

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 MAINTEN-  
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.