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

652

2009-2010 Regular Sessions

I N S E N A T E

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Introduced by Sens. LARKIN, DeFRANCISCO, FARLEY, LEIBELL, LITTLE, MORAHAN, ROBACH, SALAND, SEWARD, WINNER -- 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 providing for standardized health insurance contracts for all small employers, individual proprietors and qualifying individuals

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 section 4326-a to read as follows:

S 4326-A. STANDARDIZED HEALTH INSURANCE CONTRACTS FOR ALL INDIVIDUAL PROPRIETORS, SMALL EMPLOYERS AND QUALIFYING INDIVIDUALS. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ALL INDIVIDUAL PROPRIETORS WHO ARE THE ONLY EMPLOYEE OF A BUSINESS, SMALL EMPLOYERS THAT HAVE BETWEEN TWO AND FIFTY EMPLOYEES AND QUALIFYING INDIVIDUALS, AS DEFINED IN PARAGRAPH THREE OF SUBSECTION (C) OF SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SIX OF THIS ARTICLE, PROVIDED THAT THE QUALIFIED INDIVIDUAL RESIDES IN A HOUSEHOLD HAVING A NET HOUSEHOLD INCOME IN EXCESS OF TWO HUNDRED FIFTY PERCENT OF THE NON-FARM FEDERAL POVERTY LEVEL, THAT ARE OTHERWISE NOT QUALIFIED TO PURCHASE A STANDARDIZED HEALTH INSURANCE CONTRACT SPECIFIED IN SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SIX OF THIS ARTICLE SHALL BE ELIGIBLE TO PURCHASE SUCH STANDARDIZED HEALTH INSURANCE CONTRACTS; PROVIDED, HOWEVER THAT, SUCH INDIVIDUAL PROPRIETORS, SMALL EMPLOYERS AND QUALIFYING INDIVIDUALS THAT PURCHASE SUCH CONTRACTS SHALL NOT DIRECTLY OR INDIRECTLY RECEIVE ANY PREMIUM REDUCTIONS DUE TO STOP LOSS FUND SUBSIDIES RECEIVED BY INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS PURSUANT TO SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SEVEN OF THIS ARTICLE.

(B) ALL HEALTH MAINTENANCE ORGANIZATIONS THAT ARE REQUIRED TO OFFER CONTRACTS PURSUANT TO SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SIX OF THIS ARTICLE AND ALL COMPANIES SUBJECT TO ARTICLE FORTY-TWO OF THIS

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

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CHAPTER AND CORPORATIONS SUBJECT TO THIS ARTICLE THAT VOLUNTARILY OFFER CONTRACTS PURSUANT TO SUCH SECTION SHALL NOT RECEIVE STOP LOSS FUNDS OR REIMBURSEMENTS FOR CLAIMS LOSSES SUSTAINED BY STANDARDIZED HEALTH INSURANCE CONTRACTS ISSUED TO INDIVIDUAL PROPRIETORS, SMALL EMPLOYERS AND QUALIFYING INDIVIDUALS PURSUANT TO THIS SECTION.

(C) PREMIUM RATE CALCULATIONS FOR CONTRACTS ISSUED TO INDIVIDUAL PROPRIETORS, SMALL EMPLOYERS AND QUALIFYING INDIVIDUALS PURSUANT TO THIS SECTION SHALL BE SUBJECT TO THE FOLLOWING:

(1) COVERAGE MUST BE COMMUNITY RATED AND INCLUDE RATE TIERS FOR INDIVIDUALS, TWO ADULT FAMILIES, AND AT LEAST ONE OTHER FAMILY TIER. THE RATE DIFFERENCES MUST BE BASED UPON THE COST DIFFERENCES FOR THE DIFFERENT FAMILY UNITS AND THE RATE TIERS MUST BE UNIFORMLY APPLIED.

(2) IF GEOGRAPHIC RATING AREAS ARE UTILIZED, SUCH GEOGRAPHIC AREAS MUST BE REASONABLE AND IN A GIVEN CASE MAY INCLUDE A SINGLE COUNTY. THE GEOGRAPHIC AREAS UTILIZED MUST BE THE SAME FOR THE CONTRACTS ISSUED TO INDIVIDUAL PROPRIETORS, TO SMALL EMPLOYERS AND TO QUALIFYING INDIVIDUALS. THE SUPERINTENDENT SHALL NOT REQUIRE THE INCLUSION OF ANY SPECIFIC GEOGRAPHIC REGION WITHIN THE PROPOSED COMMUNITY RATED REGION SELECTED BY THE HEALTH MAINTENANCE ORGANIZATION, CORPORATION OR INSURER SO LONG AS THE HEALTH MAINTENANCE ORGANIZATION, CORPORATION OR INSURER'S PROPOSED REGIONS DO NOT CONTAIN CONFIGURATIONS DESIGNED TO AVOID OR SEGREGATE PARTICULAR AREAS WITHIN A COUNTY COVERED BY THE HEALTH MAINTENANCE ORGANIZATION, CORPORATION OR INSURER'S COMMUNITY RATES.

(3) CLAIMS EXPERIENCE UNDER CONTRACTS ISSUED TO INDIVIDUAL PROPRIETORS, TO SMALL EMPLOYERS AND TO QUALIFYING INDIVIDUALS MAY BE POOLED SEPARATELY FOR RATE SETTING PURPOSES.

S 2. Subsection (c) of section 4326 of the insurance law, as added by chapter 1 of the laws of 1999, subparagraph (A) of paragraph 1 and subparagraph (C) of paragraph 3 as amended by chapter 419 of the laws of 2000, is amended to read as follows:

(c) The following definitions shall be applicable to the insurance contracts offered under the program established by this section:

(1) A qualifying small employer is an employer that is either:

(A) An individual proprietor who is the only employee of the business:

(i) without health insurance which provides benefits on an expense reimbursed or prepaid basis in effect during the twelve month period prior to application for a qualifying group health insurance contract under the program established by this section; and

(ii) resides in a household having a net household income at or below two hundred [eight] FIFTY 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;

(iii) except that the requirements set forth in item (i) of this subparagraph shall not be applicable where an individual proprietor had health insurance coverage during the previous twelve months and such coverage terminated due to one of the reasons set forth in items (i) through (viii) of subparagraph (C) of paragraph three of THIS subsection [(c) of this section]; or

(B) An employer with:

(i) not more than fifty eligible employees;

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

(iii) at least thirty percent of its eligible employees receiving annual wages from the employer at a level equal to or less than thirty

thousand dollars. The thirty thousand dollar figure shall be adjusted periodically pursuant to subparagraph (F) of this paragraph.

(C) The requirements set forth in item (i) of subparagraph (A) of this paragraph and in item (ii) of subparagraph (B) of this paragraph shall not be applicable where an individual proprietor or employer is transferring from 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 from health care coverage issued pursuant to a regional pilot project for the uninsured established by section one thousand one hundred eighteen of this chapter.

(D) The twelve month period set forth in item (i) of subparagraph (A) of this paragraph and in item (ii) of subparagraph (B) 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 group health insurance contracts.

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

(F) The wage levels utilized in subparagraph (B) of this paragraph shall be adjusted annually, beginning in two thousand two. The adjustment shall take effect on July first of each year. For July first, two thousand two, the adjustment shall be a percentage of the annual wage figure specified in subparagraph (B) of this paragraph. For subsequent years, the adjustment shall be a percentage of the annual wage figure which took effect on July first of the prior year. The percentage adjustment shall be the same percentage by which the current year's non-farm federal poverty level, as defined and updated by the federal department of health and human services, for a family unit of four persons for the forty-eight contiguous states and Washington, D.C., changed from the same level established for the prior year.

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

(3)(A) A qualifying individual is an employed person:

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

(ii) whose employer does not provide group health insurance and has not provided group health insurance with benefits on an expense reimbursed or prepaid basis covering employees in effect during the twelve month period prior to the individual's application for health insurance under the program established by this section;

(iii) [resides] RESIDING in a household having a net household income at or below two hundred [eight] FIFTY 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

[(iv)] WHO is ineligible for Medicare.

(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.

(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:

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

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

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

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

(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;

(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;

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

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

(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.

(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.

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided that the superintendent of insurance is authorized to promulgate any and all rules and regulations and take any other measures necessary to implement this act on its effective date on or before such date.