S T A T E O F N E W Y O R K

4160

2009-2010 Regular Sessions

I N S E N A T E

April 15, 2009

Introduced by Sen. AUBERTINE -- 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 authorizing the issuance of small business health insurance policies

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

Section 1. The insurance law is amended by adding a new article 50 to read as follows:

ARTICLE 50

SMALL BUSINESS HEALTH INSURANCE ACT

SECTION 5001. SHORT TITLE.
5002. STATEMENT OF LEGISLATIVE FINDINGS AND INTENT.
5003. DEFINITIONS.
5004. REQUIREMENTS OF SMALL BUSINESS HEALTH INSURANCE.
5005. CORE BENEFITS.
5006. NOTICE REQUIREMENTS.
5007. REPORTING REQUIREMENTS.

S 5001. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "SMALL BUSINESS HEALTH INSURANCE ACT".

S 5002. STATEMENT OF LEGISLATIVE FINDINGS AND INTENT. THE LEGISLATURE HEREBY FINDS THAT NEW YORK STATE HAS A SIGNIFICANT NUMBER OF UNINSURED RESIDENTS.

THE LEGISLATURE FURTHER FINDS THAT ALTHOUGH MANY OF THE WORKING UNINSURED AND THEIR DEPENDENTS ARE FOUND IN SMALL BUSINESSES, THESE FIRMS ARE INTERESTED IN PROVIDING HEALTH BENEFITS TO THEIR EMPLOYEES BUT ARE DETERRED BY THE RISING COST OF HEALTH CARE COVERAGE.

THE LEGISLATURE RECOGNIZES THE NEED TO ENABLE AND ENCOURAGE GREATER NUMBERS OF SMALL EMPLOYERS TO PROVIDE HEALTH CARE COVERAGE TO THEIR EMPLOYEES.

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

LBD03805-01-9

THE LEGISLATURE THEREFORE DECLARES IT TO BE IN THE PUBLIC INTEREST TO ESTABLISH THE SMALL BUSINESS HEALTH INSURANCE PROGRAM TO HELP REDUCE THE COSTS OF HEALTH INSURANCE.

S 5003. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "SMALL BUSINESS" MEANS ANY BUSINESS WHICH IS RESIDENT IN THIS STATE, INDEPENDENTLY OWNED AND OPERATED, NOT DOMINANT IN ITS FIELD AND WHICH EMPLOYS FIFTY OR FEWER EMPLOYEES ON A REGULAR BASIS.

(B) "INSURER" MEANS ANY INSURANCE COMPANY LICENSED TO WRITE HEALTH INSURANCE IN THIS STATE, INCLUDING CORPORATIONS ORGANIZED UNDER ARTICLE FORTY-THREE OF THIS CHAPTER AND HEALTH MAINTENANCE ORGANIZATIONS AUTHORIZED PURSUANT TO ARTICLE FORTY-THREE OF THIS CHAPTER OR ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW.

(C) "SUPERINTENDENT" MEANS THE SUPERINTENDENT OF INSURANCE.

(D) "ELIGIBLE EMPLOYEE" MEANS AN EMPLOYEE OF A SMALL BUSINESS WHO HAS WORKED NINETY DAYS OR MORE AT AN AVERAGE OF THIRTY-FIVE HOURS OR MORE PER WEEK. A SMALL BUSINESS MAY, IN ITS SOLE DISCRETION, REDUCE THIS REQUIREMENT OF AN EMPLOYEE WORKING AN AVERAGE OF THIRTY-FIVE HOURS OR MORE PER WEEK IN ORDER FOR ADDITIONAL EMPLOYEES TO QUALIFY AS AN ELIGIBLE EMPLOYEE. AN ELIGIBLE EMPLOYEE MAY ALSO BE A SOLE PROPRIETOR OR A PARTNER OF A PARTNERSHIP PROVIDED SUCH SOLE PROPRIETOR OR PARTNER IS INCLUDED AS AN EMPLOYEE UNDER THE HEALTH CARE PLAN OF THE SMALL BUSINESS.

S 5004. REQUIREMENTS OF SMALL BUSINESS HEALTH INSURANCE. (A) ALL INSURERS SHALL BE AUTHORIZED TO WRITE SMALL BUSINESS HEALTH INSURANCE POLICIES FOR QUALIFIED SMALL BUSINESSES TO PROVIDE ONLY SUCH BENEFITS AS ARE REQUIRED BY SECTION FIVE THOUSAND FIVE OF THIS ARTICLE AND AS MAY MUTUALLY BE AGREED UPON BETWEEN THE POLICYHOLDER AND THE INSURER. THE SUPERINTENDENT SHALL ONLY APPROVE A POLICY WHICH MEETS THE FOLLOWING CRITERIA:

(1) THE POLICY PROVISIONS ARE NOT MISLEADING OR CONFUSING;

(2) THE POLICY CLEARLY STATES THE BENEFITS, LIMITATIONS AND EXCLUSIONS;

(3) THE BENEFITS PROVIDED BY THE POLICY MEET THE STANDARDS SPECIFIED IN THIS SECTION AND SECTION FIVE THOUSAND FIVE OF THIS ARTICLE;

(4) THE PREMIUM RATES ARE REASONABLY RELATED TO THE BENEFITS PROVIDED AND ARE SUFFICIENT TO SUPPORT THE POLICY;

(5) THE POLICY PROVISIONS INCLUDE CONVERSION AND CONTINUATION RIGHTS AS DEFINED IN SUBSECTIONS (E), (M) AND (N) OF SECTION THREE THOUSAND TWO HUNDRED TWENTY-ONE AND SUBSECTIONS (D), (E) AND (G) OF SECTION FOUR THOUSAND THREE HUNDRED FIVE OF THIS CHAPTER; AND

(6) THE POLICY PROVIDES BOTH INDIVIDUAL AND, IF ELECTED BY THE EMPLOYEE, FAMILY COVERAGE. THE POLICY SHALL COVER ALL ELIGIBLE SPOUSES AND DEPENDENT CHILDREN OF COVERED EMPLOYEES, IN ACCORDANCE WITH POLICY PARTICIPATION REQUIREMENTS, EXCEPT THAT COVERAGE MAY BE WAIVED FOR SPOUSES AND DEPENDENT CHILDREN WHO HAVE COVERAGE UNDER ANOTHER HEALTH PLAN. THE EMPLOYEE SHALL PAY THE ENTIRE PREMIUM COST FOR SUCH DEPENDENT COVERAGE UNLESS THE EMPLOYER, AT HIS OR HER OPTION, CHOOSES TO CONTRIBUTE TO THE EXPENSE OF SUCH ADDITIONAL PREMIUM.

(B) THE PREMIUM FOR A SMALL BUSINESS HEALTH INSURANCE POLICY SHALL BE PAID BY THE SMALL BUSINESS FROM THE EMPLOYER'S FUNDS, FROM FUNDS CONTRIBUTED BY THE INSURED EMPLOYEES OR FROM FUNDS CONTRIBUTED JOINTLY BY THE EMPLOYER AND THE EMPLOYEE.

(C) A SMALL BUSINESS SHALL ONLY BE ELIGIBLE TO PURCHASE SMALL BUSINESS HEALTH INSURANCE POLICIES ISSUED PURSUANT TO THE PROVISIONS OF THIS ARTICLE IF SUCH SMALL BUSINESS HAD NOT, WITHIN SIX MONTHS PRECEDING THE

EFFECTIVE DATE OF THIS ARTICLE, PROVIDED ANY HEALTH BENEFIT COVERAGE TO ELIGIBLE EMPLOYEES; PROVIDED, HOWEVER, THAT ANY SMALL BUSINESS WHICH DID PROVIDE ANY SUCH COVERAGE WITHIN THE PRECEDING SIX MONTHS OF THE EFFECTIVE DATE OF THIS ARTICLE, OR WHICH CURRENTLY HAS IN FORCE SUCH COVERAGE SHALL BECOME ELIGIBLE TO PURCHASE A POLICY ESTABLISHED UNDER THIS ARTICLE TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ARTICLE.

S 5005. CORE BENEFITS. (A) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, SMALL BUSINESS HEALTH INSURANCE POLICIES ISSUED PURSUANT TO THIS ARTICLE SHALL NOT BE SUBJECT TO ANY OTHER MANDATED COVERAGES OR SERVICES, EXCEPT FOR:

(1) MATERNITY CARE, AS DEFINED IN PARAGRAPH FIVE OF SUBSECTION (K) OF SECTION THREE THOUSAND TWO HUNDRED TWENTY-ONE AND SUBSECTION (C) OF SECTION FOUR THOUSAND THREE HUNDRED THREE OF THIS CHAPTER;

(2) NEWBORN CARE, AS DEFINED IN PARAGRAPH TWO OF SUBSECTION (F) OF SECTION FOUR THOUSAND TWO HUNDRED THIRTY-FIVE AND PARAGRAPH ONE OF SUBSECTION (C) OF SECTION FOUR THOUSAND THREE HUNDRED FIVE OF THIS CHAPTER;

(3) EMERGENCY MEDICAL SERVICES, AS DEFINED IN PARAGRAPH FOUR OF SUBSECTION (K) OF SECTION THREE THOUSAND TWO HUNDRED TWENTY-ONE AND PARAGRAPH TWO OF SUBSECTION (A) OF SECTION FOUR THOUSAND THREE HUNDRED THREE OF THIS CHAPTER; AND

(4) MAMMOGRAPHY SCREENING, AS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH ELEVEN OF SUBSECTION (L) OF SECTION THREE THOUSAND TWO HUNDRED TWENTY-ONE AND PARAGRAPH THREE OF SUBSECTION (P) OF SECTION FOUR THOUSAND THREE HUNDRED THREE OF THIS CHAPTER.

(B) A SMALL BUSINESS HEALTH INSURANCE POLICY ISSUED PURSUANT TO THIS ARTICLE SHALL PROVIDE COVERAGE FOR AMBULATORY CARE AND FOR INPATIENT AND OUTPATIENT ACUTE MEDICAL AND SURGICAL CARE. THE HOSPITAL AND MEDICAL SERVICES TO BE COVERED SHALL INCLUDE, BUT NOT BE LIMITED TO:

(1) NO LESS THAN THIRTY DAYS HOSPITAL CONFINEMENT;

(2) DEDUCTIBLE AND CO-PAYMENT AMOUNTS WHICH MAY BE GREATER THAN THOSE SPECIFIED IN THE DEPARTMENT REGULATIONS, PROVIDED THAT NO ANNUAL DEDUCTIBLE FOR AN INDIVIDUAL SHALL EXCEED ONE THOUSAND TWO HUNDRED DOLLARS, AND NO ANNUAL DEDUCTIBLE FOR A FAMILY SHALL EXCEED TWO THOUSAND DOLLARS; AND

(3) NO FEWER THAN SIX PHYSICIAN OFFICE VISITS PER YEAR.

(C) A SMALL BUSINESS HEALTH INSURANCE POLICY ISSUED PURSUANT TO THIS ARTICLE MAY INCLUDE LIMITATIONS ON BENEFITS GREATER THAN THOSE SPECIFIED IN THE DEPARTMENT REGULATIONS AND MAY INCLUDE PROVISIONS DESIGNED TO CONTROL POLICY COSTS AND ENCOURAGE COST EFFECTIVE UTILIZATION OF MEDICALLY NECESSARY HEALTH CARE SERVICES. SUCH PROVISIONS MAY INCLUDE, BUT NEED NOT BE LIMITED TO:

(1) PREVENTIVE CARE SERVICES;

(2) PRIOR APPROVAL OF ELECTIVE HOSPITAL ADMISSIONS;

(3) SECOND SURGICAL OPINIONS;

(4) UTILIZATION REVIEW OF HEALTH CARE SERVICES;

(5) USE OF A PREFERRED PROVIDER PLAN, WHICH: (I) LIMITS THE PAYMENT OF THE BENEFITS TO PROVIDERS OF SERVICES WHO HAVE SIGNED AN AGREEMENT WITH THE INSURER, OR ANY INTERMEDIARY ORGANIZATION REPRESENTING THOSE PROVIDERS IN NEGOTIATIONS WITH THE INSURER, REGARDING THE AMOUNT OF SUCH PAYMENTS, OR (II) OFFERS DIFFERENT BENEFITS TO THE PERSON COVERED WHEN PROCURED THROUGH SUCH ORGANIZATION;

(6) PRE-ADMISSION TESTING; AND

(7) ANNUAL AND LIFETIME BENEFIT MAXIMUMS AS DETERMINED BY THE INSURER AND THE SMALL BUSINESS.

(D) A SMALL BUSINESS MAY SELECT COVERAGE FOR ADDITIONAL BENEFITS, INCLUDING BUT NOT LIMITED TO OPTICAL AND DENTAL CARE, FOR ALL ELIGIBLE EMPLOYEES AND DEPENDENTS, IF AVAILABLE FROM THE INSURER. THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION MAY, AT THE OPTION OF THE INSURER, BE APPLIED TO ANY ADDITIONAL BENEFITS FOR WHICH COVERAGE IS PROVIDED.

S 5006. NOTICE REQUIREMENTS. POLICIES APPROVED FOR USE PURSUANT TO THIS ARTICLE SHALL HAVE PROMINENTLY STAMPED ON THE FACE OF EACH POLICY AND CERTIFICATE THE FOLLOWING NOTICE: "THIS IS A SMALL BUSINESS LIMITED BENEFITS HEALTH INSURANCE POLICY AS APPROVED BY THE NEW YORK STATE INSURANCE DEPARTMENT."

S 5007. REPORTING REQUIREMENTS. THE SUPERINTENDENT MAY ISSUE REGULATIONS TO FACILITATE DATA COLLECTION CONCERNING THE POLICIES ISSUED PURSUANT TO THIS ARTICLE AND SHALL REPORT ANNUALLY TO THE LEGISLATURE ON THE PROGRESS OF POLICIES ISSUED PURSUANT TO THIS ARTICLE.

S 2. This act shall take effect on the forty-fifth day after it shall have become a law.