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**IDAPA 18
TITLE 04
CHAPTER 12**

18.04.12 – RULES GOVERNING SMALL EMPLOYER HEALTH INSURANCE

000. LEGAL AUTHORITY.

This rule is promulgated and adopted pursuant to the authority vested in the Director under Title 41, Chapters 2 and 47, Idaho Code. (1-25-95)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 18.04.12, “Rules Governing Small Employer Health Insurance.” (1-25-95)

02. Scope. The Act and this rule are intended to promote broader spreading of risk in the small employer marketplace. The Act and rule are intended to regulate all health benefit plans sold to small employers, whether sold directly or through associations or other groupings of small employers. Carriers that provide health benefit plans to small employers are intended to be subject to all of the provisions of the Act and this rule. (1-25-95)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying at cost in the main office and each regional or district office of this agency. (7-1-98)

003. ADMINISTRATIVE APPEALS.

All contested cases will be governed by the provisions of Chapter 2, Title 41, Idaho Code, Chapter 52, Title 67, Idaho Code, and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” (3-15-02)

004. DEFINITIONS.

As used in this rule: (1-25-95)

01. Associate Member. Associate Member of an employee organization means any individual who participates in an employee benefit plan (as defined in 29 U.S.C. Section 1002(1)) that is a multi-employer plan (as defined in 29 U.S.C. Section 1002(37A)), other than the following: (1-25-95)

a. An individual (or the beneficiary of such individual) who is employed by a participating employer within a bargaining unit covered by at least one (1) of the collective bargaining agreements under or pursuant to which the employee benefit plan is established or maintained; or (1-25-95)

b. An individual who is a present or former employee (or a beneficiary of such employee) of the sponsoring employee organization, of an employer who is or was a party to at least one (1) of the collective bargaining agreements under or pursuant to which the employee benefit plan is established or maintained, or of the employee benefit plan (or of a related plan). (1-25-95)

02. Geographic Area. Geographic areas are limited to no more than six (6) designated areas, with no area being smaller than a county. (7-1-98)

03. New Entrant. New Entrant means an eligible employee, or the dependent of an eligible employee, who becomes part of an employer group after the initial period for enrollment in a health benefit plan. (1-25-95)

04. Risk Characteristic. Risk Characteristic means the health status, claims experience, duration of coverage, or any similar characteristic related to the health status or claims experience of a small employer group or of any member of a small employer group. Such characteristics can include family composition, group size, industry. (7-1-98)

05. Risk Load. Risk Load means the percentage above the applicable base premium rate that is

charged by a small employer carrier to the rates of the small employer group, to reflect the risk characteristics of the small employer group. (1-25-95)

005. -- 010. (RESERVED)

011. ASSESSMENTS.

Annual Assessment To Fund Losses. The Board shall, prior to March 1st of each year determine and file with the Director an estimate of the assessments needed to fund the losses incurred by the Idaho Small Employer Reinsurance Program in the previous calendar year. This interim assessment shall be based on the assessment formula set forth in Section 41-4711(12)(c), Idaho Code. Initial or interim assessments paid will be credited to each carrier's account when the amounts needed to fund losses and pay program expenses are known. (3-15-02)

012. -- 014. (RESERVED)

015. APPLICABILITY.

- 01. Applicability.** This rule applies to any health benefit plan provided on a group basis, that: (4-5-00)
- Code; **a.** Meets one (1) or more of the conditions set forth in Sections 41-4704(1) through 41-4704(4), Idaho Code; (1-25-95)
- b.** Offers coverage to two (2) or more eligible employees of a small employer located in this state, without regard to whether the policy or certificate was issued in this state; and, (3-15-02)
- c.** Is in effect on or after the effective date of the Act. (1-25-95)
- 02. Group Policy or Trust Arrangement.** The provisions of the Act and this rule shall apply to a health benefit plan provided to a small employer or to the eligible employees of a small employer without regard to whether the health benefit plan is offered under or provided through a group policy or trust arrangement of any size sponsored by an association or discretionary group unless such health benefit plan(s) are subject to Title 41, Chapter 52, Idaho Code. (4-5-00)
- 03. Group Policy or Trust Arrangement.** The provisions of the Act and this rule shall apply to a health benefit plan provided to a small employer or to the eligible employees of a small employer without regard to whether the health benefit plan is offered under or provided through a group policy or trust arrangement of any size sponsored by an association or discretionary group. (1-25-95)
- 04. Subsequent Employment of More Than Fifty Eligible Employees.** If a small employer is issued a health benefit plan under the terms of the Act, the provisions of the Act and this rule shall continue to apply to the health benefit plan in the case that the small employer subsequently employs more than fifty (50) eligible employees. A carrier providing coverage to such an employer shall, within sixty (60) days of becoming aware that the employer has more than fifty (50) eligible employees but no later than the anniversary date of the employer's health benefit plan, notify the employer that the protections provided under the Act and this rule shall cease to apply to the employer if such employer fails to renew its current health benefit plan or elects to enroll in a different health benefit plan. (7-1-98)
- 05. Employer Subsequently Becomes a Small Employer.** If a health benefit plan is issued to an employer that is not a small employer as defined in the Act, but subsequently the employer becomes a small employer (due to the loss or change of work status of one or more employees), the terms of the Act shall not apply to the health benefit plan. The carrier providing a health benefit plan to such an employer shall not become a small employer carrier under the terms of the Act solely because the carrier continues to provide coverage under the health benefit plan to the employer. (1-25-95)
- 06. Time Period for Notification of Options to Employer.** A carrier providing coverage to an employer described in Subsection 015.05 shall, within sixty (60) days of becoming aware that the employer has fifty (50) or fewer eligible employees, notify the employer of the options and protections available to the employer under

the Act, including the employer's option to purchase a small employer health benefit plan from any small employer carrier. (3-15-02)

07. Employees in More Than One State. If a small employer has employees in more than one (1) state, the provisions of the Act and this rule shall apply to a health benefit plan issued to the small employer if: (1-25-95)

a. The majority of eligible employees of such small employer are employed in this state; or (1-25-95)

b. If no state contains a majority of the eligible employees of the small employer, the primary business location of the small employer is in this state. (1-25-95)

08. Laws of This State or Another State. In determining whether the laws of this state or another state apply to a health benefit plan issued to a small employer described in Subsection 015.07, the provisions of the paragraph shall be applied as of the date the health benefit plan was issued to the small employer for the period that the health benefit plan remains in effect. (3-15-02)

09. Health Benefit Plan Subject to The Act and This Rule. If a health benefit plan is subject to the Act and this rule, the provisions of the Act and this rule shall apply to all individuals covered under the health benefit plan, whether they reside in this state or in another state. (1-25-95)

10. When Is a Small Employer Carrier Not Subject to the Act and This Rule. A carrier that is not operating as a small employer carrier in this state shall not become subject to the provisions of the Act and this rule solely because a small employer that was issued a health benefit plan in another state by that carrier moves to this state. (1-25-95)

016. -- 020. (RESERVED)

021. ESTABLISHMENT OF CLASSES OF BUSINESS.

01. Supporting Documentation for Establishment of Classes of Business. A small employer carrier that establishes more than one class of business pursuant to the provisions of Section 41-4705, Idaho Code, shall maintain on file for inspection by the Director the following information with respect to each class of business so established: (1-25-95)

a. A description of each criterion employed by the carrier (or any of its agents) for determining membership in the class of business; (1-25-95)

b. A statement describing the justification for establishing the class as a separate class of business and documentation that the establishment of the class of business is intended to reflect substantial differences in expected claims experience or administrative costs related to the reasons set forth in Section 41-4705, Idaho Code; and, (1-25-95)

c. A statement disclosing which, if any, health benefit plans are currently available for purchase in the class and any significant limitations related to the purchase of such plans. (1-25-95)

02. Group Size Will Not Be Acceptable as Eligibility Criterion for Class of Business. A carrier may not directly or indirectly use group size as a criterion for establishing eligibility for a health benefit plan or for a class of business. (1-25-95)

022. -- 027. (RESERVED)

028. TRANSITION FOR ASSUMPTIONS OF BUSINESS FROM ANOTHER CARRIER.

01. Conditions for Transfer or Assumption of Entire Insurance Obligation. A small employer carrier shall not transfer or assume the entire insurance obligation and/or risk of a health benefit plan covering a small employer in this state unless: (1-25-95)

a. The transaction received any necessary approval of the insurance supervisory official of the state of domicile of the assuming carrier; (1-25-95)

b. The transaction received any necessary approval of the insurance supervisory official of the state of domicile of the ceding carrier; and, (1-25-95)

c. The transaction otherwise meets the requirements of Section 028. (1-25-95)

02. Time Frame for Filing Plan to Assume or Cede Entire Insurance Obligation. A carrier domiciled in this state that proposes to assume or cede the entire insurance obligation and/or risk of one or more small employer health benefit plans from another carrier shall make a filing for approval with the Director at least sixty (60) days prior to the date of the proposed assumption. The Director may approve the transaction if the Director finds that the transaction is in the best interests of the individuals insured under the health benefit plans to be transferred and is consistent with the purposes of the Act and this rule. The Director shall not approve the transaction until at least thirty (30) days after the date of the filing; except that, if the ceding carrier is in hazardous financial condition, the Director may approve the transaction as soon as the Director deems reasonable after the filing. (1-25-95)

03. Filing Requirements. The filing required under Subsection 028.02 shall: (1-25-95)

a. Describe the class of business (including any eligibility requirements) of the ceding carrier from which the health benefit plans will be ceded; (1-25-95)

b. Describe whether the assuming carrier will maintain the assumed health benefit plans as a separate class of business (pursuant to Subsection 028.08 or will incorporate them into an existing class of business (pursuant to Subsection 028.09). If the assumed health benefit plans will be incorporated into an existing class of business, the filing shall describe the class of business of the assuming carrier into which the health benefit plans will be incorporated; (1-25-95)

c. Describe whether the health benefit plans being assumed are currently available for purchase by small employers; (1-25-95)

d. Describe the potential effect of the assumption, if any, on the benefits provided by the health benefit plans to be assumed; (1-25-95)

e. Describe the potential effect of the assumption, if any on the premiums for the health benefit plans to be assumed; (1-25-95)

f. Describe any other potential material effects of the assumption on the coverage provided to the small employers covered by the health benefit plans to be assumed; and (1-25-95)

g. Include any other information required by the Director. (1-25-95)

04. Requirements for Informational Filings in Each State in Which There are Small Employer Health Benefit Plans. A small employer carrier required to make a filing under Subsection 028.02 shall also make an informational filing with the Insurance Supervisory Official of each state in which there are small employer health benefit plans that would be included in the transaction. The informational filing to each state shall be made concurrently with the filing made under Subsection 028.02 and shall include at least the information specified in Subsection 028.03 for the small employer health benefit plans in that state. (1-25-95)

05. Other Provisions and Conditions to be Considered in the Transfer and Assumption of the Entire Insurance Obligation. A small employer carrier shall not transfer or assume the entire insurance obligation and/or risk of a health benefit plan covering a small employer in this state unless it complies with the following provisions: (1-25-95)

a. The carrier has provided notice to the Director at least sixty (60) days prior to the date of the proposed assumption. The notice shall contain the information specified in Subsection 028.03 for the health benefit

plans covering small employers in this state. (1-25-95)

b. If the assumption of a class of business would result in the assuming small employer carrier being out of compliance with the limitations related to premium rates contained in Section 41-4706(1)(a), Idaho Code, the assuming carrier shall make a filing with the Director pursuant to Section 41-4706(3), Idaho Code, seeking suspension of the application of Section 41-4706(1)(a), Idaho Code. (1-25-95)

c. An assuming carrier seeking suspension of the application of Section 41-4706(1)(a), Idaho Code, shall not complete the assumption of health benefit plans covering small employers in this state unless the Director grants the suspension requested pursuant to Subsection 028.05.b. (1-25-95)

d. Unless a different period is approved by the Director, a suspension of the application of Section 41-4706(1)(a), Idaho Code, shall, with respect to an assumed class of business, be for no more than fifteen (15) months and, with respect to each individual small employer, shall last only until the anniversary date of such employer's coverage (except that the period with respect to an individual small employer may be extended beyond its first anniversary date for a period of up to twelve (12) months if the anniversary date occurs within three (3) months of the date of assumption of the class of business). (1-25-95)

06. Exceptions to Ceding or Assumption of Business. Except as provided in Subsection 028.02, a small employer carrier shall not cede or assume the entire insurance obligation and/or risk for a small employer health benefit plan unless the transaction includes the ceding to the assuming carrier of the entire class of business within Idaho which includes such health benefit plan. (1-25-95)

07. Requirements for Ceding Less Than an Entire Class of Business. A small employer carrier may cede less than an entire class of business to an assuming carrier if: (1-25-95)

a. One (1) or more small employers in the class have exercised their right under contract to reject, either directly or by implication, the ceding of their health benefit plans to another carrier. In that instance, the transaction shall include each health benefit plan in the class of business except those health benefit plans for which a small employer has rejected the proposed cession; or (1-25-95)

b. After a written request from the transferring carrier, the Director determines that the transfer of less than the entire class of business is in the best interests of the small employers insured in that class of business. (1-25-95)

08. Separate Class of Business. Except as provided in Subsection 028.09, a small employer carrier that assumes one (1) or more health benefit plans from another carrier shall maintain such health benefit plans as a separate class of business. (1-25-95)

09. Provisions for Exceeding the Maximum Number of Classes of Business. A small employer carrier that assumes one or more health benefit plans from another carrier may exceed the limitation contained in Section 41-4705(2), Idaho Code, (relating to the maximum number of classes of business a carrier may establish) due solely to such assumption for a period of up to fifteen (15) months after the date of the assumption, provided that the carrier complies with the following provisions: (1-25-95)

a. Upon assumption of the health benefit plans, such health benefit plans shall be maintained as a separate class of business. During the fifteen-month (15) period following the assumption, each of the assumed small employer health benefit plans shall be transferred by the assuming small employer carrier into a single class of business operated by the assuming small employer carrier. The assuming small employer carrier shall select the class of business into which the assumed health benefit plans will be transferred in a manner such that the transfer results in the least possible change to the benefits and rating method of the assumed health benefit plans. (1-25-95)

b. The transfers authorized in Subsection 028.09.a. shall occur with respect to each small employer on the anniversary date of the small employer's coverage, except that the period with respect to an individual small employer may be extended beyond its first anniversary date for a period of up to twelve (12) months if the anniversary date occurs within three (3) months of the date of assumption of the class of business. (1-25-95)

c. A small employer carrier making a transfer pursuant to Subsection 028.09.a. may alter the benefits of the assumed health benefit plans to conform to the benefits currently offered by the carrier in the class of business into which the health benefit plans have been transferred. (1-25-95)

d. The premium rate for an assumed small employer health benefit plan shall not be modified by the assuming small employer carrier until the health benefit plan is transferred pursuant to Subsection 028.09.a. Upon transfer, the assuming small employer carrier shall calculate a new premium rate for the health benefit plan from the rate manual established for the class of business into which the health benefit plan is transferred. In making such calculation, the risk load applied to the health benefit plan shall be no higher than the risk load applicable to such health benefit plan prior to the assumption. (1-25-95)

e. During the fifteen-month (15) period provided in this Subsection, the transfer of small employer health benefit plans from the assumed class of business in accordance with this subsection shall not be considered a violation of the first sentence of Section 41-4706(2), Idaho Code. (1-25-95)

10. Restrictions to Apply Eligibility Requirements by Assuming Carrier. An assuming carrier may not apply eligibility requirements, including minimum participation and contribution requirements, with respect to an assumed health benefit plan (or with respect to any health benefit plan subsequently offered to a small employer covered by such an assumed health benefit plan) that are more stringent than the requirements applicable to such health benefit plan prior to the assumption. (1-25-95)

11. Request for Extension of the Transition Period. The Director may approve a longer period of transition upon application of a small employer carrier. The application shall be made within sixty (60) days after the date of assumption of the class of business and shall clearly state the justification for a longer transition period. (1-25-95)

12. Additional Information. Nothing in Section 028 or in the Act is intended to: (1-25-95)

a. Reduce or diminish any legal or contractual obligation or requirement, including any obligation provided in Section 41-511, Idaho Code, of the ceding or assuming carrier related to the transaction; (1-25-95)

b. Authorize a carrier that is not admitted to transact the business of insurance in this state to offer or insure health benefit plans in this state; or (1-25-95)

c. Reduce or diminish the protections related to an assumption reinsurance transaction provided in Section 41-511, Idaho Code, or otherwise provided by law. (1-25-95)

029. -- 035. (RESERVED)

036. RESTRICTIONS RELATING TO PREMIUM RATES.

01. Separate Rate Manual for Each Class of Business. A small employer carrier shall develop a separate rate manual for each class of business. Base premium rates and new business premium rates charged to small employers by the small employer carrier shall be computed solely from the applicable rate manual developed pursuant to this subsection. To the extent that a portion of the premium rates charged by a small employer carrier is based on the carrier's discretion, the manual shall specify the criteria and factors considered by the carrier in exercising such discretion. (1-25-95)

02. Requirements for Adjustments to Rating Method. A small employer carrier shall not modify the rating method used in the rate manual for a class of business until the change has been approved as provided in this subsection. The Director may approve a change to a rating method if the Director finds that the change is reasonable, actuarially appropriate, and consistent with the purposes of the Act and this rule. (1-25-95)

03. Information Required for Review of Modification of Rating Method. A carrier may modify the rating method for a class of business only with prior approval of the Director. A carrier requesting to change the rating method for a class of business shall make a filing with the Director at least thirty (30) days prior to the proposed date of the change. The filing shall contain at least the following information: (1-25-95)

- a.** The reasons the change in rating method is being requested; (1-25-95)
- b.** A complete description of each of the proposed modifications to the rating method; (1-25-95)
- c.** A description of how the change in rating method would affect the premium rates currently charged to small employers in the class of business, including an estimate from a qualified actuary of the number of groups or individuals (and a description of the types of groups or individuals) whose premium rates may change by more than ten percent (10%) due to the proposed change in rating method (not generally including increases in premium rates applicable to all small employers in a health benefit plan); (1-25-95)
- d.** A certification from a qualified actuary that the new rating method would be based on objective and credible data and would be actuarially sound and appropriate; and (1-25-95)
- e.** A certification from a qualified actuary that the proposed change in rating method would not produce premium rates for small employers that would be in violation of Section 41-4706, Idaho Code. (1-25-95)
- 04. Change in Rating Method.** For the purpose of Section 036 a change in rating method shall mean: (1-25-95)
- a.** A change in the number of case characteristics used by a small employer carrier to determine premium rates for health benefit plans in a class of business (a small employer should not use case characteristics other than age, individual tobacco use, geography or gender without prior approval of the Director); (7-1-98)
- b.** A change in the manner or procedures by which insureds are assigned into categories for the purpose of applying a case characteristic to determine premium rates for health benefit plans in a class of business; (1-25-95)
- c.** A change in the method of allocating expenses among health benefit plans in a class of business; or (1-25-95)
- d.** A change in a rating factor with respect to any case characteristic if the change would produce a change in premium for any small employer that exceeds ten percent (10%). (1-25-95)
- e.** For the purpose of Subsection 036.04, a change in a rating factor shall mean the cumulative change with respect to such factor considered over a twelve (12) month period. If a small employer carrier changes rating factors with respect to more than one case characteristic in a twelve (12) month period, the carrier shall consider the cumulative effect of all such changes in applying the ten percent (10%) test. (1-25-95)
- 05. Rate Manual to Specify Case Characteristics and Rate Factors to Be Applied.** The rate manual developed pursuant to Subsection 036.01 shall specify the case characteristics and rate factors to be applied by the small employer carrier in establishing premium rates for the class of business. (1-25-95)
- 06. Case Characteristics Shall Be Applied in a Uniform Manner.** A small employer carrier shall use the same case characteristics as defined in Section 41-4706(1)(h), Idaho Code, in establishing premium rates for each health benefit plan in a class of business and shall apply them in the same manner in establishing premium rates for each such health benefit plan. Case characteristics shall be applied without regard to the risk characteristics of a small employer. (3-15-02)
- 07. Rate Manual Must Clearly Illustrate Relationship Among Base Premium Rate and any Difference in New Business Rate.** The rate manual developed pursuant to Subsection 036.01 shall clearly illustrate the relationship among the base premium rates charged for each health benefit plan in the class of business. If the new business premium rate is different than the base premium rate for a health benefit plan, the rate manual shall illustrate the difference. (1-25-95)
- 08. Differences in Premium Rates Must Reflect Reasonable and Objective Differences.** Differences among base premium rates for health benefit plans shall be based solely on the reasonable and objective

differences in the design and benefits of the health benefit plans and shall not be based in any way on the actual or expected health status or claims experience of the small employer groups that choose or are expected to choose a particular health benefit plan. A small employer carrier shall apply case characteristics and rate factors within a class of business in a manner that assures that premium differences among health benefit plans for identical small employer groups vary only due to reasonable and objective differences in the design and benefits of the health benefit plans and are not due to the actual or expected health status or claims experience of the small employer groups that choose or are expected to choose a particular health benefit plan. (1-25-95)

09. Premium Rates to be Developed in Two Step Process. The rate manual developed pursuant to Subsection 036.01 shall provide for premium rates to be developed in a two step process. In the first step, a base premium rate shall be developed for the small employer group without regard to any risk characteristics of the group. In the second step, the resulting base premium rate may be adjusted by a risk load, subject to the provisions of Section 41-4706, Idaho Code, to reflect the risk characteristics of the group. (1-25-95)

10. Exception to Application Fee, Underwriter Fee, or Other Fees. Except as provided in Subsection 036.11, a premium charged to a small employer for a health benefit plan shall not include a separate application fee, underwriting fee, or any other separate fee or charge. (3-15-02)

11. Uniform Application of Fees. A carrier may charge a separate fee with respect to a health benefit plan provided the fee is applied in a uniform manner to every health benefit plan in a class of business. All such fees are premium and shall be included in determining compliance with the Act and these rules. (1-25-95)

12. Uniform Allocation of Administration Expenses. The rate manual developed pursuant to Subsection 036.01 shall describe the method of allocating administrative expenses to the health benefit plans in the class of business for which the manual was developed. (4-5-00)

13. Rate Manual to be Maintained for a Period of Six Years. Each rate manual developed pursuant to Subsection 036.01 shall be maintained by the carrier for a period of six (6) years. Updates and changes to the manual shall be maintained with the manual. (3-15-02)

14. Rate Manual and Practices Must Comply with Guidelines Issued by Director. The rate manual and rating practices of a small employer carrier shall comply with any guidelines issued by the Director. (1-25-95)

15. Application of Restrictions Related to Changes in Premium Rates. The restrictions related to changes in premium rates are set forth in Section 41-4706(1)(c), Idaho Code, and shall be applied as follows: (1-25-95)

a. A small employer carrier shall revise its rate manual each rating period to reflect changes in base premium rates and changes in new business premium rates. (1-25-95)

b. If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate is less than or the same as the percentage change in the base premium rate, the change in the new business premium rate shall be deemed to be the change in the base premium rate for the purposes of Sections 41-4706(1)(c)(i), Idaho Code. (3-15-02)

c. If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate exceeds the percentage change in the base premium rate, the health benefit plan shall be considered a health benefit plan into which the small employer carrier is no longer enrolling new small employers for the purposes of Sections 41-4706(1)(c)(i), Idaho Code. (3-15-02)

d. If, for any rating period, the change in the new business premium rate for a health benefit plan differs from the change in the new business premium rate for any other health benefit plan in the same class of business by more than twenty percent (20%), the carrier shall make a filing with the Director containing a complete explanation of how the respective changes in new business premium rates were established and the reason for the difference. The filing shall be made within thirty (30) days of the beginning of the rating period. (1-25-95)

e. A small employer carrier shall keep on file for a period of at least six (6) years the calculations used

to determine the change in base premium rates and new business premium rates for each health benefit plan for each rating period. (1-25-95)

16. Change in Premium Rate. Except as provided in Subsections 036.17 and 036.18, a change in premium rate for a small employer shall produce a revised premium rate that is no more than the following: (3-15-02)

a. The base premium rate for the small employer, given its present composition, (as shown in the rate manual as revised for the rating period), multiplied by; (1-25-95)

b. One (1) plus the sum of: (1-25-95)

i. The risk load applicable to the small employer during the previous rating period; and (1-25-95)

ii. Fifteen percent (15%) (prorated for periods of less than one (1) year). (1-25-95)

17. Rating Restrictions on Plans Where Carrier Is No Longer Enrolling New Business. In the case of a health benefit plan into which a small employer carrier is no longer enrolling new small employers, a change in premium rate for a small employer shall produce a revised premium rate that is no more than the base premium rate for the small employer (given its present composition and as shown in the rate manual in effect for the small employer at the beginning of the previous rating period), multiplied by Subsections 036.17.a. and 036.17.b. below. (3-15-02)

a. One (1) plus the lesser of: (1-25-95)

i. The change in the base rate; or (1-25-95)

ii. The percentage change in the new business premium for the most similar health benefit plan into which the small employer carrier is enrolling new small employers. (1-25-95)

b. One (1) plus the sum of: (1-25-95)

i. The risk load applicable to the small employer during the previous rating period; and (1-25-95)

ii. Fifteen percent (15%) (prorated for periods of less than one (1) year). (1-25-95)

18. Limitations on Revised Premium Rate. Notwithstanding the provisions of Subsections 036.16 and 036.17, a change in premium rate for a small employer shall not produce a revised premium rate that would exceed the limitations on rates provided in Section 41-4706(1)(b), Idaho Code. (3-15-02)

19. Waiver Request for a Taft-Hartley Trust. A representative of a Taft-Hartley trust (including a carrier upon the written request of such a trust) may file a written request with the Director for the waiver of application of the provisions of Section 41-4706(1), Idaho Code, with respect to such trust. (1-25-95)

20. Provisions for Which Trust Is Seeking Waiver. A request made under Subsection 036.19 shall identify the provisions for which the trust is seeking the waiver and shall describe, with respect to each provision, the extent to which application of such provision would: (3-15-02)

a. Adversely affect the participants and beneficiaries of the trust; and (1-25-95)

b. Require modifications to one (1) or more of the collective bargaining agreements under or pursuant to which the trust was or is established or maintained. (1-25-95)

21. Waiver Shall Not Apply to Individual or Associate Member. A waiver granted under this provision shall not apply to an individual who participates in the trust because the individual is an associate member of an employee organization or the beneficiary of such an individual. (1-25-95)

037. -- 045. (RESERVED)

046. REQUIREMENT TO INSURE ENTIRE GROUPS.

01. Offer of Coverage. A small employer carrier that offers coverage to a small employer shall offer to provide coverage to each eligible employee and to each dependent of an eligible employee. Except as provided in Subsection 046.02, the small employer carrier shall provide the same health benefit plan to each such employee and dependent. (1-25-95)

02. Choice of Health Benefit Plans. A small employer carrier may offer the employees of a small employer the option of choosing among one (1) or more health benefit plans, provided that each eligible employee may choose any of the offered plans. Except as provided in Section 41-4708(3), Idaho Code, (with respect to exclusions for pre-existing conditions), the choice among benefit plans may not be limited, restricted or conditioned based upon the risk characteristics of the eligible employees or their dependents. (1-25-95)

03. Participation Requirement. The small employer carrier may impose reasonable minimum participation requirements for issuance of coverage to small employers, subject to prior approval from the Director. (1-25-95)

04. Employer Census and Supporting Documentation. A small employer carrier shall require each small employer that applies for coverage, as part of the application process, to prepare or provide an employer census of dependents and eligible employees as defined in Sections 41-4703(11) and 41-4703(13), Idaho Code. The small employer carrier shall require the small employer to provide appropriate supporting documentation (such as the W-2 Summary Wage and Tax Form) or a certification of information by a Small Employer as to the current census information. (3-15-02)

05. Waiver for Documentation of Coverage. A small employer carrier shall secure a waiver with respect to each eligible employee and each dependent of such an eligible employee who declines an offer of coverage under a health benefit plan provided to a small employer. The waiver shall be signed by the eligible employee (on behalf of such employee or the dependent of such employee) and shall certify that the individual who declined coverage was informed of the availability of coverage under the health benefit plan. The waiver form shall require that the reason for declining coverage be stated on the form, and shall include a statement informing the eligible employee of the special enrollment rights provided within the Section 41-4703(17)(d) and (e), Idaho Code, and shall include a written warning of the penalties imposed on late enrollees. Waivers shall be maintained by the small employer carrier for a period of six (6) years. (3-15-02)

06. Refusal to Provide Information. A small employer carrier shall not issue coverage to a small employer that refuses to provide the list required under Subsection 046.04 or a waiver required under Subsection 046.05, except for the following: (3-15-02)

a. The excluded individual has coverage under a health benefit plan or other health benefit arrangement that provides benefits similar to or exceeding benefits provided under the basic health benefit plan. (1-25-95)

07. Small Employer Carrier Shall Not Issue Coverage. A small employer carrier shall not issue coverage to a small employer if the carrier, or an agent for such carrier, has reason to believe that the small employer has induced or pressured an eligible employee (or dependent of an eligible employee) to decline coverage due to a health status related factor of the individual. (3-15-02)

08. Agent Notification to Small Employer Carrier. An agent shall notify a small employer carrier, prior to submitting an application for coverage with the carrier on behalf of a small employer, of any circumstances that would indicate that the small employer has induced or pressured an eligible employee (or dependent of an eligible employee) to decline coverage due to the individual's risk characteristics. (1-25-95)

09. New Entrants. New entrants to a small employer group shall be offered an opportunity to enroll in the health benefit plan currently held by such group based upon the provisions of Section 41-4708, Idaho Code. A new entrant that does not exercise the opportunity to enroll in the health benefit plan within the period provided by

the small employer carrier may be treated as a late enrollee by the carrier, provided that the period provided to enroll in the health benefit plan extends at least thirty (30) days after the date the new entrant is notified of his or her opportunity to enroll. The period of continuous coverage shall not include any waiting period for the effective date of the new coverage applied by the employer to all new enrollees under the Employee Benefit Plan. If a small employer carrier has offered more than one health benefit plan to a small employer group pursuant to Subsection 046.02, the new entrant shall be offered the same choice of health benefit plans as the other members of the group. (3-15-02)

10. Small Employer Carrier Shall Not Apply Waiting Period or Similar Limitation. A small employer carrier shall not apply a waiting period, elimination period or other similar limitation of coverage (other than an exclusion for pre-existing medical conditions consistent with Section 41-4708(3), Idaho Code). (3-15-02)

11. No Restrictions or Limitations on Coverage Related to Risk Characteristics. New entrants to a group shall be accepted for coverage by the small employer carrier without any restrictions or limitations on coverage related to the risk characteristics of the employees or their dependents, except that a carrier may exclude or limit coverage for pre-existing medical conditions, consistent with the provisions provided in Section 41-4708(3), Idaho Code. (1-25-95)

12. Risk Load. A small employer carrier may assess a risk load to the premium rate associated with a new entrant, consistent with the requirements of Section 41-4706, Idaho Code. The risk load shall be the same risk load charged to the small employer group immediately prior to acceptance of the new entrant into the group. (1-25-95)

13. Rescission Employer Misstatements. When material application misstatements are found, rescission action by the carrier shall be taken at the carrier's option against the coverage of an entire small employer (including employees and dependents) and shall be limited to circumstances under which the application misstatements have been made by the small employer. When rescission action is taken, per Section 41-4707(1)(b), Idaho Code, premiums must be refunded less any claims which had been paid prior to the date the rescission was initiated. At the carrier's option, the carrier shall seek to recover any amounts of claims paid in excess of premiums paid. The applicable contract or coverage shall be considered null and void. (4-5-00)

047. -- 054. (RESERVED)

055. APPLICATION TO REENTER STATE.

Restrictions on offering small group health insurance. A carrier that has been prohibited from writing coverage for small employers in this state pursuant to Section 41-4707(2), Idaho Code, may not resume offering health benefit plans to small employers in this state until the carrier has made a petition to the Director to be reinstated as a small employer carrier and the petition has been approved by the Director. In reviewing a petition, the Director may ask for such information and assurances as the Director finds reasonable and appropriate. (1-25-95)

056. -- 059. (RESERVED)

060. QUALIFYING PREVIOUS AND QUALIFYING EXISTING COVERAGES.

01. Previous Coverage or Existing Coverage. In determining whether a health benefit plan or other health benefit arrangement (whether public or private) shall be considered qualifying previous coverage or qualifying existing coverage for the purposes of Sections 41-4703(17), 41-4703(23), and 41-4708(3)(c), Idaho Code, a small employer carrier shall interpret the Act no less favorably to an insured individual than the following: (3-15-02)

a. A health benefit plan, certificate, or other health benefit arrangement shall be considered employer-based if an employer sponsors the plan or arrangement or makes a contribution to the plan or arrangement. (3-15-02)

02. Source of Previous or Existing Coverage. A small employer carrier shall ascertain the source of previous or existing coverage of each eligible employee and each dependent of an eligible employee at the time such employee or dependent initially enrolls into the health benefit plan provided by the small employer carrier. The small employer carrier shall have the responsibility to contact the source of such previous or existing coverage to resolve any questions about the benefits or limitations related to such previous or existing coverage. (1-25-95)

03. Certification of Creditable Coverage. Small employer carriers shall provide written certification of creditable coverage to individuals in accordance with Subsection 060.03. (3-15-02)

a. A small employer carrier shall be deemed to have satisfied the certification requirements of Subsection 060.03 if another person provides the certificate, but only to the extent that information relating to the individual's creditable coverage and waiting or affiliation period has been provided by another person. (3-15-02)

b. To the extent coverage under a health benefit plan consists of group coverage the plan shall be deemed to have satisfied the certification requirements of Subsection 060.03 if the small employer carrier offering the coverage is required to provide the certificates of creditable coverage to individuals pursuant to an agreement between the plan and the carrier. (3-15-02)

c. A small employer carrier is not required to provide information regarding health benefit plan coverage provided to an individual by another person. (3-15-02)

i. If an individual's coverage under a policy ceases before the individual's coverage under the group health plan ceases, the entity that issued the policy shall provide sufficient information to the small employer carrier, or to another person designated by the carrier, to enable the carrier, or other person, to provide a certificate that reflects the period of coverage under the policy, after the individual's coverage under the group health plan ceases. (3-15-02)

ii. The provision of the information pursuant to Subsection 060.03.c.i. to the new carrier shall satisfy the entity's obligation to provide an automatic certificate pursuant to Subsection 060.03. (3-15-02)

iii. The carrier providing the information about creditable coverage pursuant to Subsection 060.03 shall cooperate with other carriers in responding to any request for additional information. (3-15-02)

iv. If the individual's coverage under a group health plan ceases, the carrier that issued the group policy shall provide an automatic certificate of coverage. (3-15-02)

d. A small employer carrier shall provide a certification of creditable coverage, without charge, to participants or dependents who are or were covered under the group health benefit plan. (3-15-02)

e. A small employer carrier shall provide a certificate at the time a request is made on behalf of an individual if the request is made not later than twenty-four (24) months after the date the individual's coverage ceased under the plan. (3-15-02)

i. Each small employer carrier shall establish a procedure for individuals to request and receive certificates under Subsection 060.03. Upon a receipt of the request, the small employer carrier shall provide the certificate by the earliest date that the carrier, acting in a reasonable and prompt fashion, can provide the certificate. (3-15-02)

f. A certificate provided pursuant to Subsection 060.03 must include the following: (3-15-02)

i. The date the certificate was issued; (3-15-02)

ii. The name of the group health plan that provided the coverage described in the certificate; (3-15-02)

iii. The name of the participant or dependent with respect to whom the certificate applies, and any other information necessary for the plan providing the coverage specified in the certificate to identify the individual, such as the individual's identification number under the plan; (3-15-02)

iv. The name, address, and telephone number of the plan administrator required to provide the certificate; (3-15-02)

v. The telephone number to call for further information regarding the certificate; and (3-15-02)

- vi. Either, a statement that the individual has at least twelve (12) months of creditable coverage, disregarding days of creditable coverage before a significant break in coverage; or (3-15-02)
- vii. The date any waiting period or affiliation period, if applicable, began and the date creditable coverage began; and (3-15-02)
- viii. The date creditable coverage ended, unless the certificate indicates that the creditable coverage is continuing as of the date of the certificate. (3-15-02)
- g. Small employer carriers may provide a certificate required to be provided pursuant to Subsection 060.03 by first-class mail, at the participant's last known address. (3-15-02)
- h. The model for the certification of coverage may be found on the Department of Insurance Internet website is <http://www.doi.idaho.gov> and select the link "Health Information." (3-15-02)

061. -- 066. (RESERVED)

067. RESTRICTIVE RIDERS.

Except as permitted in Section 41-4708(3), Idaho Code, a small employer carrier shall not modify or restrict any health benefit plan with respect to any eligible employee or dependent of an eligible employee, through riders, endorsements or otherwise, for the purpose of restricting or excluding the coverage or benefits provided to such employee or dependent for specific diseases, medical conditions, including but not limited to pregnancy, or services otherwise covered by the plan. (3-15-02)

068. -- 074. (RESERVED)

075. RULES RELATED TO FAIR MARKETING.

01. Small Employer Carrier Shall Actively Market. A small employer carrier shall actively market each of its health benefit plans to small employers in this state. A small employer carrier may not suspend the marketing or issuance of the basic, standard, or catastrophic health benefit plans unless the carrier has good cause and has received the prior approval of the Director. (7-1-98)

02. Marketing Basic, Standard, or Catastrophic Plans. In marketing the basic, standard, or catastrophic health benefit plans to small employers, a small employer carrier shall use at least the same sources and methods of distribution that it uses to market other health benefit plans to small employers. Any producer authorized by a small employer carrier to market health benefit plans to small employers in the state shall also be authorized to market the basic, standard, or catastrophic health benefit plans. (7-1-98)

03. Offer Must Be in Writing. A small employer carrier shall offer all small group health benefit plans to any small employer that applies for or makes an inquiry regarding health insurance coverage from the small employer carrier. The offer shall be in writing and shall include at least the following information: (4-5-00)

a. A general description of the benefits and base rates contained in all actively marketed, including but not limited to the mandated, health benefit plans; and (3-15-02)

b. Information describing how the small employer may enroll in the plans. The offer may be provided directly to the small employer or delivered through a producer. (1-25-95)

04. Timeliness of Price Quote. A small employer carrier shall provide a price quote to a small employer (directly or through an authorized producer) within ten (10) working days of receiving a request for a quote and such information as is necessary to provide the quote. A small employer carrier shall notify a small employer (directly or through an authorized producer) within five (5) working days of receiving a request for a price quote of any additional information needed by the small employer carrier to provide the quote. (1-25-95)

05. Toll-Free Telephone Service. A small employer carrier shall establish and maintain a toll-free

telephone service to provide information to small employers regarding the availability of small employer health benefit plans in this state. The service shall provide information to callers on how to apply for coverage from the carrier. The information may include the names and phone numbers of producers located geographically proximate to the caller or such other information that is reasonably designed to assist the caller to locate an authorized producer or to otherwise apply for coverage. (1-25-95)

06. Restrictions as to Contribution to Association. The small group carrier shall not require a small employer to join or contribute to any association or group as a condition of being accepted for coverage by the small employer carrier, except that, if membership in an association or other group is a requirement for accepting a small employer into a particular health benefit plan, a small employer carrier may apply such requirement, subject to the requirements of Section 41-4708, Idaho Code. (3-15-02)

07. No Requirement to Qualify for Other Insurance Product. A small employer carrier may not require, as a condition to the offer of sale of a health benefit plan to a small employer, that the small employer purchase or qualify for any other insurance product or service. (1-25-95)

08. Plans Subject to Requirement of the Act and This Rule. Carriers offering group health benefit plans in this state shall be responsible for determining whether the plans are subject to the requirements of the Act and this rule. (4-5-00)

09. Annual Filing Requirement. A small employer carrier shall file annually the following information with the Director related to health benefit plans issued by the small employer carrier to small employers in this state on forms prescribed by the Director: (1-25-95)

a. The number of small employers that were covered under health benefit plans in the previous calendar year (separated as to newly issued plans and renewals); (1-25-95)

b. The number of small employers that were covered under the basic, standard, or catastrophic health benefit plan in the previous calendar year (separated as to newly issued plans and renewals). (7-1-98)

c. The number of small employer health benefit plans in force in each county (or by five (5) digit zip code) of the state as of December 31 of the previous calendar year; (1-25-95)

d. The number of small employer health benefit plans that were voluntarily not renewed by small employers in the previous calendar year; (1-25-95)

e. The number of small employer health benefit plans that were terminated or non renewed (for reasons other than nonpayment of premium) by the carrier in the previous calendar year; and (1-25-95)

f. The number of health benefit plans that were issued to residents that were uninsured for at least sixty-three (63) days prior to issue. (7-1-98)

10. Total Number of Residents. All carriers shall file annually with the Director, on forms prescribed by the Director, the total number of residents, including spouses and dependents, covered during the previous calendar year under all health benefit plans issued in this state. This includes residents covered under reinsurance by way of excess loss or stop loss plans. (3-15-02)

11. Filing Date. The information described in Subsections 075.09 and 075.10 shall be filed no later than March 1, each year. (3-15-02)

12. Specific Data. For purposes of this section, health benefit plan information shall include policies or certificates of insurance for specific disease, hospital confinement indemnity and stop loss coverages. (1-25-95)

076. -- 080. (RESERVED)

081. STATUS OF CARRIERS AS SMALL EMPLOYER CARRIERS.

01. Market Status. Each carrier providing health benefit plans in this state shall make a filing to the Director if it intends to continue or discontinue to operate as a small employer carrier in this state under the terms of this rule. (1-25-95)

02. Restrictions as to the Offering of Insurance. Subject to Subsection 081.03, a carrier shall not offer health benefit plans to small employers, or continue to provide coverage under health benefit plans previously issued to small employers in this state, unless the filing provided pursuant to Subsection 081.01 indicates that the carrier intends to operate as a small employer carrier in this state. (1-25-95)

03. Specific Compliance Requirements. If the filing made pursuant Subsection 081.01 indicates that a carrier does not intend to operate as a small employer carrier in this state, the carrier may continue to provide coverage under health benefit plans previously issued to small employers in this state only if the carrier complies with the following provisions: (1-25-95)

a. The carrier complies with the requirements of the Act (other than Sections 41-4709, 41-4710, and 41-4711, Idaho Code) with respect to each of the health benefit plans previously issued to small employers by the carrier. (1-25-95)

b. The carrier provides coverage to each new entrant to a health benefit plan previously issued to a small employer by the carrier. The provisions of the Act (other than Sections 41-4709, 41-4710, and 41-4711, Idaho Code) and this rule shall apply to the coverage issued to such new entrants. (1-25-95)

c. The carrier complies with the requirements of Section 067 of this rule as they apply to small employers whose coverage has been terminated by the carrier and to small employers whose coverage has been limited or restricted by the carrier. (4-5-00)

04. Not Eligible for Reinsurance Program. A carrier that continues to provide coverage pursuant to this subsection shall not be eligible to participate in the reinsurance program established under Section 41-4711, Idaho Code. (1-25-95)

05. Precluded from Operating in Idaho. If the filing made pursuant Subsection 081.01 indicates that a carrier does not intend to operate as a small employer carrier in this state, the carrier shall be precluded from operating as a small employer carrier in this state (except as provided for in Subsections 081.03.a. through 081.03.c.) for a period of five (5) years from the date of the filing. Upon a written request from such a carrier, the Director may reduce the period provided for in the previous sentence if the Director finds that permitting the carrier to operate as a small employer carrier would be in the best interests of the small employers in the state. (1-25-95)

082. -- 999. (RESERVED)

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