

WEST VIRGINIA CODE: §33-16D-2

§33-16D-2. Definitions.

As used in this article:

- (a) "Actuarial certification" means a written statement by an actuary, or other individual acceptable to the commissioner, that a small employer carrier is in compliance with the provisions of section five of this article, based upon that person's examination, including a review of the appropriate records and of the actuarial assumptions and methods utilized by the carrier in establishing premium rates for applicable health benefit plans.
- (b) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or which could have been charged under a rating system for that class of business by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage.
- (c) "Bona fide association" has the meaning set forth in section one-a, article sixteen of this chapter.
- (d) "Case characteristics" mean demographic or other relevant characteristics of a small employer, as determined by a small employer carrier, which are considered by the carrier in the determination of premium rates for the small employer. Claim experience, health status and duration of coverage since issue are not case characteristics for the purposes of this article.
- (e) "Class of business" means all or any distinct grouping of small employers as shown on the records of the small employer carrier, which shall be subject to the following requirements:
 - (1) A distinct grouping may only be established by the small employer carrier on the basis that the applicable health benefit plans:
 - (A) Are marketed and sold through individuals and organizations which are not participating in the marketing or sale of other distinct groupings of small employers for such small employer carrier;
 - (B) Have been acquired from another small employer carrier as a distinct grouping of plans;
 - (C) Are provided through a bona fide association; or
 - (D) Are in a class of business that meets the requirements for exception to the restrictions related to premium rates provided in paragraph (A), subdivision (1), subsection (a), section five of this article.
 - (2) A small employer carrier may establish no more than two

additional groupings under subdivision (1) of this subsection on the basis of underwriting criteria which are expected to produce substantial variation in the health care costs.

(3) The commissioner may approve the establishment of additional distinct groupings upon application to the commissioner and a finding by the commissioner that such action would enhance the efficiency and fairness of the small employer insurance marketplace.

(f) "Commissioner" means the Insurance Commissioner of West Virginia.

(g) "Creditable coverage" has the meaning set forth in section one-a, article sixteen of this chapter.

(h) "Dependent" has the meaning set forth in section one-a, article sixteen of this chapter.

(i) "Group health plan" has the meaning set forth in section one-a, article sixteen of this chapter.

(j) "Health benefit plan" has the meaning set forth in section one-a, article sixteen of this chapter.

(k) "Health status-related factor" has the meaning set forth in section one-a, article sixteen of this chapter.

(l) "Index rate" means for each class of business for small employers with similar case characteristics the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(m) "Medical care" has the meaning set forth in section one-a, article sixteen of this chapter.

(n) "Network plan" has the meaning set forth in section one-a, article sixteen of this chapter.

(o) "New business premium rate" means, for each class of business as to a rating period, the premium rate charged or offered by the small employer carrier to small employers with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

(p) "Preexisting condition exclusion" has the meaning set forth in section one-a, article sixteen of this chapter.

(q) "Rating period" means the calendar period of at least twelve months for which premium rates established by a small employer carrier are assumed to be in effect, as determined by the small employer carrier.

(r) "Small employer" means any person, firm, corporation, partnership or association actively engaged in business in the State of West Virginia who, during the preceding calendar year, employed an average of no more than fifty but not fewer than two eligible employees and

employs at least two employees on the first day of its group health plan year. A new employer, not in existence for all of the preceding calendar year, shall be considered a small employer if it is reasonably expected to employ an average of no more than fifty but not fewer than two eligible employees on business days in the current calendar year. Companies which are affiliated companies or which are eligible to file a combined tax return for state tax purposes shall be considered one employer.

(s) "Small employer carrier" or "carrier" means any health insurer, as defined in section one-a, article sixteen of this chapter, which offers health benefit plans covering the employees of a small employer situate within the State of West Virginia.