

STATE OF NEW YORK

5285

2019-2020 Regular Sessions

IN ASSEMBLY

February 8, 2019

Introduced by M. of A. CRESPO -- Multi-Sponsored by -- M. of A. BARCLAY, HEVESI, HUNTER, JONES, LUPARDO, MORINELLO, RAIA, SCHIMMINGER, STECK, THIELE -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to the definition of small group; and to repeal section 7 of chapter 12 of the laws of 2016 relating to directing the superintendent of financial services to contract with an independent entity to conduct an assessment regarding the impact of the prohibition on the sale of stop loss, catastrophic and reinsurance coverage to the small group market relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph 1 of subsection (a) of section 3231 of the insurance law, as amended by section 69 of part D of chapter 56 of the laws of 2013, is amended to read as follows:

2 (1) No individual health insurance policy and no group health insurance policy covering between one and fifty employees or members of the group ~~[or between one and one hundred employees or members of the group for policies issued or renewed on or after January first, two thousand sixteen]~~ exclusive of spouses and dependents, hereinafter referred to as a small group, providing hospital and/or medical benefits, including medicare supplemental insurance, shall be issued in this state unless such policy is community rated and, notwithstanding any other provisions of law, the underwriting of such policy involves no more than the imposition of a pre-existing condition limitation if otherwise permitted by this article.

15 § 2. Paragraph 3 of subsection (a) of section 3231 of the insurance law, as amended by section 69 of part D of chapter 56 of the laws of 2013, is amended to read as follows:

18 (3) Once accepted for coverage, an individual or small group cannot be terminated by the insurer due to claims experience. Termination of an individual or small group shall be based only on one or more of the

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

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reasons set forth in subsection (g) of section three thousand two hundred sixteen or subsection (p) of section three thousand two hundred twenty-one of this article. Group hospital and/or medical coverage, including medicare supplemental insurance, obtained through an out-of-state trust covering a group of fifty or fewer employees, ~~[or between one and one hundred employees for policies issued or renewed on or after January first, two thousand sixteen,]~~ or participating persons who are residents of this state must be community rated regardless of the situs of delivery of the policy. Notwithstanding any other provisions of law, the underwriting of such policy may involve no more than the imposition of a pre-existing condition limitation if permitted by this article, and once accepted for coverage, an individual or small group cannot be terminated due to claims experience. Termination of an individual or small group shall be based only on one or more of the reasons set forth in subsection (p) of section three thousand two hundred twenty-one of this article.

§ 3. Paragraph 1 of subsection (h) of section 3231 of the insurance law, as amended by chapter 12 of the laws of 2016, is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, no insurer, subsidiary of an insurer, or controlled person of a holding company system may act as an administrator or claims paying agent, as opposed to an insurer, on behalf of small groups which, if they purchased insurance, would be subject to this section. No insurer may provide stop loss, catastrophic or reinsurance coverage to small groups which, if they purchased insurance, would be subject to this section. ~~[Provided, however, the provisions of this paragraph shall not apply to: (A) the renewal of stop loss, catastrophic or reinsurance coverage issued and in effect on January first, two thousand fifteen to small groups covering between fifty one and one hundred employees or members of the group; and (B) the issuance between January first, two thousand sixteen and December thirty first, two thousand sixteen, of stop loss, catastrophic or reinsurance coverage, and any renewal thereof, to a small group covering between fifty one and one hundred employees or members of the group, provided that such group had stop loss, catastrophic or reinsurance coverage issued and in effect on January first, two thousand fifteen.]~~

§ 4. Paragraph 1 of subsection (a) of section 4317 of the insurance law, as amended by section 72 of part D of chapter 56 of the laws of 2013, is amended to read as follows:

(1) No individual health insurance contract and no group health insurance contract covering between one and fifty employees or members of the group, ~~[or between one and one hundred employees or members of the group for policies issued or renewed on or after January first, two thousand sixteen]~~ exclusive of spouses and dependents, including contracts for which the premiums are paid by a remitting agent for a group, hereinafter referred to as a small group, providing hospital and/or medical benefits, including Medicare supplemental insurance, shall be issued in this state unless such contract is community rated and, notwithstanding any other provisions of law, the underwriting of such contract involves no more than the imposition of a pre-existing condition limitation if otherwise permitted by this article.

§ 5. Paragraph 1 of subsection (e) of section 4317 of the insurance law, as amended by chapter 12 of the laws of 2016, is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, no insurer, subsidiary of an insurer, or controlled person of a holding company

1 system may act as an administrator or claims paying agent, as opposed to
2 an insurer, on behalf of small groups which, if they purchased insur-
3 ance, would be subject to this section. No insurer may provide stop
4 loss, catastrophic or reinsurance coverage to small groups which, if
5 they purchased insurance, would be subject to this section. [~~Provided,~~

6 ~~however, the provisions of this paragraph shall not apply to: (A) the~~
7 ~~renewal of stop loss, catastrophic or reinsurance coverage issued and in~~
8 ~~effect on January first, two thousand fifteen to small groups covering~~
9 ~~between fifty-one and one hundred employees or members of the group; and~~
10 ~~(B) the issuance between January first, two thousand sixteen, and Decem-~~
11 ~~ber thirty first, two thousand sixteen, of stop loss, catastrophic or~~
12 ~~reinsurance coverage, and any renewal thereof, to a small group covering~~
13 ~~between fifty-one and one hundred employees or members of the group,~~
14 ~~provided that such group had stop loss, catastrophic or reinsurance~~
15 ~~coverage issued and in effect on January first, two thousand fifteen.]~~

16 § 6. Paragraph 1 of subsection (g) of section 3231 of the insurance
17 law, as amended by chapter 12 of the laws of 2016, is amended to read as
18 follows:

19 (1) [(A)] This section shall also apply to policies issued to a group
20 defined in subsection (c) of section four thousand two hundred thirty-
21 five of this chapter, including but not limited to an association or
22 trust of employers, if the group includes one or more member employers
23 or other member groups having [~~one hundred~~] fifty or fewer employees or
24 members exclusive of spouses and dependents. For a policy issued or
25 renewed on or after January first, two thousand fourteen, if the group
26 includes one or more member small group employers eligible for coverage
27 subject to this section, then such member employers shall be classified
28 as small groups for rating purposes and the remaining members shall be
29 rated consistent with the rating rules applicable to such remaining
30 members pursuant to paragraph two of this subsection. [~~(B) Subparagraph~~
31 ~~A of this paragraph shall not apply to either the renewal of a policy~~
32 ~~issued to a group or the issuance, between January first, two thousand~~
33 ~~sixteen and December thirty-first, two thousand sixteen, of a policy,~~
34 ~~and any renewal thereof, to a group, provided that the following three~~
35 ~~requirements are met: (I) the group had been issued a policy that was in~~
36 ~~effect on July first, two thousand fifteen; (II) the group had member~~
37 ~~employers, who, on or after July first, two thousand fifteen, have~~
38 ~~between fifty-one and one hundred employees, exclusive of spouses and~~
39 ~~dependents; and (III) the group is either: (i) comprised entirely of one~~
40 ~~or more municipal corporations or districts (as such terms are defined~~
41 ~~in section one hundred nineteen-n of the general municipal law); or (ii)~~
42 ~~comprised entirely of nonpublic schools providing education in any grade~~
43 ~~from pre-kindergarten through twelfth grade.]~~

44 § 7. Paragraph 1 of subsection (d) of section 4317 of the insurance
45 law, as amended by chapter 12 of the laws of 2016, is amended to read as
46 follows:

47 (1) [(A)] This section shall also apply to a contract issued to a
48 group defined in subsection (c) of section four thousand two hundred
49 thirty-five of this chapter, including but not limited to an association
50 or trust of employers, if the group includes one or more member employ-
51 ers or other member groups having [~~one hundred~~] fifty or fewer employees
52 or members exclusive of spouses and dependents. For a contract issued or
53 renewed on or after January first, two thousand fourteen, if the group
54 includes one or more member small group employers eligible for coverage
55 subject to this section, then such member employers shall be classified
56 as small groups for rating purposes and the remaining members shall be

1 rated consistent with the rating rules applicable to such remaining
2 members pursuant to paragraph two of this subsection. [~~(B) Subparagraph~~
3 ~~A of this paragraph shall not apply to either the renewal of a contract~~
4 ~~issued to a group or the issuance, between January first, two thousand~~
5 ~~sixteen and December thirty first, two thousand sixteen, of a contract,~~
6 ~~and any renewal thereof, to a group, provided that the following three~~
7 ~~requirements are met: (I) the group had been issued a contract that was~~
8 ~~in effect on July first, two thousand fifteen; (II) the group had member~~
9 ~~employers, who, on or after July first, two thousand fifteen, have~~
10 ~~between fifty one and one hundred employees, exclusive of spouses and~~
11 ~~dependents; and (III) the group is either: (i) comprised entirely of one~~
12 ~~or more municipal corporations or districts (as such terms are defined~~
13 ~~in section one hundred nineteen-n of the general municipal law); or (ii)~~
14 ~~comprised entirely of nonpublic schools providing education in any grade~~
15 ~~from pre-kindergarten through twelfth grade.]~~

16 § 8. Section 7 of chapter 12 of the laws of 2016 relating to directing
17 the superintendent of financial services to contract with an independent
18 entity to conduct an assessment regarding the impact of the prohibition
19 on the sale of stop loss, catastrophic and reinsurance coverage to the
20 small group market, is REPEALED.

21 § 9. This act shall take effect immediately; provided, however that
22 the amendments to paragraph 1 of subsection (g) and paragraph 1 of
23 subsection (h) of section 3231, and paragraph 1 of subsection (d) and
24 paragraph 1 of subsection (e) of section 4317 of the insurance law made
25 by sections six, three, seven and five of this act respectively shall
26 not affect the expiration and reversion of such paragraphs and shall
27 expire and be deemed repealed therewith.