

# STATE OF NEW YORK

3567

2021-2022 Regular Sessions

## IN SENATE

January 30, 2021

Introduced by Sen. BRESLIN -- 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 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 reasons set forth in subsection (g) of section three thousand two

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

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

16 § 3. Paragraph 1 of subsection (h) 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) Notwithstanding any other provision of this chapter, no insurer,  
20 subsidiary of an insurer, or controlled person of a holding company  
21 system may act as an administrator or claims paying agent, as opposed to  
22 an insurer, on behalf of small groups which, if they purchased insur-  
23 ance, would be subject to this section. No insurer may provide stop  
24 loss, catastrophic or reinsurance coverage to small groups which, if  
25 they purchased insurance, would be subject to this section. [~~Provided,~~  
26 ~~however, the provisions of this paragraph shall not apply to: (A) the~~  
27 ~~renewal of stop loss, catastrophic or reinsurance coverage issued and in~~  
28 ~~effect on January first, two thousand fifteen to small groups covering~~  
29 ~~between fifty one and one hundred employees or members of the group, and~~  
30 ~~(B) the issuance between January first, two thousand sixteen and Decem-~~  
31 ~~ber thirty first, two thousand sixteen, of stop loss, catastrophic or~~  
32 ~~reinsurance coverage, and any renewal thereof, to a small group covering~~  
33 ~~between fifty one and one hundred employees or members of the group,~~  
34 ~~provided that such group had stop loss, catastrophic or reinsurance~~  
35 ~~coverage issued and in effect on January first, two thousand fifteen.]~~

36 § 4. Paragraph 1 of subsection (a) of section 4317 of the insurance  
37 law, as amended by section 72 of part D of chapter 56 of the laws of  
38 2013, is amended to read as follows:

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

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

54 (1) Notwithstanding any other provision of this chapter, no insurer,  
55 subsidiary of an insurer, or controlled person of a holding company  
56 system may act as an administrator or claims paying agent, as opposed to

1 an insurer, on behalf of small groups which, if they purchased insur-  
2 ance, would be subject to this section. No insurer may provide stop  
3 loss, catastrophic or reinsurance coverage to small groups which, if  
4 they purchased insurance, would be subject to this section. [~~Provided,~~  
5 ~~however, the provisions of this paragraph shall not apply to: (A) the~~  
6 ~~renewal of stop loss, catastrophic or reinsurance coverage issued and in~~  
7 ~~effect on January first, two thousand fifteen to small groups covering~~  
8 ~~between fifty one and one hundred employees or members of the group; and~~  
9 ~~(B) the issuance between January first, two thousand sixteen, and Decem-~~  
10 ~~ber thirty first, two thousand sixteen, of stop loss, catastrophic or~~  
11 ~~reinsurance coverage, and any renewal thereof, to a small group covering~~  
12 ~~between fifty one and one hundred employees or members of the group,~~  
13 ~~provided that such group had stop loss, catastrophic or reinsurance~~  
14 ~~coverage issued and in effect on January first, two thousand fifteen.]~~

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

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

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

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

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

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

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