factors other than actual~~  
23 ~~claims experience~~ on that small employer carrier's health benefit plan,  
24 industry, and plan design. ~~without prior approval of the commissioner~~  
25 ~~unless otherwise provided in this subsection (8.5).~~

26 (8.7) (a) The commissioner shall evaluate how subsection (8.5) of  
27 this section affects the small group market. Specifically, the

1 commissioner shall evaluate the impact of the following:

2 (I) Rating flexibility based on ~~claims experience and application~~  
3 of rating flexibility on small business groups of one to small employers  
4 with no more than fifteen employees, as compared to the impact on small  
5 employers with sixteen or more employees;

6 (III) ~~Rating flexibility on the aggregate health status of the small~~  
7 ~~group market, including, but not limited to, whether the risk profile of the~~  
8 ~~small group market improved because of the implementation of~~  
9 ~~subsection (8.5) of this section; and~~

10 (b) The commissioner shall submit a report of the evaluation  
11 pursuant to this subsection (8.7) to the business affairs and labor  
12 committees of the house of representatives and the senate OR THEIR  
13 SUCCESSOR COMMITTEES no later than ~~January 15, 2007~~ MARCH 15, 2011.

14 THE COMMISSIONER SHALL CONSULT WITH INTERESTED PARTIES,  
15 INCLUDING BUT NOT LIMITED TO EMPLOYERS AND EMPLOYEES IN THE  
16 SMALL GROUP MARKET, AND SURVEY THE SMALL EMPLOYER CARRIERS  
17 AUTHORIZED TO CONDUCT BUSINESS IN COLORADO. THE REPORT, TO THE  
18 GREATEST EXTENT PRACTICABLE, SHALL INCLUDE AN ANALYSIS OF:

19 (I) THE SMALL GROUP INSURANCE MARKET WITH TREND  
20 INFORMATION, AVAILABILITY OF COVERAGE, AVERAGE COST OF  
21 COVERAGE, AND NUMBER OF LIVES COVERED IN THE SMALL GROUP  
22 MARKET;

23 (II) ANY COST-SHIFTING THAT MAY OCCUR BECAUSE OF  
24 REIMBURSEMENT RATES FROM PUBLICALLY-FUNDED HEALTH COVERAGE  
25 PLANS; AND

26 (III) ANY OTHER FACTOR AFFECTING THE GROWTH OR DECLINE OF  
27 THE SMALL GROUP MARKET.

1           **SECTION 3.** 10-16-108.5 (1) and (3), Colorado Revised Statutes,  
2 are amended to read:

3           **10-16-108.5. Fair marketing standards.** (1) Each small  
4 employer carrier shall actively market health benefit plan coverage,  
5 including the basic health benefit plan and the standard health benefit  
6 plan, to eligible small employers in the state. ~~If a small employer carrier~~  
7 ~~denies coverage to a small employer on the basis of the health status or~~  
8 ~~claims experience of the small employer or its employees or dependents,~~  
9 ~~the carrier shall offer the small employer the opportunity to purchase a~~  
10 ~~basic health benefit plan or a standard health benefit plan.~~

11           (3) (a) Except as provided in paragraph (b) of this subsection (3),  
12 no small employer carrier shall, directly or indirectly, enter into any  
13 contract, agreement, or arrangement with a producer that provides for or  
14 results in the compensation paid to a producer for the sale of a health  
15 benefit plan to be varied because of the ~~health status, claims experience,~~  
16 ~~industry occupation,~~ or geographic location of the small employer.

17           (b) Paragraph (a) of this subsection (3) shall not apply to a  
18 compensation arrangement with a producer on the basis of a percentage  
19 of premium if such percentage does not vary because of the ~~health status,~~  
20 ~~claims experience,~~ industry ~~occupation,~~ or geographic area of the  
21 individual or small employer.

22           **SECTION 4.** 10-16-902 (3) (a) and (3) (c), Colorado Revised  
23 Statutes, are amended to read:

24           **10-16-902. Authority to self-fund - pilot program - rules - fees**  
25 **- cash fund.** (3) (a) Any MEWA may use the following factors  
26 consistent with rating provisions for the small employer carriers for the  
27 establishment of rates: FAMILY SIZE, age, ~~family composition,~~ geographic

1 location, ~~health status, claims experience,~~ and standard industrial code.

2 (c) ~~A self-funded MEWA or the insurance carrier for a fully~~  
3 ~~insured MEWA may adjust premiums for an individual employer within~~  
4 ~~the MEWA based on the health status or age of the employer's employees~~  
5 ~~and their dependents within the MEWA. Such adjustments in rates shall~~  
6 ~~be made on and after May 21, 2004, for health status, claims experience,~~  
7 ~~and standard industrial code but shall not be charged to the individuals~~  
8 ~~under the plan and shall not result in a rate for the MEWA that deviates~~  
9 ~~from the average rate for members of the MEWA by more than the~~  
10 ~~amounts set forth in the following schedule:~~

11 (I) ~~On and after May 21, 2004, until September 29, 2004,~~  
12 ~~decreases more than fifteen percent from the average rate for members of~~  
13 ~~the MEWA;~~

14 (II) ~~On and after September 30, 2004, increases more than ten~~  
15 ~~percent from or decreases more than twenty-five percent from the average~~  
16 ~~rate for members of the MEWA.~~

17 **SECTION 5. Effective date.** (1) This act shall take effect  
18 January 1, 2008.

19 (2) However, if a referendum petition is filed against this act or  
20 an item, section, or part of this act during the 90-day period after final  
21 adjournment of the general assembly that is allowed for submitting a  
22 referendum petition pursuant to article V, section 1 (3) of the state  
23 constitution, then the act, item, section, or part, shall not take effect unless  
24 approved by the people at a biennial regular general election and shall  
25 take effect on the date specified in subsection (1) or on the date of the  
26 official declaration of the vote thereon by proclamation of the governor,  
27 whichever is later.