

# SENATE NO. 1282

## **AN ACT** ESTABLISHING A REINSURANCE PROGRAM TO PROTECT CONSUMERS OF SMALL GROUP HEALTH INSURANCE

*Be it enacted by the Senate and House of Representatives in General Court assembled,  
And by the authority of the same, as follows:*

1 SECTION 1. Chapter 176J of the general laws, as appearing in the 2004 Official Edition, is hereby  
2 amended, by inserting after section 8, the following new section:-

3 Section 8A. Small Group Health Reinsurance Plan

4 There is established a nonprofit entity to be known as the "Massachusetts Small Group Health  
5 Reinsurance Plan". All commercial carriers issuing health benefit plans to an eligible small group  
6 on or after July first, two thousand and seven shall be members of the reinsurance program. Non-  
7 profit hospital and medical service corporations and health maintenance organizations shall not  
8 participate in the reinsurance program established by this section.

9 Such plan shall be prepared and administered by a governing committee appointed by the  
10 governor for terms of three years, consisting of seven members representing small group health  
11 insurers participating in the plan. At least one member of the governing committee shall be a small  
12 group domestic health insurer. The governing committee shall be responsible for the hiring of the  
13 employees of the plan.

14 On or before April first two thousand and seven, the governing committee shall submit to the  
15 commissioner a plan of operation. The commissioner shall, after notice and hearing, approve or  
16 disapprove the plan of operation. Subsequent amendments to such plan shall be deemed approved  
17 by the commissioner if not expressly disapproved in writing by the commissioner within thirty days  
18 from the date of the filing. The plan shall not reimburse a carrier with respect to the claims of a  
19 reinsured employer or dependent in any calendar year until the carrier has paid five thousand dollars  
20 in benefits in a calendar year for benefits otherwise covered by the plan. The governing board may  
21 increase said dollar amount upon the approval of the commissioner.

22 Meetings of the governing committee of the plan shall be conducted in accordance with the  
23 provisions of section eleven A of chapter thirty A.

24 Premium rates charged for coverage reinsured by the plan shall be established as follows or as the  
25 commissioner may direct, in consultation with the governing committee:

26 The premium rates charged for purchasers of small group coverage in the small group health  
27 insurance risk pool shall not increase above the rates in effect on June 30, 2007 as a direct result of  
28 the merger of the non group and small group risk pools authorized by chapter 58 of the acts of  
29 2006.

30 For the purposes of implementing this section, there is

31 Any member may reinsure coverage of an eligible small group member or any dependent of such  
32 an employee with the reinsurance program, provided:

33 (1) with respect to a prototype plan, the reinsurance program shall reinsure the premium increase  
34 required to maintain the level of coverage provided at the effective rate on June 30, 2007;

35 (2) with respect to other plans issued to eligible small groups, the reinsurance program shall  
36 reinsure the level of coverage provided, up to, but not exceeding, the level of coverage provided in  
37 a prototype plan;

38 (3) with respect to eligible small group health insurance purchasers and their dependents, who are  
39 employed by a small business as of the date such employer's coverage by the carrier, or other  
40 benefit arrangement commences coverage may be reinsured within sixty days of the  
41 commencement of such employer's coverage with the carrier, or other benefit arrangement except in  
42 the case of late enrollees.

43 (4) with respect to eligible employees, and their dependents who are hired subsequent to the  
44 commencement of such employer's coverage by a carrier, or other benefit arrangement, coverage  
45 may be reinsured within sixty days of the commencement of their coverage under the plan except in  
46 the case of late enrollees.

47 (5) with respect to eligible employees, and their dependents, when a carrier, or other benefit  
48 arrangement reinsures the entire employer group, coverage may be reinsured:

49 (a) within sixty days of the commencement of the groups coverage under the plan; or

50 (b) in the case where a new entrant to an employer group is reinsured under the provisions of  
51 clause (5), on the first plan anniversary after the new entrant became a member of the employer's  
52 plan;

53 (6) no carrier, or other benefit arrangement may reinsure through the reinsurance program, the  
54 health benefit plan coverage of all of the eligible employees, and their dependents, of any small  
55 employer unless:

56 (a) such coverage provides at least the benefits contained in the prototype plan, and

57 (b) such coverage uses cost containment and managed care techniques as established by the  
58 reinsurance program.

59 (c) such plan contains a participation requirement at issuance of at least seventy-five percent of  
60 eligible employees, for plans with six or more eligible employees, and at renewal, the participation  
61 requirements that the carrier, or other benefit arrangement required at issuance.

62 (7) if an eligible small business group is covered under a plan other than a prototype plan and the  
63 carrier chooses to reinsure the group subsequent to the initial coverage period, or if a new individual  
64 joins the group and the carrier wants to reinsure that individual, the carrier cannot force the small  
65 business to change to a prototype plan. The carrier must allow the small business to maintain the  
66 same benefit plan and reinsure only the portion of the plan consistent with a prototype plan.

67 Following the close of each fiscal year, the governing committee shall determine the premiums  
68 charged for reinsurance coverage, the reinsurance plan expenses for administration, and the  
69 incurred losses, if any, for the year, taking into account investment income and other appropriate  
70 gains and losses. Any net loss for the year shall be recouped by assessment of the members. Said  
71 assessments shall be apportioned in proportion to said members' respective shares of the total  
72 premiums earned in the commonwealth from health benefit plans covering eligible small  
73 businesses. Such assessments shall not exceed five percent of such premiums from such health  
74 benefit plans.

75 If the assessment level is inadequate, the governing committee may adjust reinsurance thresholds,  
76 retention levels or consider other forms of reinsurance. The governing committee shall report  
77 annually to the commissioner and the joint committee on insurance on its experience, the effect of  
78 reinsurance and small group rates on individual ceding and recommendations, if any, on additional  
79 funding sources, if needed. If other funding sources are not made available, the committee may

80 enter into negotiations with plan members to resolve any deficit through reductions in future  
81 payment levels for reinsurance plans. Any such recommendations shall take into account the  
82 findings of an actuarial study to be undertaken within the first three years of the plan's operation to  
83 evaluate and measure the relative risks being assumed by differing types of health benefit plan  
84 carriers. The study shall be conducted by three actuaries appointed by the commissioner, one of  
85 whom shall represent risk assuming carriers, one of whom shall represent reinsuring carriers and  
86 one of whom shall represent the commissioner.

87 SECTION 2. This act shall take effect on July 1, 2007.