

40-2255. Accident and sickness insurance; closing block of business, when. (a) This act shall apply to individual contracts covering hospital, medical or surgical expenses, providing long-term care coverage, and medicare supplement policies, which are issued, amended, delivered or renewed on or after the effective date of this act but shall not apply to any block of long-term care coverage or medicare supplement business already in force in Kansas on such effective date.

(b) As used in this act:

(1) "Block of business" means a particular individual policy form or contract providing hospital, medical or surgical expense, long-term care or medicare supplement coverage issued by a carrier to one or more individuals which includes distinct benefits, services and terms.

(2) "Closed block of business" means a block of business which a carrier ceases to actively offer or sell to new applicants.

(3) "Carrier" means any insurance company, nonprofit medical and hospital service corporation, municipal group-funded pool, fraternal benefit society or health maintenance organization, as these terms are defined by the Kansas Statutes Annotated, that offers any individual hospital, surgical or medical expense, long-term care or medicare supplement policy and which is authorized to do business in this state. "Carrier" does not include those entities identified above with respect to the sale or issuance of policies or certificates covering only accident, credit, dental, disability income, hospital indemnity, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers compensation or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(4) "Commissioner" means the commissioner of insurance.

(c) No block of business shall be closed by a carrier unless:

(1) The carrier provides written notice of the carrier's decision to close a block of business to each existing policyholder or contract holder affected and offers each policyholder or contract holder affected an opportunity to purchase a policy or contract from any block of business that is not closed and which provides comparable benefits, services and terms, with no additional underwriting requirement or waiting period. Each policyholder or contract holder affected by the carrier's decision to close a block of business shall be permitted to purchase such policy or contract during the 30-day period commencing on the day following the date of the written notice;

(2) the carrier pools the experience of the closed block of business with all appropriate blocks of business that are not closed for the purpose of determining the premium rate of any contract within the closed block, with no rate penalty or surcharge beyond that which reflects the experience of the combined pool; and

(3) if a carrier does not offer or sell any block of business which provides comparable benefits, services and terms comparable to the closed block of business, paragraphs (1) and (2) shall not apply. If a block of business providing benefits, services and terms comparable to the closed block of business becomes available within 24 months of the notice to the commissioner, such block shall be open to any contract holder in accordance with the provisions of paragraphs (1) and (2). The carrier shall provide notice to the commissioner in writing within 30 days of its decision to close a block of business or, in the absence of an actual decision to close a block of business, within 30 days of its determination that a block of business is within one of the presumptions set forth in subsection (d).

(d) Unless an insurer presents evidence satisfactory to the commissioner that such a presumption is or would be incorrect, a block of business shall be presumed closed if either of the following circumstances exist:

(1) There has been an overall reduction in that block of 12% in the number of in-force contracts for a period of 12 months; or

(2) that block has less than 500 in-force contracts in this state.

The presumption that applies in the circumstances of subsection (d)(2) shall not apply to a block of business initiated within the previous 24 months, but notification of that block of business shall be provided to the commissioner pursuant to subsection (e).

The fact that a block of business does not meet one of the presumptions set forth in this subsection shall not preclude a determination that it is closed as defined in paragraph (2) of subsection (b).

(e) A carrier shall notify the commissioner in writing within 30 days of its decision to close a block of business or, in the absence of an actual decision to close a block of business, within 30 days of its determination that a block of business is within one of the presumptions set forth in subsection (d). When the carrier decides to close a block of business, the written notice shall fully disclose all information required for compliance with subsection (c). When the carrier determines that a block of business is within a presumption of subsection (c), the written notice shall fully disclose all information required for compliance with a presumption of subsection (c). In the case of either notice, the carrier shall provide additional information within 15 business days after a request by the commissioner. This subsection shall not apply to a carrier which does not have available a block of business which provides comparable benefits, services and terms comparable to the closed block of business and which has complied with the notice requirements pursuant to subsection (c)(3).

(f) A carrier shall preserve for a period of not less than five years in an identified location which is readily accessible for review by the commissioner, all books and records relating to any action taken by a carrier pursuant to subsection (c).

(g) No carrier shall offer or sell any contract, or provide misleading information about the active or closed status of a block of business, for the purpose of evading this act.

History: L. 1994, ch. 41, § 1; L. 1994, ch. 280, § 1; L. 2005, ch. 163, § 10; July 1.