
HOUSE BILL No. 1539

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-5-23; IC 5-10-8-8.1; IC 27-8; IC 27-13-16-4; IC 34-30.

Synopsis: Guaranteed health plan coverage. Repeals the law concerning the Indiana comprehensive health insurance association (ICHIA). Replaces the ICHIA law with a law under which an accident and sickness insurer or health maintenance organization that provides coverage for basic health care services in Indiana is required to provide coverage as well to certain qualified individuals under an individual health benefit plan at a rate not to exceed 150% of the average health benefit plan premium charged in the previous calendar year. Makes conforming amendments.

Effective: Upon passage.

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January 11, 2001, read first time and referred to Committee on Insurance, Corporations and Small Business.

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Introduced

First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

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HOUSE BILL No. 1539



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 2-5-23-2.5 IS ADDED TO THE INDIANA CODE
 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
 3 UPON PASSAGE]: **Sec. 2.5. As used in this chapter, "health care**
 4 **facility" means any institution providing health care services that**
 5 **is licensed in Indiana, including institutions primarily engaged in**
 6 **providing services for health maintenance organizations or for the**
 7 **diagnosis or treatment of human disease, pain, injury, deformity,**
 8 **or physical condition, including a general hospital, a special**
 9 **hospital, a mental hospital, a public health center, a diagnostic**
 10 **center, a treatment center, a rehabilitation center, an extended**
 11 **care facility, a skilled nursing home, a nursing home, an**
 12 **intermediate care facility, a tuberculosis hospital, a chronic disease**
 13 **hospital, a maternity hospital, an outpatient clinic, a home health**
 14 **care agency, a bioanalytical laboratory, or a central services**
 15 **facility servicing one (1) or more such institutions.**

16 SECTION 2. IC 2-5-23-8 IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE UPON PASSAGE]: Sec. 8. Beginning May 1, 1997, the



1 health policy advisory committee is established. At the request of the
 2 chairman, the health policy advisory committee shall provide
 3 information and otherwise assist the commission to perform the duties
 4 of the commission under this chapter. The health policy advisory
 5 committee members are ex officio and may not vote. The health policy
 6 advisory committee members shall be appointed from the general
 7 public and must include one (1) individual who represents each of the
 8 following:

- 9 (1) The interests of public hospitals.
 10 (2) The interests of community mental health centers.
 11 (3) The interests of community health centers.
 12 (4) The interests of the long term care industry.
 13 (5) The interests of health care professionals licensed under
 14 IC 25, but not licensed under IC 25-22.5.
 15 (6) The interests of rural hospitals. An individual appointed under
 16 this subdivision must be licensed under IC 25-22.5.
 17 (7) The interests of health maintenance organizations (as defined
 18 in IC 27-13-1-19).
 19 ~~(8) The interests of for-profit health care facilities (as defined in~~
 20 ~~IC 27-8-10-1(1)).~~
 21 ~~(9)~~ **(8)** A statewide consumer organization.
 22 ~~(10)~~ **(9)** A statewide senior citizen organization.
 23 ~~(11)~~ **(10)** A statewide organization representing people with
 24 disabilities.
 25 ~~(12)~~ **(11)** Organized labor.
 26 ~~(13)~~ **(12)** The interests of businesses that purchase health
 27 insurance policies.
 28 ~~(14)~~ **(13)** The interests of businesses that provide employee
 29 welfare benefit plans (as defined in 29 U.S.C. 1002) that are
 30 self-funded.
 31 ~~(15)~~ **(14)** A minority community.
 32 ~~(16)~~ **(15)** The uninsured. An individual appointed under this
 33 subdivision must be and must have been chronically uninsured.
 34 ~~(17)~~ **(16)** An individual who is not associated with any
 35 organization, business, or profession represented in this
 36 subsection other than as a consumer.

37 SECTION 3. IC 5-10-8-8.1, AS AMENDED BY P.L.233-1999,
 38 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 UPON PASSAGE]: Sec. 8.1. (a) This section applies only to the state
 40 and former legislators, instead of section 8 of this chapter.

41 (b) As used in this section, "legislator" means a member of the
 42 general assembly.

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1 (c) After June 30, 1988, the state shall provide to each retired
2 legislator:

3 (1) whose retirement date is after June 30, 1988;

4 (2) who is not participating in a group health insurance coverage
5 plan:

6 (A) including Medicare coverage as prescribed by 42 U.S.C.
7 1395 et seq.; but

8 (B) not including a group health insurance plan provided by
9 the state; ~~or a health insurance plan provided under~~
10 ~~IC 27-8-10;~~

11 (3) who served as a legislator for at least ten (10) years; and

12 (4) who participated in a group health insurance plan provided by
13 the state on the legislator's retirement date;

14 a group health insurance program that is equal to that offered active
15 employees.

16 (d) A retired legislator who qualifies under subsection (c) may
17 participate in the group health insurance program if the retired
18 legislator:

19 (1) pays an amount equal to the employer's and employee's
20 premium for the group health insurance for an active employee;
21 and

22 (2) within ninety (90) days after the legislator's retirement date
23 files a written request for insurance coverage with the employer.

24 (e) A retired legislator's eligibility to continue insurance under this
25 section ends when the member becomes eligible for Medicare coverage
26 as prescribed by 42 U.S.C. 1395 et seq., or when the employer
27 terminates the health insurance program.

28 (f) A retired legislator who is eligible for insurance coverage under
29 this section may elect to have the legislator's spouse covered under the
30 health insurance program at the time the legislator retires. If a retired
31 legislator's spouse pays the amount the retired legislator would have
32 been required to pay for coverage selected by the spouse, the spouse's
33 subsequent eligibility to continue insurance under this section is not
34 affected by the death of the retired legislator and is not affected by the
35 retired legislator's eligibility for Medicare. The spouse's eligibility ends
36 on the earliest of the following:

37 (1) When the spouse becomes eligible for Medicare coverage as
38 prescribed by 42 U.S.C. 1395 et seq.

39 (2) When the employer terminates the health insurance program.

40 (3) The date of the spouse's remarriage.

41 (g) The surviving spouse of a legislator who dies or has died in
42 office may elect to participate in the group health insurance program

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- 1 if all of the following apply:
- 2 (1) The deceased legislator would have been eligible to
- 3 participate in the group health insurance program under this
- 4 section had the legislator retired on the day of the legislator's
- 5 death.
- 6 (2) The surviving spouse files a written request for insurance
- 7 coverage with the employer.
- 8 (3) The surviving spouse pays an amount equal to the employer's
- 9 and employee's premium for the group health insurance for an
- 10 active employee.
- 11 (h) The eligibility of the surviving spouse of a legislator to purchase
- 12 group health insurance under subsection (g) ends on the earliest of the
- 13 following:
- 14 (1) When the employer terminates the health insurance program.
- 15 (2) The date of the spouse's remarriage.
- 16 (3) When the spouse becomes eligible for Medicare coverage as
- 17 prescribed by 42 U.S.C. 1395 et seq.
- 18 SECTION 4. IC 27-8-8-2 IS AMENDED TO READ AS FOLLOWS
- 19 [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this chapter:
- 20 "Account" means one of the three (3) accounts created under section
- 21 3 of this chapter.
- 22 "Association" means the Indiana life and health insurance guaranty
- 23 association created under section 3 of this chapter.
- 24 "Commissioner" refers to the commissioner of insurance.
- 25 "Contractual obligation" means an obligation under covered
- 26 policies.
- 27 "Covered policy" means any policy or contract that is of a type
- 28 described in section 1(a) of this chapter and is not excluded by section
- 29 1(b) of this chapter.
- 30 "Impaired insurer" means a member insurer deemed by the
- 31 commissioner to be potentially unable to fulfill its contractual
- 32 obligations.
- 33 "Insolvent insurer" means a member insurer who becomes insolvent
- 34 and is placed under a final order of liquidation, rehabilitation, or
- 35 conservation by a court.
- 36 "Member insurer" means any person that is licensed or holds a
- 37 certificate of authority to transact in Indiana any kind of insurance for
- 38 which coverage is provided under this chapter. The term includes any
- 39 insurer whose license or certificate of authority to transact such
- 40 insurance in Indiana may have been suspended, revoked, not renewed,
- 41 or voluntarily withdrawn but does not include the following:
- 42 (1) A medical and hospital service organization.

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- 1 (2) A health maintenance organization under IC 27-13.
 2 (3) A fraternal benefit society under IC 27-11.
 3 (4) ~~The Indiana Comprehensive Health Insurance Association or~~
 4 ~~any other~~ A mandatory state pooling plan or arrangement.
 5 (5) An assessment company or any other person that operates an
 6 assessment plan (as defined in IC 27-1-2-3(y)).
 7 (6) An interinsurance exchange authorized by IC 27-6-6.
 8 (7) A prepaid limited health service organization or a limited
 9 service health maintenance organization under IC 27-13-34.
 10 ~~(8) A special service health care delivery plan under IC 27-8-7.~~
 11 ~~(9)~~ (8) A farmer's mutual insurance company under IC 27-5.
 12 ~~(10)~~ (9) Any person similar to any person described in
 13 subdivisions (1) through ~~(9)~~: (8).

14 "Premiums" means direct gross insurance premiums and annuity
 15 considerations received on covered policies, less return premiums and
 16 considerations, and dividends paid or credited to policyholders on
 17 direct business. It does not include premiums and considerations on
 18 contracts between insurers and reinsurers. For purposes of assessments
 19 made under section 6 of this chapter, "premiums" for covered policies
 20 shall not be reduced on account of any limitation on benefits for which
 21 the association is obligated under section 5(1) of this chapter. However,
 22 "premiums" for assessment purposes does not include that portion of
 23 any premium exceeding five million dollars (\$5,000,000) for any one
 24 (1) unallocated annuity contract.

25 "Person" means any natural person, corporation, limited liability
 26 company, partnership, association, voluntary organization, trust,
 27 governmental organization or entity, or other business organization or
 28 entity.

29 "Resident" means any person who resides in Indiana at the time the
 30 association becomes obligated for an impaired or insolvent insurer.
 31 Persons other than natural persons are considered to reside in the state
 32 where their principal place of business is located.

33 "Unallocated annuity contract" means an annuity contract or group
 34 annuity certificate that is not issued to and held by a natural person
 35 (excluding a natural person acting as a trustee), except to the extent of
 36 any annuity benefits guaranteed to a natural person by an insurer under
 37 the contract or certificate. For the purposes of section 1.5 of this
 38 chapter, an unallocated annuity contract shall not be considered a group
 39 covered policy.

40 (b) For purposes of this chapter, a policy, contract, or certificate is
 41 considered to be held by the person identified on the policy, contract,
 42 or certificate as the holder or owner of the policy, contract, or

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1 certificate.

2 SECTION 5. IC 27-8-10.1 IS ADDED TO THE INDIANA CODE
3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]:

5 **Chapter 10.1. Guaranteed Individual Health Benefit Plan**
6 **Coverage**

7 **Sec. 1. As used in this chapter, "accident and sickness insurer"**
8 **means an insurer that provides coverage for basic health care**
9 **services under a policy of accident and sickness insurance.**

10 **Sec. 2. As used in this chapter, "basic health care services" has**
11 **the meaning set forth in IC 27-13-1-4.**

12 **Sec. 3. As used in this chapter, "church plan" has the meaning**
13 **set forth in the federal Employee Retirement Income Security Act**
14 **of 1974 (26 U.S.C. 414(e)).**

15 **Sec. 4. As used in this chapter, "creditable coverage" has the**
16 **meaning set forth in the federal Health Insurance Portability and**
17 **Accountability Act of 1996 (26 U.S.C. 9801(c)(1)).**

18 **Sec. 5. As used in this chapter, "federally eligible individual"**
19 **means an individual:**

20 (1) for whom, as of the date on which the individual seeks
21 coverage under this chapter, the aggregate period of
22 creditable coverage is at least eighteen (18) months and whose
23 most recent prior creditable coverage was under a:

- 24 (A) group health plan;
25 (B) governmental plan; or
26 (C) church plan;

27 or health insurance coverage in connection with any of these
28 plans;

29 (2) who is not eligible for coverage under:

- 30 (A) a group health plan;
31 (B) Part A or Part B of Title XVIII of the federal Social
32 Security Act; or
33 (C) a state plan under Title XIX of the federal Social
34 Security Act (or any successor program);

35 and does not have other health insurance coverage;

36 (3) with respect to whom the individual's most recent
37 coverage was not terminated for factors relating to
38 nonpayment of premiums or fraud;

39 (4) who, if after being offered the option of continuation
40 coverage under the Consolidated Omnibus Budget
41 Reconciliation Act of 1985 (COBRA) (29 U.S.C. 1191b(d)(1)),
42 or under a similar state program, elected such coverage; and



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1 (5) who, if after electing continuation coverage described in
 2 subdivision (4), has exhausted continuation coverage under
 3 the provision or program.

4 Sec. 6. As used in this chapter, "governmental plan" means a
 5 plan as defined under the federal Employee Retirement Income
 6 Security Act of 1974 (26 U.S.C. 414(d)) and any plan established or
 7 maintained for its employees by the United States government or
 8 by any agency or instrumentality of the United States government.

9 Sec. 7. As used in this chapter, "health benefit plan" means
 10 coverage of basic health care services under a:

- 11 (1) policy of accident and sickness insurance; or
 12 (2) contract with a health maintenance organization.

13 Sec. 8. As used in this chapter, "health benefit plan provider"
 14 means:

- 15 (1) an accident and sickness insurer; or
 16 (2) a health maintenance organization;

17 that provides coverage under a health benefit plan.

18 Sec. 9. As used in this chapter, "health maintenance
 19 organization" has the meaning set forth in IC 27-13-1-19.

20 Sec. 10. As used in this chapter, "individual health benefit plan"
 21 means a health benefit plan that is:

- 22 (1) issued on an individual basis; or
 23 (2) entered into as an individual contract (as defined in
 24 IC 27-13-1-21);

25 and may include coverage of dependents of the individual.

26 Sec. 11. As used in this chapter, "policy of accident and sickness
 27 insurance" has the meaning set forth in IC 27-8-5-1(a).

28 Sec. 12. As used in this chapter, "qualified individual" means an
 29 individual who meets one of the following criteria:

- 30 (1) At the effective date of coverage, the individual is not
 31 eligible for coverage under a health benefit plan that equals
 32 or exceeds the minimum requirements for health benefit plans
 33 set forth in IC 27.

34 (2) The individual:

35 (A) has been rejected by one (1) health benefit plan
 36 provider under any health benefit plan that equals or
 37 exceeds the minimum requirements for health benefit
 38 plans set forth in IC 27 without material underwriting
 39 restrictions;

40 (B) has been refused coverage under a health benefit plan,
 41 except at a rate exceeding the average premium charged
 42 for the same coverage as reported to the department under

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1 **IC 27-1-22 by the five (5) health benefit plan providers**
 2 **with the largest premium volume in Indiana during the**
 3 **previous calendar year; or**
 4 **(C) is a federally eligible individual.**

5 **For purposes of this section, an individual may be a qualified**
 6 **individual if the individual is eligible for Medicare coverage and is**
 7 **less than sixty-five (65) years of age.**

8 **Sec. 13. A health benefit plan provider that provides coverage**
 9 **in Indiana under at least one (1) individual health benefit plan shall**
 10 **provide coverage to a qualified individual under any individual**
 11 **health benefit plan:**

12 **(1) through which the health benefit plan provider provides**
 13 **coverage in Indiana; and**

14 **(2) under which the qualified individual applies for coverage.**

15 **Sec. 14. A health benefit plan provider may not impose a**
 16 **preexisting condition limitation or exclusion on individual health**
 17 **benefit plan coverage provided under section 13 of this chapter.**

18 **Sec. 15. Premiums for individual health benefit plan coverage**
 19 **provided under section 13 of this chapter may not exceed one**
 20 **hundred fifty percent (150%) of the average premium charged by**
 21 **the health benefit plan provider for health benefit plan coverage in**
 22 **Indiana during the previous calendar year, as determined by the**
 23 **department under section 16 of this chapter.**

24 **Sec. 16. The department shall calculate and make available to**
 25 **health benefit plan providers the average premium charged for**
 26 **health benefit plan coverage as reported to the department under**
 27 **IC 27-1-22 by the five (5) health benefit plan providers with the**
 28 **largest premium volume in Indiana during the previous calendar**
 29 **year.**

30 **Sec. 17. Coverage for basic health care services provided under**
 31 **this chapter shall be provided in compliance with the federal**
 32 **Health Insurance Portability and Accountability Act of 1996**
 33 **(P.L.104-191).**

34 **SECTION 6. IC 27-8-15-28 IS AMENDED TO READ AS**
 35 **FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) As used in**
 36 **this section, "health insurance plan" means coverage provided under**
 37 **any of the following:**

38 **(1) A hospital or medical expense incurred policy or certificate.**

39 **(2) A hospital or medical service plan contract.**

40 **(3) A health maintenance organization subscriber contract.**

41 **(4) Medicare or Medicaid.**

42 **(5) An employer based health insurance arrangement.**

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- 1 (6) An individual health insurance policy.
- 2 (7) ~~A policy issued by the Indiana comprehensive health~~
- 3 ~~insurance association under IC 27-8-10.~~
- 4 (8) (7) An employee welfare benefit plan (as defined in 29 U.S.C.
- 5 1002) that is self-funded.
- 6 (9) (8) A conversion policy issued under section 31 or 31.1 of this
- 7 chapter.

8 (b) Except as provided in section 29 of this chapter, a small
 9 employer insurer shall waive the exclusion period described in section
 10 27 of this chapter applicable to a preexisting condition or the limitation
 11 period with respect to a particular service in a health insurance plan for
 12 the time an eligible employee or a dependent of an eligible employee
 13 was previously covered by a health insurance plan if the following
 14 conditions are met:

- 15 (1) The eligible employee or a dependent of the eligible employee
- 16 was previously covered by a health insurance plan that provided
- 17 benefits with respect to the particular service.
- 18 (2) Coverage under the health insurance plan was continuous to
- 19 a date not more than sixty-three (63) days before the effective
- 20 date of enrollment by:
 - 21 (A) the eligible employee; or
 - 22 (B) a dependent of the eligible employee.

23 (c) In determining whether an eligible employee or a dependent of
 24 the eligible employee meets the requirements of subsection (b)(2), a
 25 waiting period imposed by a small employer insurer or small employer
 26 before new coverage may become effective must be excluded from the
 27 calculation.

28 (d) This section does not preclude the application of any waiting
 29 period applicable to all new enrollees under a plan.

30 SECTION 7. IC 27-13-16-4 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. If an enrollee is
 32 hospitalized continuously from the date of receivership through the last
 33 date of the enrollee's continuation of benefits under section 1 of this
 34 chapter, the enrollee shall be eligible for ~~an Indiana comprehensive~~
 35 ~~health insurance policy under IC 27-8-10~~ **individual health benefit**
 36 **plan coverage under IC 27-8-10.1.** Notwithstanding any provision of
 37 ~~IC 27-8-10~~, **IC 27-8-10.1**, the policy may not contain preexisting
 38 condition exclusions with respect to the condition for which the
 39 enrollee was hospitalized. The enrollee shall become eligible for
 40 coverage effective on the first day after the enrollee's continuation of
 41 benefits ends.

42 SECTION 8. IC 34-30-12-1, AS AMENDED BY P.L.1-1999,

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1 SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 UPON PASSAGE]: Sec. 1. (a) This section does not apply to services
3 rendered by a health care provider (as defined in IC 34-18-2-14 or
4 IC 27-12-2-14 before its repeal) to a patient in a health care facility (as
5 defined in ~~IC 27-8-10-1~~ **IC 2-5-23-2.5**).

6 (b) Except as provided in subsection (c), a person who comes upon
7 the scene of an emergency or accident or is summoned to the scene of
8 an emergency or accident and, in good faith, gratuitously renders
9 emergency care at the scene of the emergency or accident is immune
10 from civil liability for any personal injury that results from:

11 (1) any act or omission by the person in rendering the emergency
12 care; or

13 (2) any act or failure to act to provide or arrange for further
14 medical treatment or care for the injured person;

15 except for acts or omissions amounting to gross negligence or willful
16 or wanton misconduct.

17 (c) This subsection applies to a person to whom IC 16-31-6.5
18 applies. A person who gratuitously renders emergency care involving
19 the use of an automatic external defibrillator is immune from liability
20 for any act or omission not amounting to gross negligence or willful or
21 wanton misconduct if the person fulfills the requirements set forth in
22 IC 16-31-6.5.

23 (d) This subsection applies to an individual, business, or
24 organization to which IC 16-31-6.5 applies. An individual, business, or
25 organization that allows a person who is an expected user to use an
26 automatic external defibrillator of the individual, business, or
27 organization to in good faith gratuitously render emergency care is
28 immune from civil liability for any damages resulting from an act or
29 omission not amounting to gross negligence or willful or wanton
30 misconduct by the user or for acquiring or providing the automatic
31 external defibrillator to the user for the purpose of rendering the
32 emergency care if the individual, business, or organization and the user
33 fulfill the requirements set forth in IC 16-31-6.5.

34 SECTION 9. THE FOLLOWING ARE REPEALED [EFFECTIVE
35 UPON PASSAGE]: IC 27-8-10; IC 34-30-2-116.

36 SECTION 10. **An emergency is declared for this act.**

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