

## **ASSEMBLY BILL 1083 (MONNING) SMALL GROUP MARKET REFORM**

### **SUMMARY**

This bill would conform state law to certain provisions in the Affordable Care Act (ACA) related to individual and small business health care coverage. Among other changes, the bill would, beginning in 2014: prohibit health care service plans and health insurers from limiting or excluding coverage on the basis of health status or a preexisting condition; prohibit plans and insurers from applying risk adjustment factors; and require that rate adjustments for age not vary by more than three to one for adults. The bill would also implement the federal option to define small employer as 1 (certain self-employed individuals) to 50 from January 1, 2014, until December 31, 2015, and define a small employer as having at least 1, but no more than 100 eligible employees, on or after January 1, 2016.

### **EXCHANGE STAFF COMMENTS/RECOMMENDATIONS**

Staff recommends support of the bill provisions that conform with the ACA. Among the other provisions of the bill, AB 1083 goes beyond strict federal conformity to the ACA in two premium rating areas: a prohibition on an otherwise allowable premium surcharge related to cigarette use and the prohibition on any premium flexibility related to the use of prevention and wellness incentives (including rebates). Exchange staff recommends working with the author and sponsors to allow the market some limited premium flexibility in the area of prevention and wellness incentives with appropriate protections against insurer and employer discrimination.

### **ANALYSIS**

#### **Provisions conforming to the Affordable Care Act (ACA):**

Maintains existing state definition of small employer (two to 50 eligible employees) until January 1, 2014, and implements federal option to define small employer as one to 50 until December 31, 2015. Adds to the definition, on or after January 1, 2014, a self-employed individual who obtains at least 50% of annual income from self-employment as demonstrated through personal income tax filings for the current or prior year.

Implements federal definition of small employer as having at least one, but no more than 100, eligible employees on or after January 1, 2016.

Effective January 1, 2012, expands the definition of eligible employee by calculating the hours in a normal work week as an average of, rather than a minimum of, 30 hours per week over the course of a month.

Effective January 1, 2014, prohibits carriers from limiting or excluding coverage for any individual based on preexisting condition, whether or not any medical advice, diagnosis,

care, or treatment was recommended or received before that date. Effective January 1, 2014, prohibits a carrier from imposing a waiting period based on pre-existing conditions, health status, or any other factor.

Eliminates the ability of carriers to impose a risk adjustment factor to premium rates effective January 1, 2014.

Allows premium rate variation based upon age of no more than three to one for adults effective January 1, 2014.

### **Provisions not conforming to the ACA:**

Does not allow for provisions of wellness incentives. The ACA allows for the provision of wellness incentives by employers to vary premiums up to 30 percent.

Does not provide for smokers' premiums to vary. The ACA prohibits premiums for varying by more than 1.5 to one for smokers.

### **Provisions not addresses in the ACA:**

Effective January 1, 2014, permits self-employed individual with specified income, to the extent allowed by federal law, at his or her discretion, to enroll in the Exchange as an individual rather than a small employer.

Makes premium rates established by the carrier to be in effect for 12 months rather than six months as required by existing state law.

Requires solicitors to notify the small employer of the of the availability of tax credits for certain employers, and beginning January 1, 2014, of the availability of coverage through the Exchange.

Requires carriers to file a notice of material modification with their respective regulators at least 60 calendar days (rather than 20 business days) prior to renewing or amending a plan contract.

### **FISCAL IMPACT**

According to the Assembly Appropriations Committee analysis, minor and absorbable state costs as a result of this bill. The numerous provisions in this bill, including some that go beyond federal law, largely affect the small-group private insurance markets and have negligible cost implications for the state. In the normal course of DMHC and CDI's existing regulatory duties, regulators would respond to complaints and provide oversight to ensure that carriers were complying with state laws governing how health insurance must be offered and sold. There may be minor up-front costs to departments to respond to the health care coverage and insurance market changes, but these would happen under existing federal law.

## **SUPPORT/OPPOSITION**

### Support:

Health Access California (co-sponsor)  
Small Business Majority (co-sponsor)  
California Medical Association  
California Optometric Association  
California Retired Teachers Association  
CALPIRG  
Congress of California Seniors  
Latino Health Alliance

### Oppose:

Association of California Life and Health Insurance Companies  
California Association of Health Plans