

**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2006**

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A N A C T

RELATING TO INSURANCE - THE RHODE ISLAND HEALTH CARE AFFORDABILITY  
ACT OF 2006 - PART IV - HIGH RISK POOL

Introduced By: Representatives Costantino, Slater, and Naughton

Date Introduced: March 22, 2006

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 27-18.5-3 of the General Laws in Chapter 27-18.5 entitled  
2 "Individual Health Insurance Coverage" is hereby amended to read as follows:  
3           **27-18.5-3. Guaranteed availability to certain individuals.** -- (a) Notwithstanding any  
4 of the provisions of this title to the contrary, all health insurance carriers that offer health  
5 insurance coverage in the individual market in this state shall provide for the guaranteed  
6 availability of coverage to an eligible individual or an individual who has had health insurance  
7 coverage, including coverage in the individual market, or coverage under a group health plan or  
8 coverage under 5 U.S.C. section 8901 et seq. and had that coverage continuously for at least  
9 twelve (12) consecutive months and who applies for coverage in the individual market no later  
10 than sixty-three (63) days following termination of the coverage, desiring to enroll in individual  
11 health insurance coverage, and who is not eligible for coverage under a group health plan, part A  
12 or part B or title XVIII of the Social Security Act, 42 U.S.C. section 1395c et seq. or 42 U.S.C.  
13 section 1395j et seq., or any state plan under title XIX of the Social Security Act, 42 U.S.C.  
14 section 1396 et seq. (or any successor program) and does not have other health insurance  
15 coverage (provided, that eligibility for the other coverage shall not disqualify an individual with  
16 twelve (12) months of consecutive coverage if that individual applies for coverage in the  
17 individual market for the primary purpose of obtaining coverage for a specific pre-existing  
18 condition, and the other available coverage excludes coverage for that pre-existing condition) and

1 may not:

2 (1) Decline to offer the coverage to, or deny enrollment of, the individual; or

3 (2) Impose any preexisting condition exclusion with respect to the coverage.

4 (b) (1) All health insurance carriers that offer health insurance coverage in the individual  
5 market in this state shall offer all policy forms of health insurance coverage. Provided, the carrier  
6 may elect to limit the coverage offered so long as it offers at least two (2) different policy forms  
7 of health insurance coverage (policy forms which have different cost-sharing arrangements or  
8 different riders shall be considered to be different policy forms) both of which:

9 (i) Are designed for, made generally available to, and actively market to, and enroll both  
10 eligible and other individuals by the carrier; and

11 (ii) Meet the requirements of subparagraph (A) or (B) of this paragraph as elected by the  
12 carrier:

13 (A) If the carrier offers the policy forms with the largest, and next to the largest,  
14 premium volume of all the policy forms offered by the carrier in this state; or

15 (B) If the carrier offers a choice of two (2) policy forms with representative coverage,  
16 consisting of a lower-level coverage policy form and a higher-level coverage policy form each of  
17 which includes benefits substantially similar to other individual health insurance coverage offered  
18 by the carrier in this state and each of which is covered under a method that provides for risk  
19 adjustment, risk spreading, or financial subsidization.

20 (2) For the purposes of this subsection, "lower-level coverage" means a policy form for  
21 which the actuarial value of the benefits under the coverage is at least eighty-five percent (85%)  
22 but not greater than one hundred percent (100%) of the policy form weighted average.

23 (3) For the purposes of this subsection, "higher-level coverage" means a policy form for  
24 which the actuarial value of the benefits under the coverage is at least fifteen percent (15%)  
25 greater than the actuarial value of lower-level coverage offered by the carrier in this state, and the  
26 actuarial value of the benefits under the coverage is at least one hundred percent (100%) but not  
27 greater than one hundred twenty percent (120%) of the policy form weighted average.

28 (4) For the purposes of this subsection, "policy form weighted average" means the  
29 average actuarial value of the benefits provided by all the health insurance coverage issued (as  
30 elected by the carrier) either by that carrier or, if the data are available, by all carriers in this state  
31 in the individual market during the previous year (not including coverage issued under this  
32 subsection), weighted by enrollment for the different coverage. The actuarial value of benefits  
33 shall be calculated based on a standardized population and a set of standardized utilization and  
34 cost factors.

1 (5) The carrier elections under this subsection shall apply uniformly to all eligible  
2 individuals in this state for that carrier. The election shall be effective for policies offered during  
3 a period of not shorter than two (2) years.

4 (c) (1) A carrier may deny health insurance coverage in the individual market to an  
5 eligible individual if the carrier has demonstrated to the director that:

6 (i) It does not have the financial reserves necessary to underwrite additional coverage;  
7 and

8 (ii) It is applying this subsection uniformly to all individuals in the individual market in  
9 this state consistent with applicable state law and without regard to any health status-related  
10 factor of the individuals and without regard to whether the individuals are eligible individuals.

11 (2) A carrier upon denying individual health insurance coverage in this state in  
12 accordance with this subsection may not offer that coverage in the individual market in this state  
13 for a period of one hundred eighty (180) days after the date the coverage is denied or until the  
14 carrier has demonstrated to the director that the carrier has sufficient financial reserves to  
15 underwrite additional coverage, whichever is later.

16 (d) Nothing in this section shall be construed to require that a carrier offering health  
17 insurance coverage only in connection with group health plans or through one or more bona fide  
18 associations, or both, offer health insurance coverage in the individual market.

19 (e) A carrier offering health insurance coverage in connection with group health plans  
20 under this title shall not be deemed to be a health insurance carrier offering individual health  
21 insurance coverage solely because the carrier offers a conversion policy.

22 (f) ~~Nothing~~ Except for any high risk pool rating rules to be established by the Office of  
23 the Health Insurance Commissioner (OHIC) as described in this section, nothing in this section  
24 shall be construed to create additional restrictions on the amount of premium rates that a carrier  
25 may charge an individual for health insurance coverage provided in the individual market; or to  
26 prevent a health insurance carrier offering health insurance coverage in the individual market  
27 from establishing premium rates or modifying applicable copayments or deductibles in return for  
28 adherence to programs of health promotion and disease prevention.

29 (g) OHIC may pursue federal funding in support of the development of a high risk pool  
30 for the individual market, as defined in section 27-18.5-2, contingent upon a thorough assessment  
31 of any financial obligation of the state related to the receipt of said federal funding being  
32 presented to, and approved by, the general assembly by passage of concurrent general assembly  
33 resolution. The components of the high risk pool program, including, but not limited to, rating  
34 rules, eligibility requirements and administrative processes, shall be designed in accordance with

1 [Section 2745 of the Public Health Service Act \(42 U.S.C. 300gg-45\) also known as the State](#)  
2 [High Risk Pool Funding Extension Act of 2006 and defined in regulations promulgated by the](#)  
3 [office of the health insurance commissioner on or before October 1, 2007.](#)

4 ~~(g)~~(h)(1) In the case of a health insurance carrier that offers health insurance coverage in  
5 the individual market through a network plan, the carrier may limit the individuals who may be  
6 enrolled under that coverage to those who live, reside, or work within the service areas for the  
7 network plan; and within the service areas of the plan, deny coverage to individuals if the carrier  
8 has demonstrated to the director that:

9 (i) It will not have the capacity to deliver services adequately to additional individual  
10 enrollees because of its obligations to existing group contract holders and enrollees and individual  
11 enrollees; and

12 (ii) It is applying this subsection uniformly to individuals without regard to any health  
13 status-related factor of the individuals and without regard to whether the individuals are eligible  
14 individuals.

15 (2) Upon denying health insurance coverage in any service area in accordance with the  
16 terms of this subsection, a carrier may not offer coverage in the individual market within the  
17 service area for a period of one hundred eighty (180) days after the coverage is denied.

18 SECTION 2. This act shall take effect upon passage.

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LC02734/SUB A  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO INSURANCE - THE RHODE ISLAND HEALTH CARE AFFORDABILITY  
ACT OF 2006 - PART IV - HIGH RISK POOL

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1           This act would allow the office of the health insurance commissioner, upon the passage  
2 of a concurrent general assembly resolution to develop a high risk pool, and implement it in  
3 accordance with the State High Risk Pool Funding Extension Act of 2006 to be promulgated by  
4 that office on or before October 1, 2007.

5           This act would take effect upon passage.

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LC02734/SUB A  
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