

3072

2009-2010 Regular Sessions

I N S E N A T E

March 10, 2009

Introduced by Sen. VALESKY -- 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 standardized health insurance contracts for qualifying small employers and individuals

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subsection (c) of section 4326 of the insurance law, as  
2 added by chapter 1 of the laws of 1999, subparagraph (A) of paragraph 1  
3 and subparagraph (C) of paragraph 3 as amended by chapter 419 of the  
4 laws of 2000, is amended to read as follows:  
5 (c) The following definitions shall be applicable to the insurance  
6 contracts offered under the program established by this section:  
7 (1) A qualifying small employer is an employer that is either:  
8 (A) An individual proprietor who is the only employee of the busi-  
9 ness[:  
10 (i) without health insurance which provides benefits on an expense  
11 reimbursed or prepaid basis in effect during the twelve month period  
12 prior to application for a qualifying group health insurance contract  
13 under the program established by this section; and  
14 (ii)] WHO resides in a household having a net household income at or  
15 below two hundred eight percent of the non-farm federal poverty level  
16 (as defined and updated by the federal department of health and human  
17 services) or the gross equivalent of such net income;  
18 [(iii) except that the requirements set forth in item (i) of this  
19 subparagraph shall not be applicable where an individual proprietor had  
20 health insurance coverage during the previous twelve months and such  
21 coverage terminated due to one of the reasons set forth in items (i)  
22 through (viii) of subparagraph (C) of paragraph three of subsection (c)  
23 of this section;] or  
24 (B) An employer with:  
25 (i) not more than fifty eligible employees; AND

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

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1 (ii) [no group health insurance which provides benefits on an expense  
2 reimbursed or prepaid basis covering employees in effect during the  
3 twelve month period prior to application for a qualifying group health  
4 insurance contract under the program established by this section; and

5 (iii)] at least thirty percent of its eligible employees receiving  
6 annual wages from the employer at a level equal to or less than thirty  
7 thousand dollars. The thirty thousand dollar figure shall be adjusted  
8 periodically pursuant to subparagraph [(F)] (D) of this paragraph.

9 [(C) The requirements set forth in item (i) of subparagraph (A) of  
10 this paragraph and in item (ii) of subparagraph (B) of this paragraph  
11 shall not be applicable where an individual proprietor or employer is  
12 transferring from a health insurance contract issued pursuant to the New  
13 York state small business health insurance partnership program estab-  
14 lished by section nine hundred twenty-two of the public health law or  
15 from health care coverage issued pursuant to a regional pilot project  
16 for the uninsured established by section one thousand one hundred eigh-  
17 teen of this chapter.

18 (D) The twelve month period set forth in item (i) of subparagraph (A)  
19 of this paragraph and in item (ii) of subparagraph (B) of this paragraph  
20 may be adjusted by the superintendent from twelve months to eighteen  
21 months if he determines that the twelve month period is insufficient to  
22 prevent inappropriate substitution of other health insurance contracts  
23 for qualifying group health insurance contracts.

24 (E)] (C) An individual proprietor or employer shall cease to be a  
25 qualifying small employer if any health insurance which provides bene-  
26 fits on an expense reimbursed or prepaid basis covering the individual  
27 proprietor or an employer's employees, other than qualifying group  
28 health insurance purchased pursuant to this section, is purchased or  
29 otherwise takes effect subsequent to purchase of qualifying group health  
30 insurance under the program established by this section.

31 [(F)] (D) The wage levels utilized in subparagraph (B) of this para-  
32 graph shall be adjusted annually, beginning in two thousand two. The  
33 adjustment shall take effect on July first of each year. For July first,  
34 two thousand two, the adjustment shall be a percentage of the annual  
35 wage figure specified in subparagraph (B) of this paragraph. For subse-  
36 quent years, the adjustment shall be a percentage of the annual wage  
37 figure which took effect on July first of the prior year. The percentage  
38 adjustment shall be the same percentage by which the current year's  
39 non-farm federal poverty level, as defined and updated by the federal  
40 department of health and human services, for a family unit of four  
41 persons for the forty-eight contiguous states and Washington, D.C.,  
42 changed from the same level established for the prior year.

43 (2) A qualifying group health insurance contract is a group contract  
44 purchased from a health maintenance organization, corporation or insurer  
45 by a qualifying small employer which provides the benefits set forth in  
46 subsection (d) of this section. The contract must insure not less than  
47 fifty percent of the employees eligible for coverage.

48 (3)[(A)] A qualifying individual is an employed person[:

49 (i) who does not have and has not had health insurance with benefits  
50 on an expense reimbursed or prepaid basis during the twelve month period  
51 prior to the individual's application for health insurance under the  
52 program established by this section;

53 (ii) whose employer does not provide group health insurance and has  
54 not provided group health insurance with benefits on an expense reim-  
55 bursed or prepaid basis covering employees in effect during the twelve

1 month period prior to the individual's application for health insurance under the program established by this section;

3 (iii)] WHO resides in a household having a net household income at or below two hundred eight percent of the non-farm federal poverty level (as defined and updated by the federal department of health and human services) or the gross equivalent of such net income; and

7 [(iv)] WHO is ineligible for Medicare.

8 [(B) The requirements set forth in items (i) and (ii) of subparagraph (A) of this paragraph shall not be applicable where an individual is transferring from a health insurance contract issued pursuant to the voucher insurance program established by section one thousand one hundred twenty-one of this chapter, a health insurance contract issued pursuant to the New York state small business health insurance partnership program established by section nine hundred twenty-two of the public health law or health care coverage issued pursuant to a regional pilot project for the uninsured established by section one thousand one hundred eighteen of this chapter.

18 (C) The requirements set forth in items (i) and (ii) of subparagraph (A) of this paragraph shall not be applicable where an individual had health insurance coverage during the previous twelve months and such coverage terminated due to:

22 (i) loss of employment due to factors other than voluntary separation;

23 (ii) death of a family member which results in termination of coverage under a health insurance contract under which the individual is covered;

24 (iii) change to a new employer that does not provide group health insurance with benefits on an expense reimbursed or prepaid basis;

26 (iv) change of residence so that no employer-based health insurance with benefits on an expense reimbursed or prepaid basis is available;

27 (v) discontinuation of a group health insurance contract with benefits on an expense reimbursed or prepaid basis covering the qualifying individual as an employee or dependent;

32 (vi) expiration of the coverage periods established by the continuation provisions of the Employee Retirement Income Security Act, 29 U.S.C. section 1161 et seq. and the Public Health Service Act, 42 U.S.C. section 300bb-1 et seq. established by the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, or the continuation provisions of subsection (m) of section three thousand two hundred twenty-one, subsection (k) of section four thousand three hundred four and subsection (e) of section four thousand three hundred five of this chapter;

41 (vii) legal separation, divorce or annulment which results in termination of coverage under a health insurance contract under which the individual is covered; or

44 (viii) loss of eligibility under a group health plan.

45 (D) The twelve month period set forth in items (i) and (ii) of subparagraph (A) of this paragraph may be adjusted by the superintendent from twelve months to eighteen months if he determines that the twelve month period is insufficient to prevent inappropriate substitution of other health insurance contracts for qualifying individual health insurance contracts.]

51 (4) A qualifying individual health insurance contract is an individual contract issued directly to a qualifying individual and which provides the benefits set forth in subsection (d) of this section. At the option of the qualifying individual, such contract may include coverage for dependents of the qualifying individual.

56 S 2. This act shall take effect January 1, 2010.