

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

4602--A

2009-2010 Regular Sessions

I N S E N A T E

April 24, 2009

Introduced by Sens. BRESLIN, DUANE -- 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 a health insurance demonstration program for independent workers and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. The insurance law is amended by adding a new section 1123
2 to read as follows:
3 S 1123. HEALTH INSURANCE DEMONSTRATION PROGRAM FOR INDEPENDENT WORK-
4 ERS. (A) PURPOSE OF THE DEMONSTRATION PROGRAM. THE LEGISLATURE RECOG-
5 NIZES THAT INDEPENDENT CONTRACTORS, PART-TIME WORKERS, TEMPORARY WORKERS
6 AND OTHER INDIVIDUALS WHO PERFORM WORK OUTSIDE THE SCOPE OF A FULL-TIME
7 EMPLOYMENT RELATIONSHIP WITH AN EMPLOYER FREQUENTLY LACK ACCESS TO
8 EMPLOYMENT-BASED GROUP HEALTH INSURANCE COVERAGE. AS A RESULT, THESE
9 INDEPENDENT WORKERS, WHO COMPRISE A GROWING PORTION OF THE WORKFORCE,
10 ARE MORE LIKELY THAN TRADITIONAL EMPLOYEES TO BE UNINSURED. THE DEMON-
11 STRATION PROGRAM AUTHORIZED BY THIS SECTION IS INTENDED TO TEST NEW
12 MODELS FOR ENABLING INDEPENDENT WORKERS TO CREATE THEIR OWN GROUP HEALTH
13 INSURANCE PROGRAMS THAT MEET THEIR SPECIAL NEEDS, WHILE ENSURING COMPLI-
14 ANCE WITH THIS CHAPTER AND ANY REGULATIONS PROMULGATED THEREUNDER,
15 INCLUDING SOLVENCY REQUIREMENTS, BENEFIT MANDATES AND OTHER OBLIGATIONS
16 IMPOSED ON INSURERS. THE DEMONSTRATION PROGRAM WILL ENABLE THE LEGISLA-
17 TURE AND THE SUPERINTENDENT TO EVALUATE WHETHER THESE NEW MODELS FOR
18 DELIVERING GROUP HEALTH INSURANCE BENEFITS TO INDEPENDENT WORKERS ARE
19 EFFECTIVE AND SHOULD BE EXPANDED TO OTHER SEGMENTS OF THE POPULATION
20 THAT LACK ACCESS TO EMPLOYMENT-BASED HEALTH INSURANCE.
21 (B) DEFINITIONS. IN THIS SECTION:

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

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1 (1) "ELIGIBLE ASSOCIATION" MEANS AN ENTITY THAT: (A) IS EXEMPT FROM
2 FEDERAL TAXATION UNDER SECTION 501(C)(3) OR (C)(4) OF THE INTERNAL
3 REVENUE CODE; (B) WAS INCORPORATED ON OR BEFORE JANUARY FIRST, TWO THOU-
4 SAND NINE; (C) MEETS THE CRITERIA SET FORTH IN SUBPARAGRAPH (K) OF PARA-
5 GRAPH ONE OF SUBSECTION (C) OF SECTION FOUR THOUSAND TWO HUNDRED THIR-
6 TY-FIVE OF THIS CHAPTER; AND (D) HAS BEEN ISSUED ONE OR MORE GROUP
7 HEALTH INSURANCE POLICIES BY AN ELIGIBLE INSURER THAT COLLECTIVELY COVER
8 AT LEAST TEN THOUSAND INDEPENDENT WORKERS IN THIS STATE, INCLUDING THEIR
9 SPOUSES AND DEPENDENTS, WORKING IN DIVERSE AND UNRELATED INDUSTRIES OR
10 OCCUPATIONS.

11 (2) "ELIGIBLE INSURER" MEANS AN INSURER LICENSED UNDER ARTICLE FORTY-
12 TWO OF THIS CHAPTER THAT IS PRIMARILY OWNED BY AN ELIGIBLE ASSOCIATION.
13 FOR PURPOSES OF THIS PARAGRAPH, AN INSURER SHALL BE DEEMED TO BE PRIMA-
14 RILY OWNED BY AN ELIGIBLE ASSOCIATION IF THE ELIGIBLE ASSOCIATION
15 DIRECTLY OR INDIRECTLY OWNS MORE THAN FIFTY PERCENT OF THE STOCK OF THE
16 INSURER OR HAS THE RIGHT TO APPOINT MORE THAN FIFTY PERCENT OF THE
17 INSURER'S BOARD OF DIRECTORS.

18 (3) "INDEPENDENT WORKER" MEANS AN INDIVIDUAL WHO: (A) IS AN INDEPEND-
19 ENT CONTRACTOR; (B) IS SELF-EMPLOYED; (C) WORKS PART-TIME; (D) OBTAINS
20 TEMPORARY WORK THROUGH AN EMPLOYMENT AGENCY; OR (E) PERFORMS TEMPORARY
21 WORK FOR TWO OR MORE EMPLOYERS SIMULTANEOUSLY. AN INDIVIDUAL IS NOT AN
22 INDEPENDENT WORKER IF HE OR SHE IS EMPLOYED FULL-TIME BY A SINGLE
23 EMPLOYER, WITH THE EXCEPTION OF AN INDIVIDUAL WHO OBTAINS FULL-TIME
24 TEMPORARY WORK THROUGH AN EMPLOYMENT AGENCY.

25 (4) "GROUP HEALTH INSURANCE" MEANS INSURANCE PROVIDING HOSPITAL,
26 SURGICAL OR MEDICAL EXPENSE COVERAGE OR OTHER SIMILAR COMPREHENSIVE
27 HEALTH INSURANCE COVERAGE THAT COMPLIES WITH PARAGRAPH THREE OF
28 SUBSECTION (A) OF SECTION FOUR THOUSAND TWO HUNDRED THIRTY-FIVE OF THIS
29 CHAPTER.

30 (C) DEMONSTRATION PROGRAM FOR INDEPENDENT WORKERS. (1) BOTH THE ELIGI-
31 BLE INSURER AND THE GROUP HEALTH INSURANCE POLICIES ISSUED TO THE ELIGI-
32 BLE ASSOCIATION SHALL BE SUBJECT TO THE PROVISIONS OF THIS CHAPTER AND
33 ANY REGULATIONS PROMULGATED THEREUNDER, EXCEPT THAT, THE ELIGIBLE ASSO-
34 CIATION SHALL NOT BE CONSIDERED A SMALL GROUP UNDER THIS CHAPTER AND THE
35 ELIGIBLE INSURER SHALL NOT BE REQUIRED TO OFFER GROUP HEALTH INSURANCE
36 POLICIES TO ANY GROUP OTHER THAN THE ELIGIBLE ASSOCIATION THAT PRIMARILY
37 OWNS THE ELIGIBLE INSURER.

38 (2) SUBJECT TO PARAGRAPH THREE OF THIS SUBSECTION, THE SUPERINTENDENT
39 MAY ISSUE AN APPROVAL TO AN ELIGIBLE INSURER IF: (A) THE ELIGIBLE INSUR-
40 ER DEMONSTRATES THAT IT SATISFIES ALL FINANCIAL, OPERATIONAL AND OTHER
41 REQUIREMENTS OF THIS CHAPTER AND REGULATIONS PROMULGATED THEREUNDER,
42 OTHER THAN ANY REQUIREMENTS EXPRESSLY WAIVED BY THIS SECTION, AND SHALL
43 OPERATE THE DEMONSTRATION PROGRAM IN ACCORDANCE WITH THE REQUIREMENTS OF
44 THIS SECTION; AND (B) THE SUPERINTENDENT DETERMINES THAT THE DEMON-
45 STRATION PROGRAM FURTHERS THE PUBLIC POLICY GOALS OF THIS SECTION.

46 (3) ANY ELIGIBLE INSURER SEEKING THE SUPERINTENDENT'S APPROVAL UNDER
47 PARAGRAPH TWO OF THIS SUBSECTION SHALL SUBMIT A WRITTEN REQUEST TO THE
48 SUPERINTENDENT WITHIN THIRTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION.
49 THE ELIGIBLE INSURER'S APPLICATION SHALL: SPECIFY THE IDENTITY AND
50 COMPOSITION OF THE ELIGIBLE ASSOCIATION, THE ELIGIBLE ASSOCIATION'S
51 MEMBERSHIP RULES, AND THE TERMS UNDER WHICH THE ELIGIBLE INSURER SHALL
52 PROVIDE GROUP HEALTH INSURANCE TO THE ELIGIBLE ASSOCIATION; DEMONSTRATE
53 THAT THE ELIGIBLE INSURER AND THE ELIGIBLE ASSOCIATION MEET THE REQUIRE-
54 MENTS SET FORTH IN THIS SECTION; AND IDENTIFY THE GROUP HEALTH INSURANCE
55 POLICY FORMS THAT THE ELIGIBLE INSURER WILL ISSUE TO THE ELIGIBLE ASSO-
56 CIATION. THE SUPERINTENDENT SHALL MAKE A DETERMINATION ON ANY REQUEST

1 WITHIN NINETY DAYS OF RECEIPT OF ALL NECESSARY INFORMATION. THE SUPER-
2 INTENDENT SHALL ISSUE AN APPROVAL TO ONLY ONE ELIGIBLE INSURER.
3 (4) THE SUPERINTENDENT MAY REVOKE AN APPROVAL ISSUED UNDER PARAGRAPH
4 TWO OF THIS SUBSECTION IF: THE INSURER THAT RECEIVED SUCH APPROVAL NO
5 LONGER QUALIFIES AS AN ELIGIBLE INSURER OR IS OTHERWISE OPERATING IN A
6 MANNER INCONSISTENT WITH THE PROVISIONS OF THIS CHAPTER OR REGULATIONS
7 PROMULGATED THEREUNDER; OR THE ASSOCIATION TO WHICH THE ELIGIBLE INSURER
8 ISSUED THE GROUP HEALTH INSURANCE POLICY NO LONGER QUALIFIES AS AN
9 ELIGIBLE ASSOCIATION. AN ELIGIBLE INSURER THAT RECEIVES APPROVAL UNDER
10 PARAGRAPH TWO OF THIS SUBSECTION SHALL SUBMIT PERIODIC REPORTS TO THE
11 SUPERINTENDENT SUFFICIENT TO ENABLE THE SUPERINTENDENT TO EVALUATE THE
12 EFFECTIVENESS OF THE DEMONSTRATION PROGRAM. SUCH REPORTS SHALL INCLUDE A
13 COMPARISON OF THE COST OF HEALTH INSURANCE OBTAINED UNDER THE PROGRAM TO
14 OTHER AVAILABLE INSURANCE OPTIONS, INCLUDING GROUP HEALTH INSURANCE
15 POLICIES DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE, AN ANALYSIS OF
16 THE PERCENTAGE OF INDIVIDUALS COVERED BY THE PROGRAM WHO WERE UNINSURED
17 OR RECEIVING CONTINUATION BENEFITS UNDER THE FEDERAL CONSOLIDATED OMNI-
18 BUS BUDGET RECONCILIATION ACT AT THE TIME OF ENROLLMENT, A DEMOGRAPHIC
19 AND GEOGRAPHIC ANALYSIS OF THE ENROLLED POPULATION AND ANY OTHER INFOR-
20 MATION REQUIRED BY THE SUPERINTENDENT.
21 S 2. This act shall take effect immediately and shall expire and be
22 deemed repealed December 31, 2013.