

# STATE OF NEW YORK

2113--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 Assembly, do enact as follows:

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

2  
3 (O) A policy issued to a Medicaid accountable care organization  
4 comprised wholly of private physician practices issued a certificate of  
5 authorization pursuant to article twenty-nine-E of the public health  
6 law, or to a trustee or trustees of a fund established, created or main-  
7 tained for the benefit of members of one or more Medicaid accountable  
8 care organizations issued a certificate of authorization pursuant to  
9 article twenty-nine-E of the public health law, all of whose eligible  
10 members have the same profession, trade or occupation provided or  
11 related to the provision of health care, which association or associ-  
12 ations have been organized and maintained in good faith for purposes  
13 principally other than that of obtaining insurance and have been in  
14 active existence for at least two years. The policy shall insure  
15 members, or employees of members, of such Medicaid accountable care  
16 organization or organizations for the benefit of persons other than  
17 employers and the Medicaid accountable care organization or organiza-  
18 tions, or any officials, representatives, trustees or agents thereof and  
19 shall provide for the issuance of a certificate to the persons insured  
20 or such beneficiary as evidence of such insurance. The members or  
21 employees eligible for the insurance under the policy shall be all the  
22 members, or all the members and their employees, or all of any class or

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

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

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

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

1 sixteen and December thirty-first, two thousand sixteen, of a policy,  
2 and any renewal thereof, to a group, provided that the following three  
3 requirements are met: (I) the group had been issued a policy that was in  
4 effect on July first, two thousand fifteen; (II) the group had member  
5 employers, who, on or after July first, two thousand fifteen, have  
6 between fifty-one and one hundred employees, exclusive of spouses and  
7 dependents; and (III) the group is either: (i) comprised entirely of one  
8 or more municipal corporations or districts (as such terms are defined  
9 in section one hundred nineteen-n of the general municipal law); or (ii)  
10 comprised entirely of nonpublic schools providing education in any grade  
11 from pre-kindergarten through twelfth grade.

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

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

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

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

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

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

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

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

1 dependents; and (III) the group is either: (i) comprised entirely of one  
2 or more municipal corporations or districts (as such terms are defined  
3 in section one hundred nineteen-n of the general municipal law); or (ii)  
4 comprised entirely of nonpublic schools providing education in any grade  
5 from pre-kindergarten through twelfth grade.

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

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

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

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

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

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