

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:

1 Section 1. The insurance law is amended by adding a new section 4326-a
2 to read as follows:

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

21 (B) ALL HEALTH MAINTENANCE ORGANIZATIONS THAT ARE REQUIRED TO OFFER
22 CONTRACTS PURSUANT TO SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SIX OF
23 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.

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

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

9 (1) COVERAGE MUST BE COMMUNITY RATED AND INCLUDE RATE TIERS FOR INDI-
10 VIDUALS, TWO ADULT FAMILIES, AND AT LEAST ONE OTHER FAMILY TIER. THE
11 RATE DIFFERENCES MUST BE BASED UPON THE COST DIFFERENCES FOR THE DIFFER-
12 ENT FAMILY UNITS AND THE RATE TIERS MUST BE UNIFORMLY APPLIED.

13 (2) IF GEOGRAPHIC RATING AREAS ARE UTILIZED, SUCH GEOGRAPHIC AREAS
14 MUST BE REASONABLE AND IN A GIVEN CASE MAY INCLUDE A SINGLE COUNTY. THE
15 GEOGRAPHIC AREAS UTILIZED MUST BE THE SAME FOR THE CONTRACTS ISSUED TO
16 INDIVIDUAL PROPRIETORS, TO SMALL EMPLOYERS AND TO QUALIFYING INDIVID-
17 UALS. THE SUPERINTENDENT SHALL NOT REQUIRE THE INCLUSION OF ANY SPECIF-
18 IC GEOGRAPHIC REGION WITHIN THE PROPOSED COMMUNITY RATED REGION SELECTED
19 BY THE HEALTH MAINTENANCE ORGANIZATION, CORPORATION OR INSURER SO LONG
20 AS THE HEALTH MAINTENANCE ORGANIZATION, CORPORATION OR INSURER'S
21 PROPOSED REGIONS DO NOT CONTAIN CONFIGURATIONS DESIGNED TO AVOID OR
22 SEGREGATE PARTICULAR AREAS WITHIN A COUNTY COVERED BY THE HEALTH MAINTE-
23 NANCE ORGANIZATION, CORPORATION OR INSURER'S COMMUNITY RATES.

24 (3) CLAIMS EXPERIENCE UNDER CONTRACTS ISSUED TO INDIVIDUAL PROPRIE-
25 TORS, TO SMALL EMPLOYERS AND TO QUALIFYING INDIVIDUALS MAY BE POOLED
26 SEPARATELY FOR RATE SETTING PURPOSES.

27 S 2. Subsection (c) of section 4326 of the insurance law, as added by
28 chapter 1 of the laws of 1999, subparagraph (A) of paragraph 1 and
29 subparagraph (C) of paragraph 3 as amended by chapter 419 of the laws of
30 2000, is amended to read as follows:

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

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

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

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

39 (ii) resides in a household having a net household income at or below
40 two hundred [eight] FIFTY percent of the non-farm federal poverty level
41 (as defined and updated by the federal department of health and human
42 services) or the gross equivalent of such net income;

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

49 (B) An employer with:

50 (i) not more than fifty eligible employees;

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

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

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

3 (C) The requirements set forth in item (i) of subparagraph (A) of this
4 paragraph and in item (ii) of subparagraph (B) of this paragraph shall
5 not be applicable where an individual proprietor or employer is trans-
6 ferring from a health insurance contract issued pursuant to the New York
7 state small business health insurance partnership program established by
8 section nine hundred twenty-two of the public health law or from health
9 care coverage issued pursuant to a regional pilot project for the unin-
10 sured established by section one thousand one hundred eighteen of this
11 chapter.

12 (D) The twelve month period set forth in item (i) of subparagraph (A)
13 of this paragraph and in item (ii) of subparagraph (B) of this paragraph
14 may be adjusted by the superintendent from twelve months to eighteen
15 months if he determines that the twelve month period is insufficient to
16 prevent inappropriate substitution of other health insurance contracts
17 for qualifying group health insurance contracts.

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

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

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

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

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

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

52 (iii) [resides] RESIDING in a household having a net household income
53 at or below two hundred [eight] FIFTY percent of the non-farm federal
54 poverty level (as defined and updated by the federal department of
55 health and human services) or the gross equivalent of such net income;
56 and

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

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

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

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

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

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

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

23 (v) discontinuation of a group health insurance contract with benefits
24 on an expense reimbursed or prepaid basis covering the qualifying indi-
25 vidual as an employee or dependent;

26 (vi) expiration of the coverage periods established by the continua-
27 tion provisions of the Employee Retirement Income Security Act, 29
28 U.S.C. section 1161 et seq. and the Public Health Service Act, 42
29 U.S.C. section 300bb-1 et seq. established by the Consolidated Omnibus
30 Budget Reconciliation Act of 1985, as amended, or the continuation
31 provisions of subsection (m) of section three thousand two hundred twen-
32 ty-one, subsection (k) of section four thousand three hundred four and
33 subsection (e) of section four thousand three hundred five of this chap-
34 ter;

35 (vii) legal separation, divorce or annulment which results in termi-
36 nation of coverage under a health insurance contract under which the
37 individual is covered; or

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

39 (D) The twelve month period set forth in items (i) and (ii) of subpar-
40 agraph (A) of this paragraph may be adjusted by the superintendent from
41 twelve months to eighteen months if he determines that the twelve month
42 period is insufficient to prevent inappropriate substitution of other
43 health insurance contracts for qualifying individual health insurance
44 contracts.

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

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