**A** **BILL**

TO AMEND TITLE 38 OF THE 1976 CODE, BY ADDING CHAPTER 110, TO CREATE THE “AFFORDABLE HEALTH INSURANCE ACT”, TO PROVIDE THAT HEALTH INSURERS MAY OPERATE CERTAIN PROGRAMS WITHOUT VIOLATING UNFAIR TRADE PRACTICE LAWS, TO PROVIDE THAT NO RELATIONSHIP MUST EXIST BETWEEN PREFERRED PROVIDER AND NON‑PREFERRED PROVIDER PLAN REIMBURSEMENTS, TO PROVIDE THAT THE DEPARTMENT OF INSURANCE SHALL ALLOW HEALTH REIMBURSEMENT ARRANGEMENT PLANS, TO PROVIDE EXCEPTIONS TO THE ALLOWANCE OF HEALTH REIMBURSEMENT ARRANGEMENT PLANS, AND TO PROVIDE FOR INCOME TAX EXEMPTIONS FOR PREMIUMS PAID TO A HIGH DEDUCTIBLE HEALTH PLAN.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Affordable Health Insurance Act.”

SECTION 2. Title 38 of the 1976 Code is amended by adding:

“Chapter 110

Affordable Health Insurance Act

Section 38‑110‑10. Insurers that include and operate wellness and health promotion programs, disease and condition management programs, health risk appraisal programs, and similar provisions in their high deductible health policies in keeping with federal requirements shall not be considered to be engaging in unfair trade practices under South Carolina law with respect to references to the practices of illegal inducements, unfair discrimination, and rebating.

Section 38‑110‑20. (A) There shall be no required relationship between preferred provider and non‑preferred provider plan reimbursements for Health Savings Account eligible high deductible plans using non‑preferred provider reimbursements. These plans, however, shall not:

(1) unfairly deny health benefits for medically necessary covered services;

(2) have differences in benefit levels payable to preferred providers compared to other providers that unfairly deny benefits for covered services;

(3) have a plan coinsurance percentage applicable to benefit levels for services provided by non‑preferred providers that is less than sixty percent of the benefit levels under the policy for such services; or

(4) have an adverse effect on the availability or the quality of services.

Section 38‑110‑30. (A) The Department of Insurance shall be authorized to allow Health Reimbursement Arrangement only plans that encourage employer financial support of health insurance or health related expenses recognized under the rules of the federal Internal Revenue Service.

(B) Health Reimbursement Arrangement only plans that are not sold in connection with or packaged with health insurance coverage shall not be considered insurance under the laws of this State.

(C) Individual health insurance policies funded through Health Reimbursement Arrangement only plans shall not be considered employer sponsored or group coverage under the laws of this State, and nothing in this section shall be interpreted to require an insurer to offer an individual health insurance policy for sale in connection with or packaged with a Health Reimbursement Arrangement only plan or to accept premiums from Health Reimbursement Arrangement only plans for individual health insurance policies.

Section 38‑110‑40. In addition to other deductions allowed by law, a taxpayer in this State may deduct from his or her taxable income for state income tax purposes an amount equal to one hundred percent of the premium paid by the taxpayer during the taxable year for high deductible health plans which are eligible to be used with a Health Savings Account under the applicable provisions of Section 223 of the Internal Revenue Code to the extent the deduction has not been included in federal adjusted gross income, as defined under the Internal Revenue Code of 1986, and the expenses have not been provided from a Health Reimbursement Arrangement and have not been included in itemized non‑business deductions that shall be excluded from such taxpayer’s taxable income.

Section 38‑110‑50. (A) As used in this section:

(1) ‘Qualified health insurance’ means a high deductible health plan that includes, at a minimum, catastrophic health care coverage which is eligible to be used with a Health Savings Account under the applicable provisions of Section 223 of the Internal Revenue Code.

(2) ‘Qualified health insurance expense’ means the expenditure of funds of at least two hundred fifty dollars annually for health insurance premiums for qualified health insurance.

(3) ‘Taxpayer’ means an employer who employs directly, or who pays compensation to individuals whose compensation is reported on Federal Tax Form 1099, fifty or fewer persons and for whom the taxpayer provides high deductible health plans that include, at a minimum, catastrophic health care coverage which are established and used with a Health Savings Account under the applicable provisions of Section 223 of the Internal Revenue Code and in which such employees are enrolled.

(B) Employers shall be allowed an income tax credit, for qualified health insurance expenses in an amount of two hundred fifty dollars for each employee enrolled for twelve consecutive months in a qualified health insurance plan if the qualified health insurance is made available to all of the employees and compensated individuals of the employer pursuant to the applicable provisions of Section 125 of the Internal Revenue Code.

(C) In no event shall the total amount of the tax credit under this section for a taxable year exceed the taxpayer’s income tax liability. Any unused tax credit shall be allowed the taxpayer against succeeding years’ tax liability. No such credit shall be allowed the taxpayer against a prior year’s tax liability.

(D) The Department of Revenue shall be authorized to promulgate any rules and regulations necessary to implement and administer the provisions of this section.

(E) The credit allowed by this section shall apply only with regard to qualified health insurance expenses.

Section 38‑110‑60. (A) The Department of Insurance shall develop flexible guidelines for coverage and approval of Health Savings Account eligible high deductible plans which are designed to qualify under federal and state requirements as high deductible health plans for use with Health Savings Accounts which comply with federal requirements under the applicable provisions of the federal Internal Revenue Code for high deductible health plans sold in connection with Health Savings Accounts.

(B) The department shall be authorized to encourage and promote the marketing of Health Savings Account eligible high deductible plans by accident and sickness insurers in this state; provided, however, that nothing in this section shall be construed to authorize the sale of insurance in violation of the requirements of law relating to the transaction of insurance in this State or prohibiting the interstate sale of insurance.

(C) The department shall be authorized to conduct a national study of Health Savings Account eligible high deductible plans available in other states and to determine if and how these products serve the uninsured and if they should be made available to the citizens of this State.

(D) The department shall be authorized to develop an automatic or fast track approval process for Health Savings Account eligible high deductible plans already approved under the laws and regulations of this State or other states.

(E) The department shall be authorized to promulgate such rules and regulations as he or she deems necessary and appropriate for the design, promotion, and regulation of Health Savings Account eligible high deductible plans, including rules and regulations for the expedited review of standardized policies, advertisements and solicitations, and other matters deemed relevant by the commissioner.”

SECTION 3. This act takes effect upon approval by the Governor.

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