

# STATE OF NEW YORK

2113

2025-2026 Regular Sessions

## IN SENATE

January 15, 2025

Introduced by Sens. COONEY, SKOUFIS -- read twice and ordered printed,  
and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to allowing for Medicaid  
accountable care organizations to purchase experience-rated health  
insurance for their members

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. Paragraph 1 of subsection (c) of section 4235 of the insur-  
2 ance law is amended by adding a new subparagraph (O) as follows:

3 (O) A policy issued to an accountable care organization issued a  
4 certificate of authorization pursuant to article twenty-nine-E of the  
5 public health law, or to a trustee or trustees of a fund established,  
6 created or maintained for the benefit of members of one or more account-  
7 able care organizations issued a certificate of authorization pursuant  
8 to article twenty-nine-E of the public health law, all of whose eligible  
9 members have the same profession, trade or occupation provided or  
10 related to the provision of health care, which association or associ-  
11 ations have been organized and maintained in good faith for purposes  
12 principally other than that of obtaining insurance and have been in  
13 active existence for at least two years. The policy shall insure  
14 members, or employees of members, of such accountable care organization  
15 or organizations for the benefit of persons other than employers and the  
16 accountable care organization or organizations, or any officials, repre-  
17 sentatives, trustees or agents thereof and shall provide for the issu-  
18 ance of a certificate to the persons insured or such beneficiary as  
19 evidence of such insurance. The members or employees eligible for the  
20 insurance under the policy shall be all the members, or all the members  
21 and their employees, or all of any class or classes thereof determined  
22 by conditions pertaining to their employment or to the accountable care  
23 organization membership or both. The premiums for the policy shall be  
24 paid from the accountable care organization or members' funds, or partly

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 from such funds and partly from funds contributed by the insured indi-  
2 viduals, or from funds wholly contributed by the insured individuals. A  
3 policy on which all or part of the premium is to be derived from funds  
4 contributed by the insured individuals specifically for their insurance  
5 must insure at least fifty percent of the then eligible individuals or a  
6 minimum of five hundred individuals, whichever is less, excluding any as  
7 to whom evidence of individual insurability is not satisfactory to the  
8 insurer. A policy on which no part of the premium is to be derived from  
9 funds contributed by the insured individuals specifically for their  
10 insurance must cover all eligible individuals, excluding any as to whom  
11 evidence of individual insurability is not satisfactory to the insurer.  
12 In every case the policy must cover at least one hundred individuals at  
13 date of issue. The insurance coverage on employees insured under the  
14 policy shall be based upon some plan precluding individual selection.  
15 However, with respect to such fund, or accountable care organization or  
16 accountable care organizations, such a plan may permit a number of  
17 selections by the fund, accountable care organization or accountable  
18 care organizations if the selections offered utilize consistent plans of  
19 coverage so that the resulting plans of coverage are reasonable.  
20 Furthermore, such a plan may permit a limited number of selections  
21 offered by employees or members if the selections offered utilize  
22 consistent plans of coverage for individual group members so that the  
23 resulting plans of coverage are reasonable. If a policy dividend is  
24 declared or a reduction in rate is made under such a policy, the excess,  
25 if any, of the aggregate dividends or rate reductions under the policy  
26 over the aggregate expenditure for insurance under such policy made from  
27 the accountable care organization or employer funds, including expendi-  
28 tures made in connection with administration of such policy, shall be  
29 applied by the policyholder for the sole benefit of the insured individ-  
30 uals. A policy issued pursuant to this subparagraph shall provide a  
31 conversion privilege no less favorable than that provided for in  
32 subsection (e) of section three thousand two hundred twenty-one of this  
33 chapter.

34 § 2. Subsection (g) of section 3231 of the insurance law, as amended  
35 by section 70 of part D of chapter 56 of the laws of 2013, paragraph 1  
36 as amended by chapter 12 of the laws of 2016, is amended to read as  
37 follows:

38 (g) (1) Unless otherwise described in paragraph three of this  
39 subsection: (A) This section shall also apply to policies issued to a  
40 group defined in subsection (c) of section four thousand two hundred  
41 thirty-five of this chapter, including but not limited to an association  
42 or trust of employers, if the group includes one or more member employ-  
43 ers or other member groups having one hundred or fewer employees or  
44 members exclusive of spouses and dependents. For a policy issued or  
45 renewed on or after January first, two thousand fourteen, if the group  
46 includes one or more member small group employers eligible for coverage  
47 subject to this section, then such member employers shall be classified  
48 as small groups for rating purposes and the remaining members shall be  
49 rated consistent with the rating rules applicable to such remaining  
50 members pursuant to paragraph two of this subsection. (B) Subparagraph A  
51 of this paragraph shall not apply to either the renewal of a policy  
52 issued to a group or the issuance, between January first, two thousand  
53 sixteen and December thirty-first, two thousand sixteen, of a policy,  
54 and any renewal thereof, to a group, provided that the following three  
55 requirements are met: (I) the group had been issued a policy that was in  
56 effect on July first, two thousand fifteen; (II) the group had member

1 employers, who, on or after July first, two thousand fifteen, have  
2 between fifty-one and one hundred employees, exclusive of spouses and  
3 dependents; and (III) the group is either: (i) comprised entirely of one  
4 or more municipal corporations or districts (as such terms are defined  
5 in section one hundred nineteen-n of the general municipal law); or (ii)  
6 comprised entirely of nonpublic schools providing education in any grade  
7 from pre-kindergarten through twelfth grade.

8 (2) ~~[If]~~ Unless otherwise described in paragraph three of this  
9 subsection, if a policy is issued to a group defined in subsection (c)  
10 of section four thousand two hundred thirty-five of this chapter,  
11 including an association group, that includes one or more individual or  
12 individual proprietor members, for rating purposes the insurer shall  
13 include such members in its individual pool of risks in establishing  
14 premium rates for such members.

15 (3) This subsection shall not apply to a policy issued to a group  
16 defined in subparagraph (O) of paragraph one of subsection (c) of  
17 section four thousand two hundred thirty-five of this chapter, even if  
18 the group includes one or more member employers or other member groups  
19 which have one hundred or fewer employees or members exclusive of spous-  
20 es and dependents, if the following criteria are met:

21 (A) the group is comprised of at least one hundred fifty member  
22 employers;

23 (B) the collective number of individuals insured under the policy  
24 exceeds five hundred persons;

25 (C) each employer in the group is enrolled as a provider in the  
26 state's Medicaid program; and

27 (D) each employer in the group can demonstrate an annual payer mix in  
28 which Medicaid represents sixty percent or more of annual revenues.

29 § 3. Paragraph 1 of subsection (d) of section 4317 of the insurance  
30 law, as amended by chapter 12 of the laws of 2016, is amended and a new  
31 paragraph 4 is added to read as follows:

32 (1) (A) ~~[This]~~ Unless otherwise described in paragraph four of this  
33 subsection, this section shall also apply to a contract issued to a  
34 group defined in subsection (c) of section four thousand two hundred  
35 thirty-five of this chapter, including but not limited to an association  
36 or trust of employers, if the group includes one or more member employ-  
37 ers or other member groups having one hundred or fewer employees or  
38 members exclusive of spouses and dependents. For a contract issued or  
39 renewed on or after January first, two thousand fourteen, if the group  
40 includes one or more member small group employers eligible for coverage  
41 subject to this section, then such member employers shall be classified  
42 as small groups for rating purposes and the remaining members shall be  
43 rated consistent with the rating rules applicable to such remaining  
44 members pursuant to paragraph two of this subsection. (B) Subparagraph A  
45 of this paragraph shall not apply to either the renewal of a contract  
46 issued to a group or the issuance, between January first, two thousand  
47 sixteen and December thirty-first, two thousand sixteen, of a contract,  
48 and any renewal thereof, to a group, provided that the following three  
49 requirements are met: (I) the group had been issued a contract that was  
50 in effect on July first, two thousand fifteen; (II) the group had member  
51 employers, who, on or after July first, two thousand fifteen, have  
52 between fifty-one and one hundred employees, exclusive of spouses and  
53 dependents; and (III) the group is either: (i) comprised entirely of one  
54 or more municipal corporations or districts (as such terms are defined  
55 in section one hundred nineteen-n of the general municipal law); or (ii)

1 comprised entirely of nonpublic schools providing education in any grade  
2 from pre-kindergarten through twelfth grade.

3 (4) This subsection shall not apply to a policy issued to a group  
4 defined in paragraph (O) of subsection (c) of section four thousand two  
5 hundred thirty-five of this chapter, even if the group includes one or  
6 more member employers or other member groups which have one hundred or  
7 fewer employees or members exclusive of spouses and dependents, if the  
8 following criteria are met:

9 (A) the group is comprised of at least one hundred fifty member  
10 employers;

11 (B) the collective number of individuals insured under the policy  
12 exceeds five hundred persons;

13 (C) each employer in the group is enrolled as a provider in the  
14 state's Medicaid program; and

15 (D) each employer in the group can demonstrate an annual payer mix in  
16 which Medicaid represents sixty percent or more of annual revenues.

17 § 4. This act shall take effect on the one hundred eightieth day after  
18 it shall have become a law; provided, however, that the amendments to  
19 paragraph (1) of subsection (g) of section 3231 and paragraph (1) of  
20 subsection (d) of section 4317 of the insurance law made by sections two  
21 and three of this act shall not affect the expiration of such paragraphs  
22 and shall be deemed to expire therewith.