

**40-2209h. Same; rating; transfer of small employer from one business class to another, limitations; suspension of business class and rate limitations.** From and after January 1, 1993: (a) Premium rates applicable to Kansas residents for health benefit plans subject to this act shall be subject to the following provisions:

(1) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than 20%.

(2) For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged to such employers under the rating system for that class of business, shall not vary from the index rate by more than 25% of the index rate.

(3) The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

(A) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, if such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers;

(B) any adjustment, not to exceed 15% annually and adjusted pro rata for rating periods of less than one year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business; and

(C) any adjustment due to change in coverage or change in the case characteristics of the small employer, as determined from the small employer carrier's rate manual for the class of business.

(4) Adjustments in rates for claim experience, health status and duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer.

(5) A small employer carrier may utilize industry as a case characteristic in establishing premium rates, if the highest rate factor associated with any industry classification does not exceed the lowest rate factor associated with any industry classification by more than 30% for each year until the earlier of the first acquisition of coverage from a small employer carrier which did not previously provide coverage to that small employer or the first renewal date on or after December 31, 1996, and 15% each year thereafter.

(6) A premium rate for a rating period may exceed the ranges set forth in paragraphs (1) and (2) until the earlier of the first acquisition of coverage from a small employer carrier which did not previously provide coverage to that small employer or the first renewal date on or after December 31, 1996. If premium rates for a small employer covered by a small employer carrier prior to January 1, 1993, are below the lowest range as set forth in paragraphs (1) and (2), such small employer carrier must at least increase that small employer's rates commencing with renewals on or after December 31, 1995, to equally distribute the needed increase to get that small employer's rates within the range over the renewal opportunities remaining so that the small employer's renewal rates on or after December 31, 1999, would be within the ranges. In such case, the percentage increase in the premium rate charged to a small employer for a new rating period shall not exceed the sum of the following:

(A) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, if such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers.

(B) Any adjustment due to change in coverage or change in the case characteristics of the small employer, as determined from the carrier's rate manual for the class of business.

(7) (A) Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business. Rating factors shall produce premiums for identical groups which differ only by amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans.

(B) A small employer carrier shall treat all health benefit plans issued or renewed in a class of business in the same calendar month as having the same rating period.

(8) For the purposes of this subsection, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize such a network, if utilization of the restricted provider network results in substantial differences in claims costs.

(9) A small employer carrier shall not use case characteristics, other than age, gender, industry, geographic area, family composition, and group size without prior approval of the commissioner.

(10) The commissioner may establish regulations to implement the provisions of this section and to assure that rating practices used by small employer carriers are consistent with the purposes of this act, including:

(A) Assuring that differences in rates charged for health benefit plans by small employer carriers are reasonable and reflect objective differences in plan design, not including differences due to the nature of the groups assumed to select particular health benefit plans; and

(B) prescribing the manner in which case characteristics may be used by small employer carriers.

(b) A small employer carrier shall not transfer a small employer involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status or duration of coverage.

(c) The commissioner may suspend for a specified period the application of subsection (a)(1) as to the premium rates applicable to one or more small employers included within a class of business of a small employer carrier for one or more rating periods upon a filing by the small employer carrier and a finding by the commissioner either that the suspension is reasonable in light of the financial condition of the small employer carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

(d) Upon written application of the group policyholders, the commissioner may suspend the application of K.S.A. 40-2209g and 40-2209h, and amendments thereto, to any group whose fundamental structure or composition would otherwise be adversely affected.

**History:** L. 1992, ch. 200, § 7; L. 1994, ch. 355, § 7; L. 1995, ch. 183, § 8; July 1.