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:

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:

(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.

§ 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:

(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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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 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.~~]

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

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

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

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

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

§ 8. 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, is REPEALED.

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